



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

21.5.9

AUGUST 22, 2024

## EFFECTIVE DATE

(10-01-2024)

## PURPOSE

(1) This transmits revised IRM 21.5.9, *Account Resolution, Carrybacks*.

## MATERIAL CHANGES

(1) The following table outlines changes made to IRM 21.5.9 regarding Carryback processing.

IRM Subsection	Description
IRM 21.5.9.1	Updated organizational title Wage and Investment (W&I) to Taxpayer Services (TS). Clarified Policy and Procedures BMF is the program owner of the procedures in this IRM section.
IRM 21.5.9.1.1(2)	Added Inflation Reduction Act of 2022 to bullet list.
IRM 21.5.9.1.4(2)	Corrected title of IRM 21.10.1, Embedded Quality (EQ) Program for Accounts Management, Campus Collection, Campus Examination, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS), and Electronic Products and Services Support.
IRM 21.5.9.1.5(2)	Corrected title of IRM 21.10.1, Embedded Quality (EQ) Program for Accounts Management, Campus Collection, Campus Examination, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS), and Electronic Products and Services Support.

IRM Subsection	Description
IRM 21.5.9.2	Removed link to IRM 21.5.9.5.16.4.1, Carryback Application with an Open IMF/BMF Underreporter Issue (TC 922 or TC 925) and added a link to IRM 21.5.9.5.16.4, Carryback Application with Examination Criteria. Added title to IRM reference 21.5.9.5.10.3, Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses. Editorial changes for clarity.
IRM 21.5.9.2.1	Added new subsection that provides guidance for identifying carryback applications and claims. Included instructions for determining the correct carryback category code and priority code. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.2.2	Added new subsection that provides guidance for identifying carryforward claims worked by the carryback teams and elections to forgo or waive the carryback period. Included examples of common carryforward issues that are processed following normal procedures. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.3.2	Corrected the title of IRM 13.1.7.2, Introduction to TAS Case Criteria. Updated CIS to CII.
IRM 21.5.9.4.1(1)(e)	Corrected IRM references linking to statute of limitations information. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.4.2	Corrected IRM title for IRM 21.5.1.4.2.3, Clerical Function for the Image Control Team (ICT) Correspondence Imaging Inventory (CII) and corrected IRM reference linking to statute of limitations information. Other editorial changes. IPU 24U0877 dated 7/29/2024.

IRM Subsection	Description
IRM 21.5.9.4.3(2)	Added a note to refer to IRM 21.5.9.5.16.6, Carryback Tentative Refund Applications and Statute Consideration, to resolve tentative refund applications where the period of limitation for credit or refund based on the loss year is imminent (180 days or less) or expired. Changed CIS to CII where needed. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.4.7	Removed link to IRM 21.5.9.5.16.4.1, Carryback Application with an Open IMF/BMF Underreporter Issue (TC 922 or TC 925) and added a link to IRM 21.5.9.5.16.4, Carryback Application with Examination Criteria. Changed CIS to CII where needed. Editorial changes where needed.
IRM 21.5.9.5	Removed link to IRM 21.5.9.5.16.4.1, Carryback Application with an Open IMF/BMF Underreporter Issue (TC 922 or TC 925) and added a link to IRM 21.5.9.5.16.4, Carryback Application with Examination Criteria. Editorial changes to increase clarity.
IRM 21.5.9.5.1(8)Note	Removed paragraph 8 Note. Manual refund monitoring is now done by Accounts Management Headquarters.
IRM 21.5.9.5.1.1(10)	Updated link to irs.gov information for modernized e-File for businesses.
IRM 21.5.9.5.1.2(2)	Added a reminder to follow RINT/IRNT processing guidelines for MEFC and MEFR cases. IPU 24U0606 dated 5/6/2024.

IRM Subsection	Description
IRM 21.5.9.5.2(1)	Added clarification that a taxpayer may revoke an election to forgo the carryback period on a superseding return. Added a reminder to release the -A freeze if appropriate. IPU 23U1143 dated 12/1/2023.
IRM 21.5.9.5.3	Added special carryback/carryforward period for IRC 6417(b) unused general business credits. Included a reference to IRM 21.7.4.4.8.3.1.1, Carryforward of Investment Credit, which contains additional guidance for Form 3468, Investment Credit, carryforward requests. Clarified the carryback periods for farming losses affected by legislative changes. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.5.4	Revised table for Section 508 compliance. Updated tax years in short year example.
IRM 21.5.9.5.5(1)	Added clarification that the AGI should not be adjusted for any year in the carryback period where no NOL can be absorbed. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.5.6(1)	Added a reminder to use the appropriate Hold Code to hold the credit when multiple adjustments are required and a manual refund will be issued. IPU 23U1143 dated 12/1/2023.
IRM 21.5.9.5.6(1)	Added a note explaining Recovery Rebate Credit changes require a separate adjustment. Added a link to Document 6209 Hold Code guidance. IPU 24U0606 dated 5/6/2024.
IRM 21.5.9.5.6(2)	Corrected the IRM number and title to IRM 25.6.1.10.3.1.7, Offsetting the Amount of a Refund with a Timely Refund Claim with a Time-barred Adjustment. IPU 24U0877 dated 7/29/2024.

IRM Subsection	Description
IRM 21.5.9.5.6.2(3)	Clarified that under IRC 39(a), unused general business credits must be carried back one year. Explained that taxpayers cannot elect to forgo the required carryback period.
IRM 21.5.9.5.6.2(5)	Added SB (IMF) and updated SBSE HQ Reserved referral guidance. IPU 24U0606 dated 5/6/2024.
IRM 21.5.9.5.6.4(6)	Corrected the link to additional information for IRC 965 transition tax procedures.
IRM 21.5.9.5.7(5)	Added new paragraph 5 containing guidance for systemic refunds with manual interest calculations. Subsequent paragraphs renumbered. Editorial changes to clarify section content. IPU 24U0606 dated 5/6/2024.
IRM 21.5.9.5.8	Added link to IRM 21.4.4.5.2(7), Preparation of the Form 3753, Manual Refund Posting Voucher, for manual refunds of 50 million and 500 million or more. Reorganized IRM content. IPU 24U0606 dated 5/6/2024.
IRM 21.5.9.5.8.1(2)	Corrected IRM number and title to IRM 20.2.4.10, Special Overpayment Interest Rules for Corporations.
IRM 21.5.9.5.10	Removed reference to IRC 199A(g) in paragraph 3. IRC 199A(g) applies to taxpayers other than corporations. Corrected link to Form 1120-H, U.S. Income Tax Return for Homeowners Associations. Clarified that the CARES Act changed the carryback provisions of the TCJA for tax years beginning in 2018, 2019, and 2020.
IRM 21.5.9.5.10.3.8(4)	Paragraph 4 CAUTION example updated to reflect tax years subject to TCJA procedures.

IRM Subsection	Description
IRM 21.5.9.5.10.4(7)	New paragraph 7 adds clarification that the manual refund should be issued in the name of the taxpayer that filed the carryback claim. Explained that a brief justification is required in the Remarks section of the manual refund form when the name or address differs from the information on Master File. Subsequent paragraph renumbered. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.5.10.6(1)	Clarified language describing the Net Operating Loss Deduction (NOLD).
IRM 21.5.9.5.10.8.1(1)	Clarified the 80 percent limitation applies to the NOL deduction allowed.
IRM 21.5.9.5.10.8.3(2)	Corrected link to Form 461, Limitation on Business Losses.
IRM 21.5.9.5.10.8.7(5)	Clarified the CARES Act Section 2305 provision affecting the corporate Alternative Minimum Tax (MTC) credit.
IRM 21.5.9.5.12(2)	Added reference to 6417(b) credits. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.5.12.2(1)	Clarified unused general business credits are carried to the first preceding tax year before being carried forward. Added carryback/carryforward periods for unused credits for oil and gas production from marginal wells and IRC 6417(b) credits. Included a link to IRM 21.5.9.5.3, Special Carryback/Carryforward Periods, which lists each specific credit. IPU 24U0877 dated 7/29/2024.

IRM Subsection	Description
IRM 21.5.9.5.12.3	Removed paragraph 2 NOTE and relocated the content to paragraphs 3 and 4. Added information about the period of limitation for credit or refund for general business credits released by the carryback of an NOL or NCL to new paragraph 3. Included transaction code and interest computation date instructions for adjustments, added a reminder of the mandatory carryback period of one year under IRC 39(a), and added an example. Added a link to IRM 21.5.9.5.7, Carryback Interest, to new paragraph 4. Subsequent paragraphs renumbered. Clarified the start of the carryforward period for released business credits. Specified that the period of limitation for credit or refund is governed by the year of the NOL or NCL that caused the release of the credit. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.5.12.4	Corrected titles of linked IRM references where needed.
IRM 21.5.9.5.12.4	Added a note to paragraph 2 explaining Recovery Rebate Credit changes require a separate adjustment and inserted a link to IRM 21.5.9.5.6, Multiple Adjustments. Inserted a link in paragraph 5 to IRM 21.5.9.5.7(5), Carryback Interest, which contains guidance for systemic refunds with manual interest calculations. IPU 24U0606 dated 5/6/2024.
IRM 21.5.9.5.12.7(3)	Corrected IRM reference linking to statute of limitations information for Foreign Tax Credit.

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<b>IRM Subsection</b>	<b>Description</b>
IRM 21.5.9.5.14(1)	Removed reference to Form 1139 per Form 1139 instructions. Tax-exempt organizations claiming a refund of taxes reported on Form 990-T are not eligible to file Form 1139.
IRM 21.5.9.5.15(2)	Corrected title of IRM 21.6.6.2.10, Claim of Right - IRC 1341, Repayment of Income Previously Reported.
IRM 21.5.9.5.16.1	Added new paragraph 4 clarifying that a tentative refund application may be rejected, in whole or in part, if there are any material omissions, math errors that cannot be corrected within the 90-day period, or the application includes a released credit required to be filed on Form 1040-X or Form 1120-X. Updated paragraph 5 explaining if the application is not processable it must be rejected and the taxpayer must file an amended return to claim the carryback before the period of limitations expires. Subsequent paragraphs renumbered. IPU 24U0877 dated 7/29/2024.

IRM Subsection	Description
IRM 21.5.9.5.16.3	Added TCB date and Interest computation date clarifications. Added a reminder to paragraph 1 that interest must be manually computed if a systemic refund will be issued and the loss year return was not timely filed or additional refundable credits are allowed. Inserted a link to IRM 21.5.9.5.7(5), Carryback Interest, which contains guidance for systemic refunds with manual interest calculations. Added a note to the top of the If/And/Then table clarifying references to the loss year return due date and removed information from the table relocated to paragraph 1. Added a link for IRM 20.2.4.8.1, Systemic Refunds, to paragraph 3. IPU 24U0606 dated 5/6/2024.
IRM 21.5.9.5.16.4	Clarified that an application for tentative refund is not treated as a claim for credit or refund. Removed reference to IRM 21.5.3-2 in paragraph 2 and updated Examination referral criteria for carryback applications. Removed paragraph 5 which contained guidance to forward subsidiary applications to the campus where the parent corporation filed their return. Subsequent paragraphs renumbered. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.5.16.6	Added new IRM subsection that provides guidance for resolving tentative refund applications where the period of limitation for credit or refund based on the loss year is imminent (180 days or less) or expired. IPU 24U0877 dated 7/29/2024.

IRM Subsection	Description
IRM 21.5.9.5.17.3	Added TCB date and Interest computation date clarifications. Added a reminder to paragraph 1 that interest must be manually computed if a systemic refund will be issued and the loss year return was not timely filed or additional refundable credits are allowed. Inserted a link to IRM 21.5.9.5.7(5), Carryback Interest, which contains guidance for systemic refunds with manual interest calculations. Added a note to the top of the If/And/Then table clarifying references to the loss year return due date and removed information from the table relocated to paragraph 1. Added a link for IRM 20.2.4.8.1, Systemic Refunds, to paragraph 3. IPU 24U0606 dated 5/6/2024.
IRM 21.5.9.5.17.3	Removed references to application and replaced with claim. Removed caution for claims received prior to the due date of the loss year return. Updated the received date in the first example demonstrating procedures for determining the interest start date for a late filed loss year return. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.5.17.5	Corrected IRM references linking to statute of limitations information. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.5.20.1(3)	Corrected title to IRM 21.7.9.4.1.1, Transcript (TRNS) 193 Involving Reprocessing Returns.
IRM 21.5.9.5.20.2	Corrected IRM references linking to Business Master File (BMF) Identity theft information.

IRM Subsection	Description
IRM 21.5.9.5.20.3	Specified which carryback letter to issue for TENTs and RINTs. Added language to the open paragraph for carryback applications that clarifies if the application is not resubmitted within one year from the end of the loss year, an amended return must be filed to claim the carryback. Removed broken link to RICS Fraud Referral Program and updated the link to the IRM reference containing FRP Point of Contact Information. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9.5.20.4	Specified which carryback letter to issue for TENTs and RINTs. Added language to the open paragraph for carryback applications that clarifies if the application is not resubmitted within one year from the end of the loss year, an amended return must be filed to claim the carryback. Corrected titles to linked IRM references where needed. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9-1	Added carryback/carryforward periods for IRC 6417(b) credits and included a link to IRM 21.5.9.5.3, Special Carryback/Carryforward Periods, which lists each specific credit. Corrected the link to the instructions for Form 3800, General Business Credit. Specified which issues should be reassigned to the Carryback team. IPU 24U0877 dated 7/29/2024.
IRM 21.5.9-1	Added a link to IRM 21.5.9.5.12.7, Carryback of Excess Foreign Tax Credit (FTC). Added information for Form 5695 Part I, Residential Clean Energy Credit. IPU 23U1143 dated 12/1/2023.

IRM Subsection	Description
Throughout the IRM	<p>Reviewed and updated IRM references as necessary. Changed CIS to CII where possible. Replaced references to the IRS as the Service with the acronym IRS. Made editorial-type changes where needed. IPU 23U1143 dated 12/1/2023, IPU 24U0606 dated 5/6/2024, and IPU 24U0877 dated 7/29/2024. Revised throughout to update organizational title Wage and Investment (W&amp;I) to Taxpayer Services (TS). Made editorial-type changes where needed.</p>

**EFFECT ON OTHER DOCUMENTS**

IRM 21.5.9, dated 8-21-2023 (effective 10-01-2023) is superseded. The following IRM Procedural Updates (IPUs) have been incorporated into this IRM: 23U1143 issued December 1, 2023, IPU 24U0606 issued May 6, 2024, and IPU 24U0877 dated July 29, 2024.

**AUDIENCE**

All employees who process and resolve carryback forms and issues.

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21.5.9  
Carrybacks

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  - 21.5.9.5.20.4 Carryback Applications and Claims Involving IMF Taxpayer Protection Program (TPP) Involvement and Return Integrity and Compliance Service (RICS) Filters Processing
- 21.5.9.5.21 U.S. Virgin Island Carryback/Carryforward Applications/Claims
  - 21.5.9.5.21.1 Application/Claim Received from the U.S. Virgin Islands - Loss Year filed with the U.S./Gain Year Filed with the U.S. Virgin Islands

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21.5.9.5.21.2 Application/Claim Received from the U.S. Virgin Islands - Gain Year Filed with the U.S./Loss Year Filed with the U.S. Virgin Islands

Exhibits

21.5.9-1 General Business Credits, Foreign Tax Credit, and Other Non-Refundable Credits - Availability for Carryback/Carryforward

21.5.9-2 Allocation Requirements for Non-Community Property States



21.5.9.1  
(10-01-2024)  
**Carryback Program  
Scope and Objectives**

- (1) **Purpose:** This IRM describes the process for carryback procedures for all personnel authorized to process carrybacks, regardless of their location. This section is divided into four major categories:
  - General carryback rules and procedures
  - Tentative (TENT) carryback applications
  - Carryback Claims (RINT)
  - Follow-up
- (2) **Audience:** The primary users of this IRM are Accounts Management (AM) customer service representatives (CSR) and tax examiners (TE) who process Individual Domestic/International and Business Domestic/International Carryback cases.
- (3) **Policy Owner:** The Director, Accounts Management, Taxpayer Services Division.
- (4) **Program Owner:** Taxpayer Services (TS), Customer Accounts Services, Accounts Management, Policy and Procedures BMF, Business Adjustments.
- (5) **Primary Stakeholders:** Taxpayer Services (TS), Small Business Self Employed (SBSE), Large Business and International (LB&I), Submission Processing (SP), and Tax Exempt and Government Entities (TEGE).
- (6) **Program Goals:** Carryback Program goals are to accurately and expeditiously process carryback applications and claims received from taxpayers and/or their representatives.

21.5.9.1.1  
(10-01-2024)  
**Background**

- (1) The Carryback Program is a specialized program as stated in the Accounts Management Program Letter worked only by specifically identified Accounts Management employees. Employees assigned to carryback teams are responsible for processing applications and claims requesting the carryback of net operating losses, net capital losses, IRC 1341(b)(1) and carryback of unused general business credits.
- (2) The following legislative acts are pertinent to the Carryback Program in Accounts Management.
  - Balanced Budget and Emergency Deficit Control Act of 1985
  - Tax Equity and Fiscal Responsibility Act (TEFRA)
  - Health Care and Education Reconciliation Act of 2010
  - Tax Cuts and Jobs Act of 2017
  - Coronavirus Aid, Relief, and Economic Security Act of 2020
  - Inflation Reduction Act of 2022

21.5.9.1.2  
(10-01-2019)  
**Authority**

- (1) The following list of Internal Revenue Code (IRC) sections specific for the Carryback Program:
  - IRC 172, Net Operating Loss Deduction
  - IRC 6411, Tentative Carryback and Refund Adjustments
  - IRC 39, Carryback and carryforward of unused credit

**Note:** Additional IRC sections are cited in the IRM where they are applicable to the issue covered.

21.5.9.1.3  
(10-01-2021)

**Roles and Responsibilities**

- (1) Accounts Management Policy and Procedures BMF Business Adjustments has responsibility for the information in this IRM, which is published on a yearly basis.
- (2) The Director of Accounts Management oversees the policies in this IRM.
- (3) The Chief of this team is responsible for ensuring this IRM is submitted timely to Publishing each year.
- (4) Additional information can be found in IRM 1.1.13.7.3, *Accounts Management*, and IRM 21.1.1, *Accounts Management and Compliance Services Overview*, also provides various guidance for Accounts Management employees.
- (5) In 2014 the IRS adopted a Taxpayer Bill of Rights (TBOR) as proposed by the former National Taxpayer Advocate Nina Olson. It applies to all taxpayers in their dealings with the IRS. The TBOR groups the existing rights in the tax code into ten fundamental rights, and makes them clear, understandable, and accessible. For more information see *Taxpayer Bill of Rights*.

21.5.9.1.4  
(10-01-2024)

**Program Management and Review**

- (1) Program and management reviews are performed on Accounts Management employees' work to ensure it is completed according to procedural guidelines contained in this IRM. Refer to IRM 1.4.16, *Accounts Management Guide for Managers*, for guidance concerning program management and review of programs assigned to Accounts Management.
- (2) Program Reports: for information about the various diagnostics and reports used to assess the health of the program, refer to IRM 1.4.16.2.4, *Measures and Diagnostic Goals*, and to IRM 21.10.1, *Embedded Quality (EQ) Program for Accounts Management, Campus Collection, Campus Examination, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS), and Electronic Products and Services Support*.
- (3) Program Effectiveness is determined by Accounts Management's employees successfully using IRM guidance to perform necessary account actions and duties.

21.5.9.1.5  
(10-01-2024)

**Program Controls**

- (1) Goals, measures and operating guidelines are listed in the annual Program Letter.
- (2) Quality data and guidelines for measurement can be found in IRM 21.10.1, *Embedded Quality (EQ) Program for Accounts Management, Campus Collection, Campus Examination, Field Assistance, Tax Exempt/Government, Return Integrity and Compliance Services (RICS) and Electronic Products and Services Support*.
- (3) Accounts Management employees' work is reviewed for administrative, privacy, security and safety practices according to the responsibilities outlined in this IRM in conjunction with other applicable IRMs and IRS guidance. Embedded Quality Review System (EQRS) is used to provide a point of reference in monitoring, conducting, measuring and improving quality of work.

21.5.9.1.6  
(12-02-2022)

**Terms/Definitions/  
Acronyms**

- (1) The following table includes common acronyms utilized in the carryback program. This is not all inclusive.

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

Acronym	Definition
RICS	Return Integrity and Compliance Services
RINT	Restricted Interest Carryback Claim
RIVO	Return Integrity Verification Operation
SRP	Shared Responsibility Payment
SSN	Social Security Number
TC	Transaction Code
TENT	Tentative Carryback Application
TPP	Taxpayer Protection Program
TXI	Taxable Income

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

21.5.9.1.7  
(11-05-2018)

#### Related Resources

- (1) The following list of publications provides additional instructions:

- Publication 514, *Foreign Tax Credit for Individuals*
- Publication 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*
- Publication 225, *Farmer's Tax Guide*
- Publication 542, *Corporations*

**Note:** Additional publications are cited in the IRM where they are applicable to the issue covered.

- (2) The following list of IRM references provides additional instructions:

- IRM 2.3, *IDRS Terminal Responses*
- IRM 2.4, *IDRS Terminal Input*
- IRM 3.13, *Campus Documents Services*
- IRM 11.3, *Disclosure of Official Information*
- IRM 13, *Taxpayer Advocate Service*
- IRM 20.1, *Penalty Handbook*
- IRM 20.2, *Interest*
- IRM 20.2.9, *Interest on Carryback of Net Operating Loss*
- IRM 21, *Customer Account Services*
- IRM 21.8.1, *IMF International Adjustments*
- IRM 21.8.2, *BMF International Adjustments*
- IRM 21.7.7, *Exempt Organizations and Tax Exempt Bonds*
- IRM 25.6, *Statute of Limitations*

21.5.9.2  
(10-01-2024)  
**What is a Carryback?**

- (1) A carryback is a deduction or credit that can be applied or “carried” to offset tax or taxable income in a preceding taxable year. Taxpayers eligible for carrybacks are:
- Individuals
  - Estates
  - Trusts
  - Corporations (including certain insurance companies)
  - Charitable and Exempt Organizations

**Note:** The Tax Cuts and Jobs Act of 2017, Section 13302, generally repealed the carryback periods for net operating losses incurred in tax years ending after December 31, 2017, but allows for the carryback of certain net operating losses incurred in the trade or business of farming and for non-life insurance companies **only**. All other entity types can carry net operating losses forward **only**. See IRM 21.5.9.5.10.3, **Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses**, for additional information. The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 temporarily suspends the restrictions on what entities are eligible to carry back net operating losses for tax years beginning in 2018, 2019, and 2020 and allows for a five-year carryback period. See IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*, for additional information.

- (2) A taxpayer who has an overpayment of tax as a result of a Net Operating Loss (NOL), Net Capital Loss (NCL), Unused Credits, or a Claim-of-Right adjustment can file an application for tentative refund or a claim for refund, also referred to as a TENT or RINT, for adjustment or refund. The tax year in which the loss occurred is the loss year. The tax year the loss is applied to is the gain year.
- (3) Generally, the IRS must pay interest if the carryback overpayment is not refunded within 45 days of the **later** of specific dates as outlined in IRM 20.2.9.2, *Determining the Overpayment Interest Period*.
- (4) A tentative refund (TENT) is claimed on Form 1045, *Application for Tentative Refund*, or Form 1139, *Corporation Application for Tentative Refund*. A Form 1045 can be filed by individuals, estates or trusts to apply for a quick tax refund resulting from:
- the carryback of a Net Operating Loss (NOL),
  - the carryback of unused general business credits,
  - the carryback of a net section 1256 contract loss or
  - an overpayment of tax due to a claim of right adjustment under IRC 1341(b)(1)

A Form 1139 can be filed by C corporations to apply for a quick tax refund resulting from:

- the carryback of a net operating loss (NOL) of a non-life insurance company,
- the carryback of a Net Capital Loss (NCL),
- the carryback of unused general business credits or
- an overpayment of tax due to a claim of right adjustment under IRC 1341(b)(1)

**Note:** Corporations expecting to have a Net Operating Loss (NOL) in the current year that can be carried back can file Form 1138, *Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback*, to receive an extension of time to pay taxes owed for the year immediately preceding the NOL tax year. See IRM 21.5.9.5.10.7, *Form 1138, Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss (NOL) Carryback*, for processing instructions.

**Reminder:** See IRM 21.5.9.5.10.3, **Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses**, for changes to who is eligible to file an NOL carryback due to the Tax Cuts and Jobs Act of 2017 and IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*, for information on the effects of the CARES Act on NOLs.

TENTs must be filed within one year from the end of the loss year and include all necessary documentation to support the requested carryback loss. TENTs are subject to a 90-day statutory processing time-frame which begins when a complete and processable application was filed or the last day of the month that includes the due date (including extensions) for filing the income tax return for the year in which the loss or credit arose. For additional information on the processing of a TENT, see guidance in IRM 21.5.9.5.16.1, *Carryback Application Processing and Filing Requirements* through IRM 21.5.9.5.16.5, *Reassessing Carryback Applications*.Form

(5) A carryback claim (RINT) for a carryback due to an NOL, NCL, unused general business credits, unused foreign tax credits, section 1256 contract losses or claim of right is filed on an amended return such as:

- *Form 1040-X, Amended U.S. Individual Income Tax Return,*
- *Form 1120-X, Amended U.S. Corporation Income Tax Return*
- *Amended Form 1041, U.S. Income Tax Return for Estates and Trusts*
- *Amended Form 1120-C, U.S. Income Tax Return for Cooperative Associations, or*
- *Form 990-T, Exempt Organization Business Income Tax Return, Form 990-T carrybacks are processed at the Ogden Campus. See IRM 21.7.7.6.17, Exempt Organization Carrybacks Overview, for Form 990-T carryback processing.*

**Reminder:** IRC 2006(a)(2) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P. L. 114-41, changed the return due date for C corporations and is effective for taxable years beginning after December 31, 2015. The federal income tax return for the *Form 1120* family of returns (except Form 1120-C, Form 1120-S and Form 1120-IC-DISC) are due on or before the 15th day of the fourth month following the close of the C corporation's tax year. For additional information see IRM 21.7.4.4.4.2.1, *Form 1120 Corporate Series Return Due Dates – Tax Years Beginning after December 31, 2015.*

A carryback RINT is not subject to the 90-day processing time-frame and must generally be filed within 3 years (10 years for carryback of foreign tax credit)

after the due date of the return (including extensions, except in the case of foreign tax credits) for the tax year of the NOL, NCL, or unused credit. For additional information on processing RINTs, see IRM 21.5.9.5.17, *Carryback Form 1040-X, Form 1120-X, Form 1041, Form 1120-C and Form 990-T (Claims)* through IRM 21.5.9.5.17.6, *Reassessing Carryback Claims*, for additional information.

- (6) Expedite Joint Committee Cases (JCC) to Examination due to interest consideration, if the combined **refund** amount for IMF or any BMF non-C Corp. is \$2,000,000 or more or the combined **refund** amount for a C Corp. is \$5,000,000 or more. See IRM 21.5.9.5.16.4.1, *Carryback Application with Examination Criteria*, for carryback applications. See *IRM Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General*, for carryback claims.
- (7) For more detailed procedures on carrybacks, see:
  - Net Operating Loss (NOL) - See IRM 21.5.9.5.10, *Carryback Net Operating Loss (NOL)*
  - Net Capital Loss (NCL) - IRM 21.5.9.5.11, *Net Capital Loss Carryback*
  - Released Credits - See IRM 21.5.9.5.12, *Carryback of Released Credits*
  - Claim of Right - See IRM 21.5.9.5.15, *Carryback “Claim of Right”*

21.5.9.2.1  
(07-29-2024)  
**Identifying Carryback  
Applications and Claims**

- (1) Taxpayers can file an application for tentative refund or an amended return to request an adjustment to tax or taxable income due to a:
  - Net operating loss (NOL)
  - Net capital loss (NCL) - corporations only
  - Section 1256 contract loss - individuals only
  - Unused general business credits
  - Claim-of-right - Form 1045 (Line 33) or Form 1139 (Line 29) only

**Note:** Claim-of-right is not a carryback issue but may be filed on Form 1045 or Form 1139 for expedited processing. If the claim-of-right is filed on an amended return (e.g., Form 1040-X, *Amended U.S. Individual Income Tax Return*, or Form 1120-X, *Amended U.S. Corporation Income Tax Return*), it should **NOT** be reassigned to the Carryback holding numbers.

- (2) Tentative carryback applications are filed on Form 1045, *Application for Tentative Refund* (individuals, estates and trusts), or Form 1139, *Corporation Application for Tentative Refund* (corporations). Form 1045 and Form 1139 are worked under category codes TENT (IMF/BMF domestic) or ITCB (IMF/BMF international). Cases under these category codes are controlled on the loss year in IDRS.
- (3) Carryback claims are filed on an amended return (e.g., Form 1040-X or Form 1120-X). Carryback claims are worked under category codes RINT (IMF/BMF domestic), MEFC (IMF electronically filed, domestic), IRNT (IMF/BMF international), and MEFR (IMF electronically filed, international). Cases under these category codes are controlled on the gain year in IDRS, which is the year the loss is being carried to.
- (4) Cases in CII that include Form 1045 Schedule A - NOL (or an equivalent NOL computation) and Form 1045 Schedule B - NOL Carryover (if the NOL is not fully absorbed in first carryback year) attached to a Form 1040-X or amended Form 1041 are worked under the category codes in paragraph 3 above.

**Note:** Individuals filing Form 1040-X, *Amended U.S. Individual Income Tax Return*, and Estates and Trusts filing an amended Form 1041, *U.S. Income Tax Return for Estates and Trusts*, are required to include Form 1045 Schedule A - NOL computation (or an equivalent NOL computation) and Form 1045 Schedule B - NOL Carryover (if the NOL is not fully absorbed in first carryback year), when filing a tentative carryback application or carryback claim on an amended return.

**Caution:** Form 1045 Schedule A and Form 1045 Schedule B - NOL Carryover can also be attached to carryforward claims. Refer to IRM 21.5.9.2.2, *Identifying Carryforward Claims*, to determine if the case should be reassigned.

- (5) Accounts Management non-carryback trained employees will reassign carryback cases using *AM Site Specialization Temporary Holding Numbers*. Thoroughly review the amended return and explanation to confirm the adjustment requested by the taxpayer meets one of the carryback criteria listed above.

**Reminder:** Secure manager or lead approval **before** reassigning the case to the carryback team. The manager or lead **must** review the reassignment for accuracy and **leave a case note on CII** showing the approval. Refer to IRM 21.5.1.5.2(13), *Cases Currently Assigned in CII*, for additional information.

**Exception:** Amended returns reporting an increase or decrease to an NOL with **no overpayment of tax** should be worked following normal procedures.

**Example:** The taxpayer checks one of the carryback boxes on Form 1040-X Line 1 or Line 7. The amended return shows only a change to income from wages. Form 1040 Schedule 1 Line 8a or Line 8z (other income - NOL) do not show an NOL, or the NOL on the original return is not changing, and NOL carryback is not mentioned in the amended return explanation. **Do not** reassign the case to the carryback holding number. Process the Form 1040-X following normal procedures.

**Note:** Foreign Tax Credit (FTC) carryback cases must be reassigned to International in CII. Update the category code using the table below **before** reassigning. IMF Foreign Tax Credit carryback claims should be reassigned to the Philadelphia Campus, and BMF Foreign Tax Credit carryback claims should be reassigned to the Ogden Campus.

- (6) Update the **category code** and **priority code** in CII **before** reassigning the case to the carryback holding number.

Use the table below to determine the correct category code:

If the Carryback is filed on	Then update the category code to
Form 1139	TENT (domestic) or ITCB (international)
Form 1045	TENT (domestic) or ITCB (international)
Form 1040-X - paper	RINT (domestic) or IRNT (international)

If the Carryback is filed on	Then update the category code to
Form 1040-X - electronic	MEFC (domestic) or MEFR (international)
Form 1041, Form 1120-X, or Form 990-T	RINT (domestic) or IRNT (international)

Priority codes for carryback applications and claims are determined by the total dollar amount of the refund requested. Refer to IRM 21.5.1.5.2(15), *Cases Currently Assigned in CII*, for additional information. For Form 1045 and Form 1139, combine all tax decrease amounts for each year on the application.

Use the table below to determine the priority code:

If the total refund is	Then update the priority code in CII to
\$1 million or more	1
\$100,000 - \$999,999	2
\$5,000 - \$99,999	3
\$0 - \$4,999	4

21.5.9.2.2  
(07-29-2024)  
**Identifying Carryforward Claims**

- (1) Certain taxpayers eligible to carryback a Net Operating Loss (NOL) may elect to forgo the carryback period and carry the entire NOL forward. Refer to IRM 21.5.9.5.2, *Carryback/Carryforward Election*, for additional information. Excess general business credits may also be carried forward.
- (2) Corporations only: Unused net capital losses (NCLs) may be carried back three years and forward five years. Losses not deducted in the carryback and carryforward years are forfeited.
- (3) Carryback teams work the following carryforward issues:
  - Net operating loss (NOL) carryforward
  - Net capital loss (NCL) carryforward - corporations only
  - Excess general business credit carryforward
  - Elections to forgo or waive the carryback period
- (4) Carryforward claims are filed on an amended return such as Form 1040-X, *Amended U.S. Individual Income Tax Return*, or Form 1120-X, *Amended U.S. Corporation Income Tax Return*. Carryforward claims are worked under category codes CFWD (IMF/BMF domestic - paper or electronically filed), ICFD (IMF/BMF international - paper or electronically filed), and are controlled on the year the loss is being carried to (gain year) on IDRS. Non-carryback trained employees will reassign carryforward cases using *AM Site Specialization Temporary Holding Numbers*. Update the category code **prior** to reassigning. Carryforward cases are **not** assigned a priority code in CII.
- (5) Certain taxpayers eligible to carryback an NOL may elect to forgo or waive the carryback period and carry the entire NOL forward to future tax periods until it is exhausted. For individuals, estates and trusts, and corporations filing a con-

solidated return, an election to forgo or waive the carryback period must be made in writing and attached to the loss year return. Certain Form 1120 series returns include an option to elect to forgo or waive the carryback period and carryforward an NOL by checking a box on a schedule. See IRM 21.5.9.5.2, *Carryback/Carryforward Election*, for additional information. Carryback teams work elections to forgo or waive the carryback period.

**Note:** For electronically filed returns, the election will be included as a Portable Document Format (.pdf) attachment to the loss year return.

- (6) The carryforward issues in the table below should be reassigned to the carryforward specialized holding number:

If the Carryforward issue is an	And the amended return contains a change to	Then
Election to forgo or waive the carryback period included with correspondence or an amended return	N/A	Reassign
NOL carryforward - individuals	Form 1040 Schedule 1, <i>Additional Income and Adjustments to Income</i> , Line 8a or Line 8z (other income - NOL)	Reassign
NOL carryforward – Form 1041 and corporations	Form 1120, <i>U.S. Corporation Income Tax Return</i> – Line 29a Form 1041, <i>U.S. Income Tax Return for Estates and Trusts</i> – Line 15b	Reassign
NCL carryforward – corporations only	Form 1120 – Line 8	Reassign
General business credit carryforward	Form 3800, <i>General Business Credit</i> , (2023 and subsequent) – Part I Line 4, Part II Line 34, or there is a change to a credit amount in Part IV column (f) or (g) Form 3800, (2022 and prior) - Part I Line 4, Part II Line 34, or Part III box C or G is checked and there is a change to a credit amount in column (c)	Reassign

- (7) The term “carryforward” is also associated with certain credits that can be applied to future tax years. The carryforward issues in the table below **should not** be reassigned to the carryforward specialized holding numbers.

<b>If the Carryforward is</b>	<b>Then</b>	<b>IRM Reference</b>
NCL carryforward – loss that exceeds the \$3,000 loss limit - individuals, estates, and trusts Form 1040 Schedule D, or Form 1041 Schedule D, <i>Capital Gains and Losses</i>	Do not reassign	IRM 21.6.4.4.5, <i>Taxes on Dividends and Capital Gains</i>
Income changes reported on Form 1040 Schedule C, <i>Profit or Loss From Business (Sole Proprietorship)</i> , Form 1040 Schedule E, <i>Supplemental Income and Loss</i> , or Form 8582, <i>Passive Activity Loss Limitations</i>	Do not reassign	IRM 21.6.7.4, <i>Adjusting Individual Tax Accounts Procedures</i>
Gifts to Charity carryover – individuals Form 1040 Schedule A, <i>Itemized Deductions</i>	Do not reassign	IRM 21.6.4.4.1, <i>Itemized Deductions</i> Pub 526, <i>Charitable Contributions</i>
Minimum tax credit carryforward – individuals, estates, and trusts Form 8801, <i>Credit for Prior Year Minimum Tax</i>	Do not reassign	IRM 21.6.3.4.1.23, <i>Form 8801, Credit for Prior Year Minimum Tax - Individuals, Estates, and Trusts</i>
Residential Energy Credit carryforward – individuals Form 5695, <i>Residential Energy Credits</i>	Do not reassign	IRM 21.6.3.4.1.27, <i>Form 5695, Residential Energy Credits</i>
Qualified Business Income Deduction changes Form 8995, <i>Qualified Business Income Deduction Simplified Computation</i> , or Form 8995-A, <i>Qualified Business Income Deduction</i>	Do not reassign	IRM 21.6.7.4.18.1, <i>Adjusting the Qualified Business Income Deduction</i> IRM 21.7.4.4.27.1, <i>Amended Returns Claiming Section 199A - Qualified Business Income Deduction (QBID)</i>
Mortgage Interest Credit carryforward – individuals Form 8396, <i>Mortgage Interest Credit</i>	Do not reassign	IRM 21.6.3.4.1.26, <i>Form 8396, Mortgage Interest Credit</i>
Qualified Adoption Expenses carryforward – individuals Form 8839, <i>Qualified Adoption Expenses</i>	Do not reassign	IRM 21.6.3.4.1.25, <i>Form 8839, Qualified Adoption Expenses</i>
Form 8859, <i>Carryforward of the District of Columbia First-Time Homebuyer Credit</i> - Individuals	Do not reassign	IRM 21.6.3.4.1, <i>Nonrefundable Credits Procedures</i>
Carryforward of an overpayment (credit elect issues)	Do not reassign	IRM 21.4.1.5.6, <i>Credit Elect Problems</i>

21.5.9.3  
(05-30-2017)  
**Carryback Inquiries**

- (1) This subsection provides procedures for answering taxpayer carryback inquiries.
- (2) Before disclosing any tax information, confirm you are speaking with the taxpayer or authorized representative. See the taxpayer authentication guidelines in IRM 21.1.3.2, *General Disclosure Guidelines*. Also, before leaving any messages on a taxpayer's answering machine, review IRM 11.3.2.6, *Methods for Communication of Confidential Information*. Fax procedures contained in IRM 21.1.3.9, *Mailing and Faxing Tax Account Information*, must be reviewed prior to faxing confidential information to the taxpayer.

21.5.9.3.1  
(10-01-2018)  
**How to Claim a Carryback**

- (1) If the taxpayer contacts us via toll-free phone lines and asks how to file a carryback or needs additional information about carrybacks:
  - a. Advise taxpayer to contact the tax help line. For individuals, contact 800-829-1040. For businesses, contact 800-829-4933.
  - b. Forward the appropriate form(s) and publication(s) to the taxpayer, if requested.

21.5.9.3.2  
(10-01-2024)  
**Status of a Carryback Application/Claim**

- (1) If the taxpayer asks about the status of a tentative carryback application or carryback claim:
  - a. Ask for the date the application/claim was filed.
  - b. Research the Integrated Data Retrieval System (IDRS) and the Correspondence Imaging Inventory (CII) for receipt of application/claim. Carryback cases are screened as priority work in Submission Processing and in the Accounts Management Image Control Teams (ICT), so the application/claim may be in CII inventory within a few days of receipt. Advise the taxpayer that while the IRS has 90 days to process a tentative carryback application (Form 1045 or Form 1139), every effort will be made to process the application and issue any refunds due within 45 days, faster if possible.

**Note:** All IMF (Individual Master File) carrybacks and related correspondence are scanned into CII to the Brookhaven Accounts Management (BAMC) unassigned inventory (UA). Beginning December 4, 2017, cases in the BAMC UA will be systemically assigned to employees with Carryback skills via the Consolidated Work Distribution (CRT) process. Cases subsequently identified as IMF Carryback cases assigned to employees not trained to process carryback cases are to be reassigned to the Carryback Centralized Distribution Number per the *AM Site Specialization Temporary Holding Numbers* on SERP under the Who/Where tab. These cases will be reassigned to the specialized sites on a daily basis. **Brookhaven Accounts Management does not process carryback cases. Therefore, carryback referrals to Brookhaven are incorrect.**

**Reminder:** Forms 4442 prepared as a response to a closed carryback case should be routed to the service center that last worked the case. Review CII and IDRS to determine the appropriate routing. Form 4442 referral guidelines are outlined in IRM 21.3.5.4.1, *When to Prepare a Referral*.

**Note:** Carryback claims (*Form 1040-X*, *Form 1120-X*, *Form 1041*, *Form 1120-C*, or *Form 990-T*) are not subject to the 90-day processing timeframe. However,

carryback claims are priority work, and will be processed within the same 45-day timeframe, to the fullest extent possible.

c. Follow the table below to determine the status.

If	Then
Case has an open control base on IDRS/CII	Advise taxpayer the application/claim is being processed, and that every effort will be made to issue any refunds due within 45 days from the application/claim received date.
No control base exists on IDRS/CIS and no information is on CFOL	If more than four weeks have passed since the taxpayer filed the application/claim, advise taxpayer to submit signed duplicate application/claim, writing “duplicate” across the top, include all back-up documentation with the file, and to submit it to the campus where original was filed.
Research shows the refund was issued	Refer to applicable IRM for resolution (e.g., IRM 21.4.1.4, <i>Refund Inquiry Response Procedures</i> , IRM 21.5.6, <i>Freeze Codes</i> ).

**Caution:** If contact is made by a Power of Attorney (POA), ensure that the loss year and *all* gain years included in the tentative carryback application or carryback claim are included on the Centralized Authorization File (CAF). If a gain year is not included, request an updated power of attorney.

**Reminder:** See IRM 21.5.9.2(2), *What is a Carryback*, and IRM 21.5.9.5.7, *Carryback Interest*, for the dates utilized to calculate the 45-day interest-free period.

(2) Refer taxpayers to the Taxpayer Advocate Service (TAS) when the contact meets TAS criteria and you can't resolve the taxpayer's issue the same day. The definition of “same day” is within 24 hours. “Same day” cases include cases you can completely resolve in 24 hours, as well as cases in which you have taken steps within 24 hours to begin resolving the taxpayer's issue. **Do not refer “same day” cases to TAS unless the taxpayer asks to be transferred to TAS and the case meets TAS criteria.** Refer to IRM 13.1.7.2 *Introduction to TAS Case Criteria*, and IRM 13.1.7.5 *Same Day Resolution by Operations*, for more information. When referring cases to TAS, use Form 911, *Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order)*, and forward to TAS in accordance with your local procedures. See IRM 21.1.3.18 *Taxpayer Advocate Service (TAS) Guidelines*, for comprehensive information on this issue.

21.5.9.4  
(10-01-2020)  
**Carryback Verification**

- (1) This subsection provides procedures for campuses to determine if an application/claim can be processed.
- (2) If any carryback cases assigned to Philadelphia as ITCB/IRNT (IMF International Carryback), are later determined to be domestic, their CII category codes must be updated. These cases are processed in Philadelphia.

**Note:** Cases where international forms are omitted because the amounts claimed fall below thresholds are still considered international carryback cases and are to be coded in CII as international. Cases incorrectly identified as an international carryback will be updated in CII and worked in Philadelphia. See IRM 21.8.1.2.1, *Campus Consolidation and Program Centralization*, for a listing of IMF International Issues and, IRM 21.8.2.2.1, *Campus Consolidation and Program Centralization*, for BMF International issues.

21.5.9.4.1  
(07-29-2024)  
**Carryback Research**

- (1) If taxpayer files a carryback application/claim, follow these research procedures:
- a. Verify the forms are complete and, contain all necessary information needed to process.
  - b. Verify the carryback has been applied to the earliest available gain year.
  - c. Review CFOL (Corporate Files Online)/IDRS to validate data on the form.
  - d. Math verify the carryback amount (Net Operating Loss, Net Capital Loss, Unused Credits, Claim of Right).
  - e. Determine if the statute for credit or refund is open. The adjusting year (gain year) does not necessarily have to be within the normal statute of limitations period. The statute for carryback purposes is generally determined by the loss or unused credit year return. For example, a claim for credit or refund based on the carryback of a Net Operating Loss or a Capital Loss may be filed within the three-year period from the due date of the loss year return plus the period granted for any extension of time to file. The three-year period runs from the extended return due date regardless of when the return is actually filed. For more information on researching carryback statute processing, see IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, IRM 25.6.1.10.3.4.2, *Business Credit Carryback*, and IRM 25.6.1.10.3.4.3, *Bad Debts and Worthless Securities*.

**Reminder:** For purposes of determining the availability of an NOL carryover for a taxable year, NOL carryovers that were required to be carried to a preceding taxable year are deemed to have been allowed in such year to the extent that they would have been allowed if a claim had been timely filed, regardless of whether such a claim was in fact timely filed. Accordingly, an NOL carryover is allowed for a year only to the extent of the amount of the NOL reduced by amounts required to be carried to preceding taxable years, whether or not claimed.

**Note:** The Refund Statute Expiration Date (RSED) does not necessarily need to be open on the loss year in order for a claim for refund or credit based on an NOL carryback to be timely filed. The claim may also be considered timely filed if the RSED is open on the adjusting year (gain year). See IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, for additional information.

- f. When working a carryback case via the Correspondence Imaging Inventory (CII), search prior claims, applications, or responses.

**Note:** Refer to *IDRS Command Code Job Aid, Job Aid for IRM Part 21, Document 6209, IRM 2.3, IDRS Terminal Responses, or IRM 2.4, IDRS Terminal Input*, for additional information.

21.5.9.4.2  
(07-29-2024)  
**Identifying Processable  
and Unprocessable  
Carryback  
Applications/Claims**

(1) To ensure carryback cases were prioritized accurately on the Correspondence Imaging Inventory (CII), refer to IRM 21.5.1.4.2.3, *Clerical Function for the Image Control Team (ICT) Correspondence Imaging Inventory (CII)*.

(2) Processable applications/claims must include the following:

**Caution:** The Tax Cuts and Jobs Act (TCJA) of 2017 restricted the carryback of net operating losses (NOLs) to NOLs of non-life insurance companies and to the portion of an NOL attributable to a farming loss. These restrictions applied to NOLs incurred in taxable years ending after December 31, 2017. Complying with the TCJA, the IRS rejected carryback applications and/or claims filed by entities other than farmers or non-life insurance companies back to the taxpayer using the appropriate carryback letter. Carryback applications and/or claims from farmers were analyzed to make sure the NOL being carried back is attributable to a farming loss. However, the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 retroactively reverses TCJA and requires all taxpayers to carry back NOLs arising in tax years beginning in 2018, 2019, and 2020 five years. Unless the taxpayer specifically elects to relinquish the carryback period, the five-year carryback is mandatory. See IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*, and subsections for additional information.

- Posting of the loss and gain year returns for RINTs.
- **Filing** of the loss year return for TENTs (the return may not have posted yet) and posting of the gain year return(s).

**Note:** While it is not necessary for the loss year return to be posted to Master File at the time the TENT is processed, it must have been filed on or before the date the TENT was filed, per IRC 6411(a). However, a TENT application filed prior to the date on which the return for the taxable year of the loss or unused credit is filed (including a superseding return) is considered to be filed on the date such return is filed. First check to see if the loss year return has posted or there is evidence it is in-house. If the return is not found, check the date on Line 2b of Form 1139 or Form 1045. If Line 2b is blank contact the taxpayer and advise them that the TENT cannot be processed until the loss year return has been filed.

**Caution:** Be aware that the original loss year return may have been scanned to CII with the TENT and may need to be printed and forwarded for processing.

**Caution:** For BMF, if RICS indicators post to the account **after** a carryback application (TENT) has been processed, see IRM 21.5.9.5.20.3(10), *Carryback RINTs and TENTs Involving BMF RICS Filters Processing*, for additional guidance.

**Reminder:** Exempt Organizations (Form 990-T) are only permitted to file a claim for a carryback.

- Authorized signature(s) - A faxed signature on a carryback claim/application is acceptable if this is the only missing information. Contact the taxpayer/authorized representative by phone, request that the first page of the signed Form 1139 or Form 1045 be faxed within 5 business days in order to continue processing the carryback application. Advise the taxpayer that the faxed signature will be treated as the taxpayer's signature and will become a permanent part of the application. Document CII that the taxpayer/representative was advised. See IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*, (1) and (2) for additional information.

**Caution:** See IRM 21.5.9.4.2.1, *Carryback Applications/Claims from Financial Institutions in Receivership - Form 56-F Filed*, if the carryback is filed by a financial institution, and the tax module (the loss year or any gain year) has a TC 971 with AC 076 (-W freeze).

- Copies of pages 1 and 2 of the original and any amended or related return from the year creating the loss (loss year) and Schedules A, D, and J (Form 1040), if applicable, unless this information is available on CFOL/IDRS.

**Note:** For Form 1120-F (foreign) filers, pages 1 and 3 of the loss year are to be included. Also, since Taxable Income (TXI) is not shown on Command Code (CC) TXMOD for a Form 1120-F, you can verify the income/loss from CC BRTVU.

- All other forms and schedules from which a carryback results (loss year), such as Schedule C or F (Form 1040); Form 3800, *General Business Credit*; Form 6781, *Gains and Losses From Section 1256 Contracts and Straddles*, Schedule D (Form 1120) etc., unless this information is available on CC RTVUE/BRTVU.
- All Schedules K-1 received from partnerships, S corporations, estates, or trusts that contribute to the carryback (loss year), unless the amounts of income or loss are available on CC RTVUE or TRDBV.
- The Net Operating Loss (NOL) computation or Net Capital Loss (NCL), and/or any forms supporting the credit computation for the loss year and the year to which the loss is applied (gain year), unless this information is available on CFOL/IDRS. See the instructions for Form 1045/Form 1139 or for Form 1040-X/Form 1120-X.
- Any forms supporting the tax calculation for the gain years, including, but not limited to, Schedule D and Alternative Minimum Tax, unless this information is easily computed by the employee assigned to process the case.

**Note:** A "loss" can be a net operating loss (NOL) or a net capital loss (NCL). Taxpayer can also claim unused credits in a gain year.

- Correct name, address, and Taxpayer Identification Number (TIN), (check Command Code (CC) ENMOD).

**Caution:** See IRM 21.5.9.4.2.1, *Carryback Applications/Claims from Financial Institutions in Receivership - Form 56-F*, if the carryback is filed by a financial institution, and the tax module

(the loss year or any gain year) has a TC 971 with AC 076 (-W freeze).

- Correct gain year (Check CFOL/IDRS).
- For applications or claims involving a Net Capital Loss (NCL) refer to IRM 21.5.9.5.11, *Net Capital Loss Carryback*.
- For applications or claims involving the carryback of released credits refer to IRM 21.5.9.5.12, *Carryback of Released Credits*.
- The NOL is applied to the earliest available gain year, generally two years prior to the year of the loss, five years for net operating losses sustained in taxable years beginning after Dec. 31, 2017 and before Jan. 1, 2021 (beginning in 2018, 2019, and 2020) as per the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. The carryback periods are mandatory unless the taxpayer elects to forgo the entire carryback period. Refer to IRM 21.5.9.5.2, *Carryback/Carryforward Election*.

**Note:** For purposes of determining the availability of an NOL carryover for a taxable year, NOL carryovers that were required to be carried to a preceding taxable year are deemed to have been allowed in such year to the extent that they would have been allowed if a claim had been timely filed, regardless of whether such a claim was in fact timely filed. Accordingly, an NOL carryover is allowed for a year only to the extent of the amount of the NOL reduced by amounts required to be carried to preceding taxable years, whether or not claimed.

**Reminder:** A claim for credit or refund based on the carryback of an NOL or a Capital Loss may be filed within the three-year period from the due date of the loss year return plus the period granted for any extension of time to file. The three-year period runs from the extended return due date regardless of when the return is actually filed. See IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, for additional information.

- Allocation Schedule if there is a filing status change between a gain year and a loss year. See Exhibit 21.5.9-2, *Allocation Requirements for Non Community Property States*.

(3) All other applications/claims are unprocessable. See IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*.

**Caution:** Review CII to verify the missing information has not been previously provided.

21.5.9.4.2.1  
(10-01-2013)  
**Carryback  
Applications/Claims  
from Financial  
Institutions in  
Receivership - Form  
56-F Filed**

- (1) If a carryback application/claim is received from a financial institution, and the IDRS/Master File tax module (loss or gain years) has a TC 971 with AC 076 (-W freeze), this indicates that the Federal Deposit Insurance Corporation (FDIC) has been appointed as receiver/fiduciary for the financial institution. In most instances, the common parent is filing the carryback and the financial institution in receivership is a subsidiary of the consolidated return. Regardless, both the common parent and the subsidiary financial institution will have the TC 971 AC 076 posted to the relevant tax modules. Also note, the entity module of the financial institution (but not of the common parent) will include the FDIC on the secondary name line. The FDIC files *Form 56-F, Notice Concerning Fiduciary Relationship of Financial Institution*, with the IRS. Business

Master File Entity processes the Form 56-F. See IRM 3.13.2.19.4, *Form 56-F, Notice Concerning Fiduciary Relationship of Financial Institution (OSPC Only)*, and IRM 3.13.2.19.5, *Processing Form 56-F*.

- (2) **Form 1139** - If a Form 1139, *Corporation Application for Tentative Refund*, is received and the conditions in Paragraph (1) apply, ensure there are two signatures present; one by the FDIC as receiver/fiduciary for the institution and one by the common parent of the carryback year consolidated group. If the IRS has been notified via Form 56-F that the FDIC is a receiver/fiduciary, Treas. Reg. 301.6402-7(e)(2) requires that any Form 1139 must be signed by both the common parent of the carryback year group and the fiduciary.
- a. If the required signatures are not present, reject the application and advise the taxpayer of the signature requirement per the regulation.
  - b. If both signatures are present, process the application per normal procedures contained in this IRM. However, do not update any entity information (name lines or address) based on Form 1139.

**Note:** Manual refunds will be required for any modules with the -W freeze present. If a request is made to issue a portion of the refund to the common parent and a portion to the FDIC, ensure that both the common parent and the FDIC have signed the request and process the payment per the request.

- (3) **Form 1120-X** - The regulations under Treas. Reg. 301.6402-7(e)(1) do not have a similar dual signature requirement for a carryback refund claim filed on *Form 1120-X, Amended U.S. Corporation Income Tax Return*. A carryback refund claim may be filed by either the FDIC as receiver/fiduciary for the institution or by the common parent for the consolidated carryback year under the regulation. Thus, two Forms 1120-X may be filed regarding the same refund. A claim filed by the FDIC will have the following header: "Claim for refund under IRC 6402(k)." However, a claim filed by the common parent will not have any header. In addition, under Treas. Reg. 301.6402-7(e)(3) in conjunction with seeking a carryback refund, the FDIC as receiver/fiduciary might also file a loss year return with respect to the loss year consolidated group, if the common parent does not file one or the FDIC does not accept the loss year consolidated return filed by the common parent. **Accordingly, refer all carryback refund claims (Forms 1120-X) from financial institutions in receivership to Exam Classification as CAT-A and use reason HQ Reserved 5.** See *IRM Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General*.

21.5.9.4.3  
(07-29-2024)  
**Rejecting Unprocessable  
Carryback  
Applications/Claims**

- (1) Do not formally disallow an unprocessable/incomplete application or claim. Determine if the issue can be resolved by having the taxpayer fax the missing information. Attempt to contact the taxpayer/authorized representative by phone and request the missing information be faxed to you within 5 business days. Before initiating an outgoing phone call, see IRM 21.1.3.2.3, *Required Taxpayer Authentication*, and see IRM 21.1.1.4, *Communication Skills*. The following is **required** for all outgoing calls:
- a. Make two telephone attempts to reach the taxpayer/authorized representative within three business days of each other. Contacts must be varied in a manner that provides the greatest opportunity for reaching the taxpayer (i.e., if the morning hours are unsuccessful for the first attempt, try the afternoon hours for the second attempt, or vice versa).
  - b. Document fully on Correspondence Imaging Inventory (CII), all phone attempts including the time and phone number attempted.

- c. Use the most current number provided by the taxpayer/authorized representative from ENMOD/IMFOLE or correspondence.
- d. Make the phone attempts between the hours of 8 AM and 9 PM in the taxpayer's time zone.
- e. Make the phone attempts during the specific timeframes provided by the taxpayer whenever possible.
- f. Make the phone attempts to a business during the normal business hours in the taxpayer's time zone.
- g. Attempts on weekends are appropriate.
- h. Request a call back within two business days if leaving a message for the taxpayer/authorized representative.
- i. Send the appropriate letter and document on CII if the attempts are unsuccessful.

**Note:** If the taxpayer is reluctant to speak on the phone, inform them the IRS will send a letter regarding the matter. Provide the taxpayer the Toll-Free number to call and refer them to the *IRS web site*. Document CII regarding contact.

**Caution:** Since the taxpayer only has 12 months to file a tentative carryback application, the instructions above must be followed before rejecting the application.

- If contact is made by phone, and the taxpayer/Power of Attorney (POA) faxes in the missing information, document the phone call and receipt of the missing information. When inputting the Net Operating Loss (NOL) adjustment, use the date the application/claim became processable as the TCB date (unless that date is earlier than: (1) the loss year return due date, (2) the received date of the delinquent loss year return, or (3) the date the loss year return is filed in processable form). See IRM 21.5.9.5.16.3, *Carryback Application Interest Computation Dates*, see IRM 21.5.9.5.17.3, *Carryback Claim Interest Computation Dates*, The TCB date is used by the IRS computer to start the 45-day count for issuing a refund without interest. Do not update the IRS Received Date when the missing information is faxed.
  - If contact is made by phone, and the taxpayer/POA states they cannot fax, but will instead mail in the missing information, thoroughly document the call, explain to the taxpayer that you must close the case, and if the time expires for filing a carryback application before the missing information is provided in mail, the taxpayer will be required to submit a carryback claim on an amended return for the gain year. Close the case. Refer to the IRM references cited in Paragraph (5) below.
- (2) If the issue is not one that can be resolved by having the taxpayer fax in information (e.g., incorrect number of years carried back, time expired for filing a carryback application, etc.) or you are unable to contact by telephone, reject/no consider the claim as follows:
- Tentative Refunds (TENTs) - Letter 216C is used to reject the tentative carryback application and request missing information (copies of loss year return, revised gain year schedules or forms, signature, etc.). Letter 2364C is used to request a missing carryback allocation. Generally, one of these two letters will be used when corresponding with the taxpayer regarding a tentative carryback application.

**Note:** Follow the instructions in IRM 21.5.9.5.16.6, *Carryback Tentative Refund Applications and Statute Consideration*, to resolve tentative refund applications where the period of limitation for credit or refund based on the loss year is imminent (180 days or less) or expired.

- Carryback claims (RINTs) - Unprocessable RINTs are rejected using Letter 4734C or Letter 2364C.

**Caution:** Do not reject an incomplete carryback claim if the loss year Refund Statute Expiration Date (RSED) is within 180 days of expiring. Follow the instructions in IRM 21.5.3.4.3, *Tax Decrease and Statute Consideration*, to request the missing information.

- (3) Document CII with a Case Note describing the reason(s) the application or claim was rejected. Save the PDF of any letter generated on a carryback case. Attach to the CII case with the Attach File button instead of capturing the “request completed” screen.
- (4) Each carryback processing site will determine the type of contact information provided on letters to taxpayers. The decision depends on the hours of operation at the carryback site and the availability of the CSR/TE (Customer Service Representative/Tax Examiner) to accept taxpayer calls. If possible, provide specific employee contact information on taxpayer letters. Otherwise, provide the toll-free number for taxpayers to call when they require additional information and/or have questions.
- (5) Review the entire case and request **all** information needed and/or provide instructions for completion the **first time** you correspond with the taxpayer. If returning the forms, circle out the received date and close the control base on CIS/IDRS. The following exceptions are to always be taken into consideration when rejecting a carryback claim/application for additional information:
  - When an application was not filed within 12 months of the end of the loss year.

**Note:** Notice 2020-26 provides a six-month extension of time to file a Form 1045 or Form 1139 for an NOL incurred in a taxable year that began in 2018 and ended on or before June 30, 2019.
  - When the taxpayer does not have sufficient time to respond to a request for additional information to process an application.
  - CFOL reflects that the application/claim did not utilize the earliest available gain year. This is generally the second year prior to the loss year if the loss year began before 2018 and the fifth year prior to the loss if the loss year begins in 2018, 2019, or 2020.
  - Applications/claims filed for extended carryback periods under ARRA (American Recovery and Reinvestment Act) 2009, Section 1211, may require more than one contact with the taxpayer. See the 2014 archived revision of IRM 21.5.9.5.14.6.9, *Processing ARRA 2009, Section 1211 Carryback Applications/Claims - Steps to Ensure Consistent Processing*.
- (6) Refer to IRM 21.5.3.4.2, *Tax Decrease or Credit Increase Processing*, and IRM 21.5.1.5.6, *Incomplete CII Claims*, for additional information on claim rejects.

- (7) Responses to carryback Letter 216C, Letter 449C, Letter 662C, Letter 4734C and Letter 2364C will be scanned into CII and assigned to the employee who originally worked the case. For all responses to other carryback letters (916C, 178C, etc.), the case should be routed/reassigned to the employee who originally worked the case. Remember that documented management approval is required prior to transferring/reassigning a case.

**Note:** If you are unable to reassign a previously worked case due to the CSR no longer being available, retain and assign the case in the receiving office.

- (8) The instructions in paragraph (7) are **only** applicable when the taxpayer includes a copy of the carryback letter with the response. **Taxpayer responses that do not include a copy of the carryback letter will be worked in the receiving office. Do not research prior CII cases searching for a prior case.**

21.5.9.4.4  
(10-01-2005)  
**Mixed Multiple  
Processable/  
Unprocessable  
Carrybacks**

- (1) When RINTs and TENTs are filed simultaneously:

If	Then
Both TENT and RINT are processable	Process the TENT. Staple the RINT behind the TENT when working with a paper case. When working with a CII case, link the RINT to the TENT and leave a case history that the TENT was processed, no action on the RINT.
Only the RINT is processable	Process the RINT. Staple the TENT behind the RINT when working with a paper case. When working with a CII case, link the TENT to the RINT and leave a case history that the RINT was processed, no action on the TENT.
Both TENT and RINT are incomplete	Reject both. Request all the information needed to allow the carryback. Advise taxpayer only one of the forms can be processed for the loss and gain year. If TENT cannot be filed within 12 months of the end of the tax year that created the Net Operating Loss (NOL), Net Capital Loss (NCL), unused credit, or claim of right adjustment (Dec. 31 for a calendar year filer), ask taxpayer to file a RINT.

If	Then
The TENT is incorrect after post verification	Reassess the TENT. Disallow the RINT with a Letter 105C. See IRM 21.5.9.5.16.5, <i>Reassessing Carryback Applications</i> , for reassessment procedures. <b>Note:</b> Include appeal rights with Letter 105C as appropriate.

21.5.9.4.5  
(10-01-2019)  
**Master File Verification - Incorrectly Calculated Carryback Applications/Claims**

- (1) All carrybacks are subject to Master File verification to ensure the taxpayer's starting figures match IRS records. This applies to both the loss year and the gain years.  
**Exception:** The loss year, on a TENT, does not have to be posted to Master File before the application is processed. See IRM 21.5.9.4.7, *Carryback Tolerances - Master File Verification, Math Verification, TENT/RINT Processing, Push Codes*, for procedures on processing TENTs when the loss year return has not yet posted.

- (2) If the beginning figures on the claim or application do not match posted Master File data (Adjusted Gross Income (AGI), Taxable Income (TXI), tax, refundable credits) see IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*, for procedures to reject the application/claim to the taxpayer. Inform the taxpayer what our figures show, and have the taxpayer explain the difference.

21.5.9.4.6  
(10-01-2013)  
**Carryback Freeze Conditions**

- (1) Freeze conditions that require special processing are:

Freeze	Indicators/Instructions
-A	Indicates duplicate/amended return freeze on the loss or gain year. See IRM 21.5.6.4.2, <i>-A Freeze</i> . Duplicate/amended return must be secured and worked with the carryback case. See IRM 21.5.9.5.6.3, <i>Carryback Applications and Claims Filed in Conjunction with Amended Returns Filed for the Loss Year</i> .
D-	Indicates failed savings and loans, institutions and banks. Such an account is identified with a Large Corporation Indicator (LCI) – see CC TXMOD. Contact Examination Classification Specialist before taking any action. The specialist must approve any abatement of tax or refund. See IRM 21.5.6.4.7, <i>D- Freeze</i> .
I-	Indicates overpayment interest is restricted on the account. See IRM 21.5.6.4.17, <i>I- Freeze</i> , IRM 20.2.1.4.2, <i>Manual Calculation of Interest</i> , and IRM 20.2.4, <i>Overpayment Interest</i> , for additional information.

Freeze	Indicators/Instructions
-I	Indicates underpayment interest is restricted on the account. See IRM 21.5.6.4.18, <i>-I Freeze</i> , IRM 20.2.1.4.2, <i>Manual Calculation of Interest</i> , and IRM 20.2.5, <i>Interest on Underpayments</i> , for additional information.
-L	The -L Freeze, or Open Examination Indicator, is set when a TC 420 posts to an account that has been referred to Examination. <ul style="list-style-type: none"> <li>• If the carryback is a TENT, See IRM 21.5.9.5.16.4, <i>Carryback Application with Examination Criteria</i>.</li> <li>• If the carryback claim is a RINT, see <i>IRM Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General</i>.</li> </ul>
V-	Do not take action that results in the freeze being released. Follow instructions in IRM 21.5.6.4.43, <i>V- Freeze</i> .
-V	Indicates bankruptcy. Contact the local Insolvency Unit for processing instructions. See IRM 21.5.6.4.44, <i>-V Freeze</i> .
-W	Litigation - Set by TC (Transaction Code) 520 with specific closing codes. Follow the instructions in IRM 21.5.6.4.46, <i>-W Freeze</i> .  Failed Banks - Set by TC 971 with AC (Action Code) 076. Indicates a bank has failed and the Federal Deposit Insurance Corporation (FDIC) has been assigned as receivership of the bank. See IRM 21.5.6.4.46, <i>-W Freeze</i> . Also see IRM 21.5.9.4.2.1, <i>Carryback Applications/Claims from Financial Institutions in Receivership - Form 56-F Filed</i> , for processing of carryback applications/claims from financial institutions in receivership.
-Y	Transaction Code (TC) 480/TC 780 on any module indicates an Offer in Compromise (OIC). See IRM 21.5.6.4.50(3), <i>-Y Freeze</i> for procedures.
-Z	Indicates taxpayer’s account is assigned to the Criminal Investigation (CI) function. Contact CI before taking any action. See IRM 21.5.6.4.52, <i>-Z Freeze</i> .

21.5.9.4.7  
(10-01-2024)  
**Carryback Tolerances -  
Master File Verification,  
Math Verification,  
Application/Claim  
Processing, Push Codes**

- (1) There is no tolerance for Master File verification. Verify the loss, Net Operating Loss (NOL), Net Capital Loss (NCL), credit carryback and gain year returns against posted data on Master File for each tax period. See IRM 21.5.9.4.5, *Master File Verification - Incorrectly Calculated Carryback Applications/Claims*. Also see Paragraph (6) below for procedures when the loss year, on a TENT, has not posted to Master File.

**Caution:** Be alert to taxpayers filing applications or claims for carryback that also include a general tax increase or decrease. Separate adjustments are required in these situations (TC 290/TC 291 for the general tax adjustment and TC 295/TC 299 for the carryback adjustment). See IRM 21.5.9.5.6, *Multiple Adjustments*, for instructions when multiple adjustments are required.

**Note:** Refer to the table in Paragraph (9) below for Master File verification of NOLs filed for Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*, and life subgroup NOLs on Form 1120-L, *U.S. Life Insurance Company Income Tax Return*, involving a Life/Non-Life group filing a consolidated Form 1120.

- (2) Always math verify the taxpayer's NOL computation (e.g., Form 1045, Schedule A, or an equivalent worksheet).
- (3) If the tax decrease is greater than tolerance, you must math verify every gain year. Review and math verify all revised gain year forms and schedules used to figure the tax and credits. This includes changes to the AGI (Adjusted Gross Income) (due to the NOL amount, revised taxable social security benefits, etc.) and TXI (Taxable Income) (based on changes to exemptions and itemized deductions). See IRM 21.5.9.5.10.6.1, *Computing the IMF Carryback Net Operating Loss Deduction (NOLD)* for instructions on computing the net operating loss deduction (NOLD) for IMF (Individual Master File) claims. See IRM 21.5.9.5.10.6.2, *Computing the Carryback BMF Net Operating Loss Deduction (NOLD)*, for instructions on computing the NOLD for BMF (Business Master File) claims. See, IRM 21.5.9.5.10.5, *Carryback Net Operating Loss (NOL) Affecting Alternative Minimum Tax (AMT)*, for information on carrybacks and alternative minimum tax.

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- (4) If there is a discrepancy with the taxpayer's figures, make corrections and notify the taxpayer of the change. In some cases, the claim will have to be rejected for the taxpayer to make the corrections, such as when several

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- (5) A TENT can be processed, whether or not the loss year return has posted to Master File.
- (6) While it is not necessary for the loss year return to be posted to Master File at the time the TENT is processed, it must have been filed on or before the date the TENT was filed, per IRC 6411(a). If the loss year return has not posted to Master File, do the following:
- Check all relevant command codes for evidence of a filed return, e.g., BMFOL (Business Master File On-line), IMFOL (Individual Master File On-line), FFINQ (IMF), TRDBV, ENMOD (for evidence of a rejected TC 150), etc. If evidence of a filed return is found, follow the instructions in the table below.
  - If evidence of a filed loss year return is not found, check the date on line 2b of the TENT (Form 1139 or Form 1045).

1) If the date entered on line 2b indicates that a return has been filed, follow the instructions in the table below.

2) If the TENT has a future date entered on line 2b or the date is blank, reject the application and advise the taxpayer the TENT can be resubmitted once the loss year return has been filed. See IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*, for additional information.

If	And	Then
Loss year has posted	The combined tax decrease is under math verification tolerance	Input TC 295, blocking series 91/ blocking series 92 on each applicable gain year.  Input TC 290 for .00 on the loss year return: 1. Use blocking series 05 for IMF (Individual Master File) tax class 2, and blocking series 15 for BMF, except Form 1041. 2. Use blocking series 17 for Form 1041. 3. Mark the application as "VERIFIED." <b>Exception:</b> If working a CII case, update the loss year IDRS control base activity to VERIFIED and close the base, instead of inputting a TC 290.00, since there is nothing to send to Files.
Loss year has posted	The combined tax decrease is over math verification tolerance and the carryback application can be math verified from attached forms	Input TC 295, blocking series 91/ blocking series 92 on each application gain year. Input TC 290 for .00 on the loss year return. 1. Use blocking series 05 for IMF tax class 2, and blocking series 15 for BMF, except Form 1041. 2. Use blocking series 17 for Form 1041. 3. Mark the application as " VERIFIED." <b>Exception:</b> If working a CII case, update the loss year IDRS control base activity to "VERIFIED and close the base, instead of inputting a TC 290.00, since there is nothing to send to Files."

If	And	Then
Loss year has not posted	The combined tax decrease is either under or over math verification tolerance, and the carryback application can be math verified from attached forms	<ol style="list-style-type: none"> <li>1. Input TC 295, blocking series 91/blocking series 92 on each applicable gain year.</li> <li>2. Input TC 930, Document Locator Number (DLN) Code 85 on the loss year return, have the push code document returned to you for Master File verification and attach the push code document to the return. <b>Exception:</b> If working a CII case, input TC 930 push code without printing anything from CII. Include in the push code remarks the CII ID number and "NSD Image retained in CII." See IRM 21.5.1.5.7, <i>CII Push Codes</i>, for additional information.</li> <li>3. Upon receipt of the push code documentation follow procedures in Paragraph (7) below.</li> <li>4. If the loss year return does not post within 20 cycles of the TC 930 posting cycle, TC 932 generates along with a CP 98/CP 198 which is returned to the requesting employee for immediate follow-up with the taxpayer. See IRM 21.5.1.5.7, <b>CII Push Codes</b>, if working a CII case.</li> <li>5. If a push code cannot be utilized as outlined in IRM 21.5.1.4.4.3, <i>Inappropriate Use of TC 930 Push Code</i>, follow procedures in IRM 21.5.9.5.1, <i>Controlling and Monitoring Carryback Cases</i>, (8) and document CII that the case is being monitored for the posting of the original loss year return. Once the new case is opened, the following actions are to be taken: <ul style="list-style-type: none"> <li>• Update the case history status code to "M" on IDRS.</li> <li>• Monitor the account weekly for up to 20 cycles for posting of the loss year return.</li> <li>• If the loss year return posts within the 20 cycles, notate CII that the loss year return has posted, verify the application and close the case.</li> <li>• If the loss year return does not post within 20 cycles, follow the guidelines in IRM 21.5.9.5.16.5, <i>Reassessing Carryback Applications</i>.</li> </ul> </li> </ol> <p><b>Reminder:</b> Once the push code or the loss year return posts, you must verify the posted IDRS or Master File loss year return information against the before carryback information included on the TENT.</p>

- (7) When the TENT loss year push code documents are received from Files, follow the instructions in the table below to per verification:

**Reminder:** Verification must be completed **prior** to forwarding any TENT to Examination. See IRM 21.5.9.5.16.4, *Carryback Application with Examination Criteria*. Once verification has been completed, follow guidance in IRM 21.5.9.5.16.4 (2) for referral of Joint Committee Cases (JCC).

If	And	Then
Push code documents are received with the original return	The information supports the figures on the application (TC 150 posted)	Refile the documents using TC 290.00 blocking series 00.
Push code documents are received without the original return	The information can be verified from CFOL (TC 150 posted)	Refile the application using TC 290.00. Use blocking series 05 for IMF and blocking series 15 for BMF and blocking series 17 for Form 1041. <b>Exception:</b> If working a CII case, open and close an IDRS control base indicating "VERIFIED," instead of inputting a TC 290.00, since there is nothing to refile.
Push code documents are received with or without the original return	Information cannot be verified from CFOL (TC 150 posted, but figures don't match)	See IRM 21.5.9.5.16.5, <i>Reassessing Carryback Applications</i> , for reassessment procedures.
Push code documents are received	The loss year return has not been received (TC 150 not posted)	See IRM 21.5.9.5.16.5, <i>Reassessing Carryback Applications</i> , for reassessment procedures. <b>Caution:</b> Be aware that the original loss year return may have been scanned to CII with the TENT and may need to be printed and sent for processing.

- (8) To process a RINT, the loss year return must be posted on Master File or CFOL. Follow the instructions in the table below when processing a RINT:

If	Then
Loss year has posted and the claim can be verified from posted data	<ol style="list-style-type: none"> <li>1. Input TC 299, blocking series, 91/blocking series 92 on each applicable gain year for which a claim is filed.</li> <li>2. Input one TC 971, Action Code 091 on the loss year. Use only the earliest gain year as (XREF-TX-PRD). Use the received date as the transaction date.</li> </ol>
Loss year has posted and the claim cannot be verified	See IRM 21.5.9.4.5, <i>Master File Verification - Incorrectly Calculated Carryback Applications/ Claims</i> , for instructions.

- (9) Refer to the table below for Master File verification of NOLs filed for Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*, and life subgroup NOLs on Form 1120-L, *U.S. Life Insurance Company Income Tax Return*, involving a Life/Non-Life group filing a consolidated Form 1120.

If the Taxpayer Files	And	Then
Form 1120-C Income: <ul style="list-style-type: none"> <li>• Patronage</li> <li>• Nonpatronage</li> </ul> <b>Note:</b> Patronage-sourced NOLs cannot be used to reduce nonpatronage-sourced taxable income.	The NOL being carried back does not match the NOL posted to Master File  <b>Note:</b> The consolidated patronage/nonpatronage income should match Master File.	Verify the NOL being carried back agrees with the NOL on Form 1120-C Schedule G Line 10.
Form 1120-L Income: <ul style="list-style-type: none"> <li>• Life Subgroup</li> <li>• Non-Life Subgroup</li> </ul> <b>Note:</b> Life subgroup losses should be considered separately from the income or losses of the non-life subgroup.	The NOL being carried back does not match the NOL posted to Master File  <b>Note:</b> The consolidated life subgroup/non-life subgroup taxable income should match Master File.	Verify the NOL being carried back matches the Life Subgroup Proforma Form 1120-L  Refer to IRM 21.5.9.5.10.8.4, <i>Carryback Net Operating Loss Incurred by Life Insurance Companies - CARES Act</i> , for additional information.

21.5.9.5  
(10-01-2024)  
**Carryback Processing**

- (1) See IRM 21.5.9.4, *Carryback Verification*, for verification and certain general processing procedures.
- (2) This Section provides specific processing procedures for both TENTs and RINTs, including:
- Controlling and Monitoring Cases
  - Carryforward Election
  - Special Carryback/Carryforward
  - Rules concerning credits
  - Inputting adjustments on IDRS
  - Multiple Adjustments

- Interest
- Manual Refunds
- Accounts on Retention Register
- Net Operating Loss (NOL) and Net Operating Loss Deduction (NOLD)
- Net Capital loss (NCL)
- Claim of Right
- Foreign Tax Credit
- Net 1256 Contract Loss Carryback

- (3) The IRS has 90 days to process a tentative carryback application (Form 1045 or Form 1139) when the application is filed within 12 months of the end of the year in which the NOL, NCL, unused credit, or claim of right adjustment arose. However, every effort will be made to ensure tentative applications are processed and refund(s) issued within 45 days. If the carryback application is filed after the 12-month time limit, the application must be rejected. Carryback applications are tentative. If the application is rejected because the 12 months has ended for filing a tentative, the taxpayer must file a standard refund claim (*Form 1040-X* or *Form 1120-X*). The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 and *Notice 2020-26* provides a six-month extension of time to file a Form 1045 or Form 1139 for an NOL incurred in a taxable year that began in 2018 and ended on or before June 30, 2019.

**Note:** Since the taxpayer only has 12 months to file a tentative carryback application, every effort should be made to timely contact the taxpayer/authorized representative by phone to request any missing information before rejecting the application. See IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*, for additional information.

**Caution:** You **must** expedite Joint Committee Cases (JCC) to Examination as required. See *IRM Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General* for RINTs, and IRM 21.5.9.5.16.4, *Carryback Application with Examination Criteria*, for TENTs.

- (4) Save the PDF of any letter generated on a carryback case. Attach to the CII Case with the Attach File button instead of capturing the “request completed” screen.

21.5.9.5.1  
(10-01-2024)  
**Controlling and  
Monitoring Carryback  
Cases**

- (1) Monitor carryback cases to ensure the 45-day interest-free period is met whenever possible. See the *Carryback 45-Day Interest-Free Charts*, under the IRM Supplements tab on SERP.

- (2) On RINTs, control the gain year(s).

**Note:** It is not necessary to open a control on the loss year at the time the case is assigned. When processing the RINT, input a closed control on the loss year. See third bullet below.

- When a RINT case is created in IT as part of the CII case control process, transaction code (TC) 971 action code (AC) 010 is automatically generated on the tax period(s) for which the return(s) are filed. This eliminates the need for manual input of this transaction on each gain year and sets the -A freeze on each gain year tax module.

- Input **one** TC 971, Action Code 091 on the loss year, using the earliest gain year as (XREF-TX-PRD). Use the IRS received date as the transaction date.
- Input a closed IDRS control base using Command Code (CC) ACTON on the **loss** year when a TC 971 AC 091 is input.

**Example:** ACTON  
C#,TC971AC091,C,RINT  
\*,\*  
,

- (3) On TENTs, control only the loss year. Input of CC ADJ54 automatically creates an IDRS control base on the **gain** year(s) for a TENT.

**Note:** If the TENT is unprocessable, do not open and close IDRS control bases on any of the gain years.

- (4) Multiple control bases on carryback and carryforward inventory are to be assigned to the carryback employee with the oldest received date. If the case is a RINT and/or CFWD, verify all of the related years have been assigned to one employee by researching CIS/IDRS. If a RINT and/or CFWD for a related year has been assigned to another examiner, all the cases must be reassigned to the examiner with an open control on the earliest tax year.

- The employee with the earliest year should contact the employee with the open base on the related year before taking any action. If unable to locate or talk to the person that has control on the case, leave a message. If no reply received, then take over control of the base, and leave a CII case message.
- If the earliest year is assigned to another Customer Service Representative (CSR), reassign your base through CII to the other CSR. Leave a case message citing this IRM reference.

**Note:** Contact the Taxpayer Advocate Service (TAS) when the case has an open Taxpayer Advocate control prior to take any case actions (i.e., IDRS controls beginning with "63").

- (5) For IMF (Individual Master File) RINTs and TENTs, if a determination can be made based on the copy of the taxpayer's original loss year return or amended return that the net operating loss is attributable to a theft loss due to a Ponzi scheme (Schedule A, Form 4684 theft loss due to a Ponzi scheme), input a TC 971 AC 651 on the loss year only (unless one has already been input). This transaction code is used for identification purposes only. Process the RINT/TENT as normal, following the applicable subsections in this IRM.
- (6) For information on carrybacks received via the Modernized e-File (MeF) system, see IRM 21.5.9.5.1.1, *BMF Carrybacks Filed via the Modernized e-File (MeF) System (Ogden AM Campus Only)* or IRM 21.5.9.5.1.2 *IMF Carrybacks Filed via the Modernized e-File (MeF) System*.
- (7) The ICT teams assign Carryback RINTs and TENTs a priority code when scanning into CII as required in IRM 3.13.6-8, *Appendix H - Scanning of Carryback and Carryforwards Applications/Claims - IMF/IMF International*, and IRM 3.13.6-9, *Appendix I - Scanning of Carrybacks and Carryforwards Applications/Claims and Form 1138 - BMF/BMF International and EO*. CII allows the post scanning addition of a missing priority code or the update of an

incorrectly assigned priority code. CSRs **must** review newly assigned cases to ensure correct priority code assignment or assign the correct one if missing.

- (8) When the only remaining action on a carryback CII case is monitoring for posting of items such as the original loss year return because the timeframe for a push code has expired, close the original carryback CII case and open a new CII case as MISC category (doc type is the same as the original carryback case) and update the IDRS activity code to either TENT\_PN150 (for TENTs or ICTBs) or RINT\_PN150 (for RINTs or IRNTs) to conduct the monitoring process. Utilize the date the MISC case was opened as the IRS received date and link the original carryback CII case(s). Include a CII note on the new MISC case that it was generated due to a Carryback TENT or RINT.

21.5.9.5.1.1  
(10-01-2024)  
**BMF Carrybacks Filed  
via the Modernized  
e-File (MeF) System  
(Ogden AM Campus  
Only)**

- (1) In tax year 2008 corporations began filing carrybacks electronically using the Modernized e-File (MeF) system by filing *Form 1120-X* and marking a “Y” in the carryback checkbox. The following paragraphs describe the unique procedures used to promptly identify and route these MeF carryback cases to the Ogden Carryback Teams, thereby increasing the probability of meeting the 45-day interest-free period.
- (2) MeF ad hoc reports, for all amended MeF returns received, are generated by the Ogden AM MeF Coordinator each Tuesday for the previous week’s data (Sun - Sat). The report is sorted by the following categories:
  - Form 1120-X carryback returns - “Y” in the Carryback checkbox column
  - Form 1120-X returns - “N” in the Carryback checkbox column
  - Amended Form 1120-S returns
  - Amended Form 1065 returns
- (3) See IRM 21.7.9.4.1.2.2.1, *Modernized e-File (MeF) Amended Returns Requiring Expedited Handling*, for additional guidance on the special handling of any other MeF amended returns.
- (4) A listing of all Form 1120-X carrybacks (those with a “Y” in the carryback checkbox) is forwarded directly to a designated carryback manager to be worked by carryback employees.
- (5) A listing of the Form 1120-X amended returns is forwarded to a designated AM team to be worked. Any carryback amended returns identified by this team are forwarded directly to the designated carryback manager to be worked by carryback employees.
- (6) MeF amended returns post 1-2 cycles prior to the posting of the CP/TRNS 193 and -A freeze on IDRS. Trained employees work the amended returns and carryback cases and input No Source Document (NSD) TC 29X adjustments or route, as appropriate, according to IRM requirements **prior** to the CP/TRNS 193 and -A freeze generation.
- (7) When inputting the adjustment, input “MEFEUP193” as the adjustment activity and “MISC” as the IDRS category code. For carryback cases, use IDRS category code “TENT” or “RINT,” as appropriate.
- (8) MeF trained employees will create a CII case with the following information:
  - Worktype: BMF (Business Master File)
  - Doc Type: Duplicate Filing - Form 1120

- Function: ADJ-710
- Program: 10050
- Reason: Pending CII TRNS193 Control

Use the received date from the ad hoc report. Suspend the CII case in Monitor status for 14 days or until the CII TRNS193 case is created. CII TRNS193 cases are created by IDRS CP/TRNS 193. CII recognizes that a same TIN case is active and assigns the new case to the employee who created the case.

- (9) Once the CII TRNS193 case has been created and associated, the employee links the cases together on CII and closes both CII cases to complete processing. There may be instances when the CII TRNS193 case does not correctly associate to the employee. A CII TIN search may be necessary.
- (10) For more information about Modernized e-File for businesses, see *E-file for Large Business and International (LB&I)*, located on the IRS.gov Website.

21.5.9.5.1.2  
(05-06-2024)  
**IMF Carrybacks Filed via  
the Modernized e-File  
(MeF) System**

- (1) Beginning in August 2020, IMF taxpayers have the option to electronically file a Form 1040-X, *Amended U.S. Individual Income Tax Return*, via the Modernized e-File Return (MeF) for tax year 2019 and 2020.

**Note:** See IRM 21.5.1.5.5 *Processing/Reprocessing CII Tax Returns*, (3) for information on how to view and edit MeF documents for CII processing.

- (2) Identify the MeF filed carryback Form 1040-X in CII and IDRS, by the following category codes:
  - MEFC - Domestic Carryback Form 1040-X MeF
  - MEFR - International Carryback Form 1040-X MeF

**Reminder:** MEFC and MEFR cases follow RINT/IRNT processing guidelines.

21.5.9.5.1.3  
(11-05-2018)  
**Carryback Cases  
Received from  
Centralized Case  
Processing (CCP) -  
Status 26**

- (1) Field Collection forwards carryback cases to Collections Centralized Case Processing (CCP) located in Philadelphia for input. CCP will forward carryback cases to a designated point of contact (POC) in Philadelphia for scanning into the Correspondence Imaging System (CII) and processing. Any unprocessable carryback cases will be returned to CCP. See IRM 21.5.9.4.2 *Identifying Processable and Unprocessable Carryback Applications/Claims*, for guidance on determining an unprocessable carryback.
- (2) Domestic and International IMF Status 26 carryback cases received from CCP will be processed by the Philadelphia Accounts Management Carryback team.
- (3) Domestic and international BMF Status 26 carryback cases received from CCP will be processed by the Ogden Accounts Management Carryback team.
- (4) CCP is responsible for ensuring carryback cases received from Field Collection include a completed Form 3870, *Request for Adjustment*, as well as all required documentation for a processable carryback case.
- (5) Accounts Management will not accept any Form 3870/Status 26 requests directly from the Field Collection. All such requests are to be returned to the originator stating the case needs to be forwarded to the manager of the General Case Processing (GCP) unit.

- (6) Accounts Management will not respond to telephone, e-mail, fax or direct inquiries from the Field Collection requesting assistance with carryback cases. All such contacts are to be referred to the General Case Processing team for assistance.

21.5.9.5.1.4  
(11-17-2011)  
**Notice Suppression on  
Carryback Applications  
for Tentative Refund  
(TENTs)**

- (1) TENTs received with a gain year reflecting a balance due must have the balance due notice suppressed. Input a STAUP on the gain year(s) as soon as a balance due is identified. A STAUP is not necessary if the time frame remaining before the next scheduled notice allows time to complete the carryback request. See IRM 21.5.2.4.8.2, *Suppressing Balance Due Notices*, for specific direction for inputting Command Code STAUPS.

**Note:** A STAUP is to be input as soon as a balance due is identified but Customer Service Representatives are not to review their inventories to locate these types of cases.

- (2) TENTs that have a balance due remaining on a gain year after the carryback adjustment(s) has been input must have STAUPS released as per the direction in IRM 21.5.2.4.8.2, *Suppressing Balance Due Notices*.

21.5.9.5.2  
(12-01-2023)  
**Carryback/Carryforward  
Election**

- (1) For net operating losses (NOLs) arising in tax periods beginning before January 1, 2018, taxpayers may elect to forgo the carryback period and carry the entire NOL forward 20 years (15 years for NOLs arising in tax years beginning on or before August 5, 1997). For NOLs arising in tax periods beginning in 2018, 2019, and 2020, taxpayers may elect to forgo the carryback period and carry the entire NOL forward to future tax periods until it is exhausted. For NOLs arising in tax periods beginning after 2020, the option to forgo a carryback period only applies to a limited class of NOLs that still qualify to be carried back. See IRM 21.5.9.5.10.3.1, *TCJA - NOL Carryback and Carryforward Periods*, and IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*, for additional information.

**Reminder:** Carryback teams work carryforward cases and elections to forgo the carryback period. Do not reassign these case types to a non-carryback team.

- a. The election must be made in writing and attached to the loss year return.

**Exception:** Certain Form 1120 series returns include an option to elect to forgo the carryback period and carryforward an NOL by checking a box on a schedule. By checking this box, the taxpayer is not required to include a statement to forgo the carryback period per Temporary Regulations Section 301.9100-12T. The chart below provides the Form 1120 series return and the location of the box the taxpayer can check to elect a carryforward of the NOL.

1120 Series	Location of Election to Forgo the Carryback Period
Form 1120	Schedule K, Line 11
Form 1120-C	Schedule K, Line 12
Form 1120-F	Additional Information, Line R
Form 1120-FSC	Schedule A, Additional Information, Line 6
Form 1120-L	Schedule M, Line 12 for 2017 and earlier. No line for this purpose included in 2018 and subsequent
Form 1120-PC	Schedule I, Line 11

**Note:** A corporation filing a consolidated return must include the required election statement per Regulations Section 1.1502-21(b)(3). Consolidated returns do not have the option of checking a box on a Form 1120 series return to indicate an election to forgo the carryback period to carryforward an NOL.

- b. The election must be made by the due date or extended due date of the loss year return.

**Note:** Section 301.9100-2 of the regulations provides that an election may be made on an “amended” return if it is filed within six months of the due date of the original return (determined without regard to extensions) provided the taxpayer timely files the loss year return by its due date or extended due date. For example, a 2017 Form 1040 loss year return is filed (with extension) on July 15, 2018. An amended Form 1040 return claiming the election is timely if filed by October 15, 2018, but if filed on or after October 16, 2018, the election is not timely. For taxpayers affected by a federally declared disaster, the due date of the original return is the postponed due date allowed for the disaster (determined without regard to any other extensions).

- c. Generally, the election is irrevocable. Listed below are exceptions:
- When new legislation specifically allows taxpayers to revoke the election, such as the provision in ARRA 2009, Section 1211, which allowed taxpayers until April 17, 2009 to revoke a prior election to waive the carryback period. See the archived revision of *IRM 21.5.9.5.14.6.5, Revocation of Prior Election to Waive the Carryback Period under Section 172(b)(3)*.
  - A Bankruptcy Trustee can revoke a valid election to forgo the carryback period.
  - *Rev. Proc. 2020-24*, section 4.04, which provides guidance specific to the CARES Act of 2020, allows taxpayers to revoke a prior election to relinquish the carryback period for NOLs sustained in a taxable year beginning before 2018 and ending after 2017.
  - A taxpayer may revoke an election to forgo the carryback period on a superseding return. The position that the taxpayer takes on the superseding return, whether to forgo the carryback period or to revoke such an election, is the position to which the taxpayer is bound.

- d. An election made by a parent company in a consolidated return is binding for all members of the group.
- e. If an election statement is timely filed on an amended tax return, allow and process with a TC 290.00. Use blocking series 18.

**Note:** If a return is electronically filed, a blocking series 05 must be used. See IRM 21.6.6.2.25, *Electronic Filing System (e-file)*, for further information.

- f. The Tax Cuts and Jobs Act of 2017, section 13302, as amended by section 2303 of the Coronavirus Aid, Relief, and Economic Security Act of 2020 (The CARES Act), limited the option to carryback a net operating loss to certain farming losses and to NOLs of non-life insurance companies. This rule was then suspended by the CARES Act for NOLs arising in taxable years beginning in 2018 through 2020. Therefore, for loss years beginning after 2020, only taxpayers reporting NOLs from a farming loss or non-life insurance companies are eligible to elect to forgo a carryback period. See IRM 21.5.9.5.10.3.1, *TCJA - NOL Carryback and Carryforward Periods*, for additional information.

**Note:** Take no action on elections to forgo a carryback period received from an entity no longer eligible to carry net operating loss back per TCJA. Close these types of cases as *No Action* and document CII indicating the taxpayer is no longer eligible to carry back their net operating losses per TCJA.

**Reminder:** Release the -A freeze if appropriate.

- g. The CARES Act reversed the provisions provided in TCJA thus requiring any entity to carry back five years NOLs incurred in tax years 2018, 2019, and 2020 unless the entity elects to forgo the entire carryback period. See IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and Section 2305) Overview - Net Operating Losses*, for additional information.
- h. If an election statement is late filed on an amended tax return, follow the direction outlined in the IF/AND/THEN guidance below.

If	And	Then
Carryforward claim is filed on a gain year	Taxpayer mentions the election and the loss year return was timely filed by its due date or extended due date	Check CFOL to verify the loss and accept the NOL carryforward.
Carryforward claim is filed on a gain year	Taxpayer does not mention the election and there is no modified taxable income in any of the applicable gain years and the loss year return was timely filed by its due date or extended due date	Check CFOL to verify the loss and accept the NOL carryforward. If the original return was e-filed, then check CC TRDBV. Any Modernized e-Filed (MeF) returns will be displayed in the Return Request Display (RDD) by accessing the Employee User Portal (EUP).

If	And	Then
Carryforward claim is filed on a gain year	Taxpayer does not mention the election and there is modified taxable income in any of the applicable gain years	Request the original loss year return to verify the election and the loss. If the original return was e-filed, then check CC TRDBV. Any Modernized e-Filed (MeF) returns will be displayed in the Return Request Display (RDD) by accessing the Employee User Portal (EUP). When the original return is received: <ul style="list-style-type: none"> <li>• If there is no election, inform the taxpayer that the NOL must be carried back to any applicable gain year before it can be carried forward.</li> <li>• If the taxpayer filed an election, accept the carryforward.</li> </ul>
Carryforward claim is filed on a gain year	Taxpayer's loss year return was not filed by the due date (including extensions) and there is no modified taxable income in any of the applicable gain years	Request CFOL information to verify the loss and accept the NOL carryforward. Close the case as CFWD or ICFD as appropriate.
Carryforward claim is filed on a gain year.	Taxpayer's loss year return was not filed by the due date (including extensions) and there is modified taxable income in any of the applicable gain years	Follow guidance in IRM 21.5.3.4.6.1, <i>Disallowance and Partial Disallowance Procedures</i> , to disallow the claim and inform the taxpayer that the election to waive the carryback period was not timely filed; therefore, the NOL must be carried back to any applicable gain year before it can be carried forward. Close the case as CFWD or ICFD as appropriate.

If	And	Then
Claim is filed to increase or include an NOL on the loss year	A late election to forgo the carryback period is attached and a timely election, filed by the due date (including extensions), cannot be located after research of CII, CFOL, MeF or TRDBV.	Process the claim increasing or adding the NOL. Follow guidance in IRM 21.5.3.4.6.1, <i>Disallowance and Partial Disallowance Procedures</i> , to partially disallow the election to forgo the carryback period and inform the taxpayer the election to waive the carryback period was not timely filed, therefore, the NOL must be carried back to any applicable gain years before it can be carried forward. Close the case as CFWD or ICFD as appropriate.

**Reminder:** The election to forgo the carryback period is **only** applicable for a Net Operating Loss. Taxpayers cannot elect to forgo the carryback period for a Net Capital Loss or unused general business credits.

- (2) Under TCJA, elections to forgo a carryback period could be filed only by farming businesses and non-life insurance companies. Elections to forgo a carryback period filed by an entity not eligible to carry back net operating losses under TCJA will not be processed.

**Caution:** Taxpayers who filed an election to forgo a carryback period under TCJA but were not eligible to do so, and are requesting a Coronavirus Aid, Relief and Economic Security (CARES) Act NOL carryback, are eligible for the CARES Act carryback.

21.5.9.5.3  
(07-29-2024)

**Special Carryback/Carryforward Periods**

- (1) Types of taxpayer losses or specific unused credits determine the carryback periods. The following types have special carryback-carryforward rules:

**Note:** The Tax Cuts and Jobs Act of 2017 (TCJA), Section 13302, repealed the two-year and other specified carryback provisions. (The exceptions are certain NOLs that are farming losses and NOLs of non-life insurance companies.) Additionally, Section 13302 allows for an indefinite carryforward of NOLs for all entities with the exception of non-life insurance companies who are restricted to a 20-year NOL carryforward.

**Note:** The Coronavirus Aid, Relief, and Economic Security Act of 2020, Section 2303, amended IRC 172(b)(1) of the Internal Revenue Code to provide relief from changes made by the Tax Cuts and Jobs Act (TCJA) for tax years 2018, 2019, and 2020. Net operating losses incurred in 2018, 2019, and 2020 must be carried back five years unless the taxpayers properly elect to relinquish the carryback period. Fiscal year 2018 filers are eligible for pre-TCJA carryback periods. See the August 22, 2018 revision of *IRM 21.5.9* for pre-TCJA guidance.

Type of Loss	Carryback or Carryforward Options	Special Rules
Foreign Expropriation Capital Losses	Net Capital Loss (NCL)	Carryforward 10 years
Regulated Investment Company (RIC)	NCL	Carryforward indefinitely for tax years beginning on or after December 23, 2010. (For tax years beginning on or before December 22, 2010, carryforward eight years.)
Biofuel Producer Credit (Form 6478)	Unused general business credits	Not available for Carryback, Carryforward limited to 3 years from the tax year when the credit component terminates
Credit for Oil and Gas Production From Marginal Wells (Form 8904)	Unused general business credits	Unused credit for oil and gas production from marginal wells are carried back 5 years and forward 20 years applicable for tax years beginning in 2016.

Type of Loss	Carryback or Carryforward Options	Special Rules
<p>IRC 6417(b) Credits:</p> <ul style="list-style-type: none"> <li>• Alternative Fuel Vehicle Refueling Property Credit (Form 8911 Part II) Section 30C</li> <li>• Renewable Energy Production Credit (Form 8835) Section 45(a)</li> <li>• Carbon Oxide Sequestration Credit (Form 8933) Section 45Q(a)</li> <li>• Zero-emission Nuclear Power Production Credit (Form 7213 Part II) Section 45U(a)</li> <li>• Clean Hydrogen Production Credit (Form 7210) Section 45V(a)</li> <li>• Qualified Commercial Clean Vehicle Credit (Form 8936 Part V) Section 45W</li> <li>• Advanced Manufacturing Production Credit (Form 7207) Section 45X(a)</li> <li>• Clean Electricity Production Credit Section 45Y(a)</li> <li>• Clean Fuel Production Credit Section 45Z(a)</li> <li>• Energy Credit Under Section 48 (Form 3468 Part VI) Section 48</li> <li>• Qualifying Advanced Energy Project Credit Under Section 48C (Form 3468 Part III) Section 48C</li> <li>• Clean Electricity Investment Credit (Form 3468 Part V) Section 48E</li> </ul>	<p>Unused general business credits</p>	<p>Unused credits listed in IRC 6417(b) may be carried back 3 years and forward 20 years.</p> <p><b>Note:</b> IRC 6417(b) credits may be carried back to years before the credit was first allowable. See Form 3800 Instructions.</p> <p>Form 3468 , Investment Credit, Carryforward :</p> <p>If the taxpayer is carrying forward an investment credit, refer to IRM 21.7.4.4.8.3.1.1, <i>Carryforward of Investment Credit</i>.</p>
<p>Real Estate Investment Trust (REIT)</p>	<p>Net Operating Loss (NOL) sustained by a REIT</p>	<p>Not Available for Carryback</p>

Type of Loss	Carryback or Carryforward Options	Special Rules
Commercial Banks	Portion of NOL attributable to bad debt deduction	Carryback 10 years, five years Carryforward (For taxable years beginning after December 31, 1986, and before January 1, 1994) For tax periods ending after December 31, 2017, a Commercial Bank is not eligible for a carryback of NOL but can be carried forward indefinitely.
Thrift Institutions	NOLs	Carryback 10 years, eight years Carryforward (For tax years beginning after December 31, 1981, and before January 1, 1986) For tax periods ending after December 31, 2017 a Thrift Institution is not eligible for a carryback of NOL but can be carried forward indefinitely.
Specified Liability Losses (Product Liability)	NOLs	For tax periods ending prior to January 1, 2018 - Carryback 10 years For tax periods ending after December 31, 2017, a specified liability loss is not eligible for a carryback but can be carried forward indefinitely.
Specified Liability Losses (Portion attributable to decommissioning of a nuclear power plant)	NOLs	For tax periods ending prior to January 1, 2018 - Carryback 10 years or carryback to each taxable year beginning with the taxable year in which such plant was placed in service (but not to a taxable year beginning before January 1, 1984) For tax periods ending after December 31, 2017, a specified liability loss attributable to the decommissioning of a nuclear power plant is not eligible for a carryback but can be carried forward indefinitely.
Life Insurance Company	For tax periods beginning prior to January 1, 2018 - Operations Loss Deduction For tax periods beginning after December 31, 2017 - NOLs	For tax periods ending prior to January 1, 2018 - Carryback three years For tax periods ending after December 31, 2017, a Life Insurance Company is not eligible for a carryback of NOL but can be carried forward indefinitely.

Type of Loss	Carryback or Carryforward Options	Special Rules
Farming Loss	Portion of NOL that consists of income and deductions attributable to a farming business	<p>For tax periods beginning prior to January 1, 2018 - Carryback five years (Taxpayer may make an irrevocable election to disregard the special five-year carryback rule and use the normal two-year carryback period.)</p> <p>For tax years beginning in 2018, 2019, and 2020 - Carryback five years unless the taxpayer makes a timely election to use the two-year carryback period. See <i>Rev. Proc. 2021-14</i>.</p> <p>For tax periods beginning after December 31, 2020 - Carryback the portion of an NOL that arose from the trade or business of farming two years.</p>
Eligible Losses	<p>An “Eligible Loss” is any part of an NOL that:</p> <ul style="list-style-type: none"> <li>• For an individual - Is from a fire, storm, shipwreck, or other casualty, or from theft</li> <li>• For a qualified small business - Is attributable to a federally declared disaster</li> <li>• For a taxpayer engaged in the trade or business of farming – Is attributable to a federally declared disaster,</li> </ul>	<p>For tax periods ending prior to January 1, 2018 - Carryback three years.</p> <p><b>Note:</b> An Eligible Loss does <b>not</b> include:</p> <ul style="list-style-type: none"> <li>a. a farming loss,</li> <li>b. a qualified disaster loss (National Disaster Relief Act),</li> <li>c. a qualified Gulf Opportunity (GO) Zone loss,</li> <li>d. a qualified recovery assistance loss (Kansas Storms),</li> <li>e. a qualified disaster recovery assistance loss (Midwest Disasters),</li> <li>f. an “eligible small business” loss for which a taxpayer elects a three, four, or five-year carryback period (ARRA 2009, Section 1211), or</li> <li>g. a loss for which a taxpayer elects a three, four or five-year carryback period (WHBAA 2009, Section 13).</li> </ul> <p>For tax periods ending after December 31, 2017, these eligible losses are not eligible for an NOL carryback and must be carried forward indefinitely, except to the extent the losses qualify as farming losses.</p>

Type of Loss	Carryback or Carryforward Options	Special Rules
Non-life insurance companies	NOL	TCJA, Section 13302, as amended by the CARES Act, requires a two-year carryback of net operating losses and a 20 -year carryforward for NOLs sustained in taxable years beginning after 2020.

**Reminder:** A carryback is mandatory unless the taxpayer timely elects to forgo the carryback period. See IRM 21.5.9.5.2, *Carryback/Carryforward Election*, for additional information.

- (2) In addition to the special rules in Paragraph (1) above, legislative provisions have been enacted for targeted events and time periods, such as the GO Zone Provisions, Kansas Storms, Midwest Disasters, National Disasters, the extended carryback provisions contained in the American Recovery and Reinvestment Act of 2009, Section 1211, the Worker, Homeownership, and Business Assistance Act of 2009, Section 13 and most recently the TCJA, Section 13302, and the CARES Act section 2203.

21.5.9.5.4  
(10-01-2024)  
**BMF Carryback Short  
Year Returns**

- (1) Per Treas. Reg. 1.172-4 (a)(2), a short year return is treated as one carryback or carryforward year, just like a 12 month year. A preceding or succeeding year can have the same tax year ending date, but a different month. See the example below.

<b>Fiscal year March filer files a short period loss year return, August 2020</b>
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Loss Year - 202008
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Gain Years - 201903 and 202003
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**Note:** When making an adjustment for the year within that 12 month period, 201708 to 201703, Override Codes “C” and “I” must be used, or the adjustment will not post.

- (2) See IRM 21.5.9.5.18, *Business (BMF) Carrybacks Filed by Consolidated Corporations*, for additional information regarding short period returns filed due to a corporation becoming a member of an affiliated group.

21.5.9.5.5  
(07-29-2024)  
**IDRS Input of a Carryback Adjustment - Information on Adjusting Adjusted Gross Income (AGI), Taxable Income (TXI), Earned Income Tax Credit (EITC), Additional Child Tax Credit (ACTC), and Estimated Tax (ES) Penalty**

(1) Follow the guidelines in the table below for input of TC 295/TC 299 adjustment. Also, review the following IRM sections before making a carryback adjustment.

- See IRM 21.5.9.5.17.1, *Carryback Claim Processing and Filing Requirements*, for information on transaction codes and blocking series for RINTs.
- See IRM 21.5.9.5.16.2, *Carryback Application Transaction codes, Blocking Series, and CII Requirements*, for information on transaction codes and blocking series for TENTs.
- See IRM 21.5.9.4.7, *Carryback Tolerances - Master File Verification, Math Verification, TENT/RINT Processing, Push Codes*, for information on tolerances, math verification, Master File verification, and loss year posting requirements for TENTs and RINTs.

**Caution:** See IRM 21.5.9.5.7.1, *Carryback Interest - Actions to Take on All Carryback Cases when Computer-Generated Refund will be Issued within 45 Days*, before inputting a carryback adjustment.

If	Then
Change to Adjusted Gross Income (AGI) is different from the change to Taxable Income (TXI)	Input both Reference Numbers 888 (AGI) and 886 (TXI). <b>Note:</b> For IMF Accounts, the AGI may be reduced below zero but the TXI is never reduced below zero.
Change to the AGI and TXI are identical	Input Reference Number 888 only.
Change only affects the AGI	Input Reference Number 888, and if needed, Reference Number 886 for zero.
Change to AGI will reduce the TXI to zero or less	Input Reference Number 888 only. (886 will be automatically updated to reduce the TXI to zero.)

**Reminder:** TC 888, AGI Item Reference Number, is only valid for IMF (Individual Master File) adjustments.

If	Then
Net Operating Loss (NOL) is not fully absorbed	<ul style="list-style-type: none"> <li>• Taxpayers are instructed to reduce AGI by the entire amount of NOL available for that gain/carryback year, and recompute any income or deduction based on, or limited to, a percentage of the AGI. The appropriate amount should be shown on line 1 of the Form 1045, Schedule B, per IRC 172.</li> <li>• The recomputed AGI is further reduced by deductions and exemptions to determine the recomputed TXI.</li> <li>• AGI after carryback is shown on Form 1045, line 11. TXI after carryback is shown on Form 1045, line 15. The adjustment amounts are for the difference between the before and after carryback amounts.</li> <li>• Only the TXI is adjusted on BMF (Business Master File) Accounts. The TXI after carryback is shown on Form 1139, line 15.</li> <li>• The portion of the NOL that is not absorbed in the earliest year is then carried to the next carryback year, the AGI and TXI are recomputed, and so forth until the NOL is fully absorbed. If any NOL remains, it can generally be carried forward for up to 20 years.</li> </ul> <p><b>Caution:</b> Do not adjust the AGI for any year in the carryback period where no NOL can be absorbed.</p> <p><b>Note:</b> For IMF accounts, the AGI (TC 888 input) may be reduced below zero, but an attempt to reduce the TXI (TC 886 input) below zero will result in an unpostable condition.</p>
NOL is fully absorbed	Taxpayers are instructed to subtract the NOL deduction from the AGI and recompute any income or deduction based on, or limited to, a percentage of the AGI. Reduce the AGI and TXI by the total change. Do not reduce the TXI below zero.

**Caution:** When using Reference Number 886, do not reduce taxable income to less than zero.

(2) If an increase or adjustment to a refundable credit is needed:

- a. Input credit reference number 764 to adjust Earned Income Tax Credit (EITC.)
- b. Input credit reference number 336 to adjust Additional Child Tax Credit (ACTC)
- c. Use Priority Code (PC) 8 with your TC 295/TC 299 adjustment if required.
- d. Compute the correct interest amount on the total credit amount, based on the loss year; use TC 770. See IRM 20.2.4, *Overpayment Interest*, for computing overpayment interest. If the refund is issued within the 45-day interest-free time frame, input TC 770 for .00.

- e. See IRM 21.5.9.5.12.4, *Carryback Net Operating Loss (NOL) Effect on Refundable Credits*, and/or IRM 20.1.2.3.5 (5) and (6), *Carrybacks and Carryovers*, for specific instructions when adjusting EITC and ACTC with the NOL.

**Note:** If the TC 770 and appropriate interest amount is not entered, interest on the additional EITC/ACTC erroneously computes using the gain year due date.

- (3) Do not decrease estimated tax penalty due to a carryback. This is true even if the tax is reduced to zero. See IRM 20.1.3.4.2, *Adjustments after Penalty Assessment*, for Corporations, and IRM 20.1.3.3.2, *Adjustments after Penalty Assessment*, for Individuals and Estates for additional information.
- (4) Carryback adjustments do not affect the Failure to File penalty. See IRM 20.1.2.3.5, *Carrybacks and Carryovers* for additional information.

21.5.9.5.6  
(07-29-2024)  
**Multiple Adjustments**

- (1) At times, a carryback may involve different loss years or may result in an assessment. Do not combine these adjustments. A general tax adjustment and a carryback adjustment to the same gain year must be input separately, using the appropriate transaction codes. Carryback adjustments to the same gain year from multiple loss years or to the same gain year and loss year but with different received dates must also be input separately, using the appropriate interest computation dates. Refer to the table below for processing multiple carryback adjustments.

**Note:** Due to IDRS programming limitations, Recovery Rebate Credit adjustments cannot be combined with a TC 294/295/298/299 adjustment. Separate adjustments are required.

**Caution:** When inputting multiple adjustments to one tax module, remember that only one adjustment will post per cycle. If two adjustments are input, one will post in the normal time, but the second one will resequence to post in the next cycle. It is critical to keep this in mind when determining if the 45-day interest-free period will be met. Because of the resequencing, a manual refund may be required when, if one adjustment was input, a computer-generated refund could otherwise be allowed. This resequencing occurs regardless of the transaction codes or item references involved. Even a TC 290.00 correcting the AGI or TXI will cause the second adjustment, TC 299/TC 295, to resequence for one cycle. Adjustments post in sequential order, so a TC 290 adjustment will post one cycle before a TC 295 adjustment.

**Reminder:** Include the appropriate hold code on the adjustment to hold the credit if a manual refund will be issued and/or prevent the issuance of an adjustment notice if a carryback letter will be issued. See *Hold Codes*, in Document 6209, Master File Codes.

If	Then
The carryback(s) are from the same loss year	<ol style="list-style-type: none"> <li>1. Compute tax with the Net Operating Loss (NOL) and/or Net Capital Loss (NCL) first; then apply the carryback credits.</li> <li>2. Input TC (Transaction Code) 295/TC 299, blocking series 91/blocking series 92, to decrease tax.</li> </ol>
The carryback(s) are from different loss years	<ol style="list-style-type: none"> <li>1. Process adjustments separately, applying the earliest loss year first.</li> <li>2. Input TC 295/TC 299, blocking series 91/blocking series 92, to decrease tax. Use the applicable interest computation dates for each of the losses.</li> </ol>
A carryback recapture (tax increase) is input for one gain year, and a carryback allowance (tax decrease) is input for different gain year.	<ol style="list-style-type: none"> <li>1. Input TC 294/298 blocking series 91/92/95, to increase tax.</li> <li>2. Input TC 295/TC 299, blocking series 91/blocking series 92, to decrease the tax.</li> <li>3. Post delay TC 295/TC 299 adjustment to allow offset to take place.</li> </ol>

- (2) If action results in a carryback allowance (tax decrease) and a general tax assessment (tax increase), process them as separate adjustments. See IRM 25.6, *Statute of Limitations*, for statutes applicable to each adjustment.

**Reminder:** The Assessment Statute Expiration date (ASED) for the general tax assessment is based on the **gain** year.

If	Then
<p>The statute for assessment is open in the Gain Year</p>	<p>a. The general tax increase can be input with no limitation. Input TC 29X with blocking series 05 for IMF (Individual Master File), blocking series 15 for BMF (Business Master file), and 17 for Form 1041. Interest on the general adjustment is assessed and collected pursuant to IRC 6601(a) and (g).  <b>Caution:</b> If the statute for assessment (ASED) for the regular adjustment is within 90 days of expiring, do not input a TC 290. You must route the case to the Statute Unit for assessment. See IRM 25.6.1.9.9, <i>Procedures for Processing Amended Returns - in General</i>.</p> <p>b. Input TC 295/TC 299 blocking series 91/blocking series 92 for the carryback adjustment. Use Hold Code "1" if money needs to be held, otherwise use Hold Code "0." The posting delay code is not necessary because the regular adjustment will post first and Master File won't post two adjustments in the same cycle.  <b>Note:</b> Allow both adjustment notices to generate. The first adjustment notice will generate to Notice Review, due to the pending second adjustment. Notice Review will apply a label to the first notice advising the taxpayer that an adjustment is being made to the account and a separate notice will be sent. See IRM 3.14.1.6.18.1.4, <i>Pending (PN, RS, or UP) Doc Code 54 or 47 Transactions for all notices</i>.</p> <p><b>Reminder:</b> Issue a manual refund if the posting delay code will cause the carryback adjustment to post after the 45-day interest-free period, and the refund is above tolerance.</p>

If	Then
<p>The statute is <b>NOT</b> open on the Gain Year</p>	<p>The general tax increase cannot be input as a Transaction Code (TC) 290 because the ASED has expired. However, the IRS can offset the carryback overpayment against both the unassessed statute barred tax and the accrued unassessed interest on that tax.</p> <p><b>Note:</b> A taxpayer is not entitled to a refund of tax for a particular taxable year unless the taxpayer has actually overpaid their taxes for that year. If a carryback results in a claim for refund of income tax, the IRS may offset that claim against other income taxes that the taxpayer owes for that same taxable year, even if those taxes can no longer be assessed because of the statute of limitations. IRC 6601(e)(1) states that interest is to be treated in the same manner as tax, and IRC 6601(g) provides that interest may be assessed and collected at any time during which the related tax may be collected. Accordingly, the IRS is also permitted to offset against a carryback refund unassessed interest that accrued on a tax underpayment and the assessment of which is barred.</p> <p>Follow the steps below to net the adjustments. See IRM 25.6.1.10.3.1.7, <i>Offsetting the Amount of a Refund with a Timely Refund Claim with a Time-barred Adjustment</i>, for additional information.</p> <ol style="list-style-type: none"> <li>1. Input the carryback adjustment for the full amount, using Hold Code (HC) 1 or 4.</li> <li>2. Manually compute (but do not assess) the interest on the unassessed general tax increase. (associate the interest computation with the carryback adjustment document once posted)</li> <li>3. Prepare Form 8758, <i>Excess Collections File Addition</i>, to send the overpayment amount that is equal to the statute-expired general tax increase and the manually computed interest to Excess Collections. See IRM 21.2.4.3.10.1, <i>Excess Collection file (XSF) and Unidentified Remittance File (URF) for AMRH</i>, for instructions.</li> <li>4. Issue a manual refund for the remainder, if any.</li> <li>5. Document CII with the statute barred tax increase amount and manually computed interest.</li> </ol> <p><b>Example:</b> On April 20, 2018, a taxpayer files an amended individual return which includes a general tax increase of \$1,000 for 201312. The ASED expired for 2013 on 4/15/2017. The taxpayer also files an amended individual return to claim an NOL carryback from 201512 to 201312 for \$2,000. Input TC 299 for \$2,000. Compute interest on the \$1,000 general tax increase from 04/15/2014 to 04/15/2016. Send \$1,000 plus the amount of interest computed to Excess Collections via 8758. Issue a manual refund for any remaining overpayment on the 201312 tax account.</p> <p><b>Caution:</b> Netting/offsetting of tax increases and decreases can only be done on the same tax year. A tax increase on one tax year cannot be netted with a tax decrease on a different tax year.</p>

21.5.9.5.6.1  
(11-20-2019)

**Shared Responsibility  
Payments Filed in  
Conjunction with an IMF  
Carryback  
Application/Claim**

- (1) Taxpayers may file a carryback application/claim and include a change to their Shared Responsibility Payment (SRP). The SRP is posted to MFT 35 as a TC 240 with penalty reference number (PRN) 692.
- (2) An adjustment to an SRP included with a carryback application/claim is processed as per guidance in IRM 21.6.4.4.20, *Individual Shared Responsibility Provision*, and is **not** included in the carryback adjustment.

- (3) Before processing the carryback application/claim on MFT 30, input the adjustment to the SRP on MFT 35. Include the appropriate hold code on the adjustment to hold the credit and/or prevent the issuance of an adjustment notice if a carryback letter will be issued.
- (4) Once the SRP has been adjusted on MFT 35, move the resulting overpayment to MFT 30. Follow guidance in Exhibit 21.5.8-1, *Transaction Codes and Reversals*, for the appropriate transaction codes to move the overpayment. Include TC 570 on both sides of the credit transfer to hold the credit if issuing a manual refund. Hold the credit on the debit side only of the credit transfer if allowing a systemic refund from the MFT 30 account.
- (5) Overpayment Interest Considerations:

An SRP overpayment resulting from a net operating loss carryback is subject to the overpayment interest rules applicable to carrybacks, including the 45-day interest-free provision. See IRM 20.2.9.2(6), *Determining the Overpayment Interest Period*, and the *Carryback 45-Day Interest Free Charts*.

When the 45-day interest-free period is missed, **manually compute** interest on the entire overpayment (SRP, plus carryback, as well as any underpayment interest and/or penalty re-calculations resulting from the carryback) from the later of the following dates, entering the interest amount in your adjustment with TC 770.

- Loss year return due date (determined without regard to any extension of time for filing)
- Received date of the delinquent loss year return
- Date the loss year return is filed in processable form (provided the processable date is after the due date, including any extension of time for filing)
- Date the overpayment on the gain year arose

**Note:** If the TC 770 with the appropriate interest amount is not entered, interest on the additional SRP component is erroneously calculated by the IRS computer with information from the gain year return only. **Input TC 770 for zero when no interest is permitted (e.g., 45-day period met).**

**Exception:** If issuing a manual refund per IRM 21.5.9.5.8, *Carryback Manual Refund*, it is not necessary to input TC 770 with the adjustment. The interest will instead be entered on the manual refund document, whether for zero or a money amount. Remember that the manual refund will be for the entire overpayment (i.e., SRP, carryback, penalty/interest recalculations). Enter the appropriate adjustment hold code (HC 1, 2, or 4) to prevent a systemically generated refund.

21.5.9.5.6.2  
(10-01-2024)

**Combination Carrybacks  
(Claims) Involving  
Research Credits**

- (1) This section provides instructions for processing carryback claims for RINTs in combination with research credits.
- (2) Form 6765, *Credit for Increasing Research Activities*, is used to claim the credit for increasing the research activities of a trade or business.

- (3) For TY 2006 and subsequent, the credit can be claimed only as a general business credit and must be carried to Form 3800, *General Business Credit*. The allowable credit will then be figured on Form 3800. As part of the general business credit, any portion of the research credit that cannot be used in the current taxable year must be carried back one year to reduce taxes for that taxable year. The one year carryback period is mandatory under IRC 39 (a). Taxpayers cannot elect to forgo or waive the mandatory carryback period. The credit can then be carried forward 20 years.
- (4) For processing claims only involving the research credit, follow procedures outlined in IRM 21.7.4.4.8.3.5, *Form 6765, Credit for Increasing Research Activities*. This IRM section contains the most comprehensive and up to date information on research credits.
- (5) For combination claims involving a carryback (RINT) and the research credit:
- Follow all normal procedures as outlined in IRM 21.5.9 *Carrybacks*, for the carryback portion.
  - Treat the research credit portion as a separate adjustment, if it is not part of the carryback amount, following procedures in IRM 21.5.9.5.6 *Multiple Adjustments*.

**Note:** When referring Carryback cases with research credits to Exam for classification, first use IDRS or AMS to determine if the BOD is SB (IMF), LM (BMF/LB&I), or SB (BMF/SBSE). Follow the procedures below for each BOD type:

If IDRS shows	Then refer to Exam for Classification via CII
SB (IMF)	Select <b>HQ Reserved 13</b> from the drop down listing of primary reason referred.
LM (BMF/LB&I)	Select <b>HQ Reserved 5</b> from the drop down listing of primary reason referred.
SB (BMF/SBSE)	Select <b>Research Credit</b> from the drop down listing of primary reason referred.

- (6) Special processing instructions were required when the credit expired June 30, 1999 but was reinstated retroactively for the period July 1, 1999 - June 30, 2004, by the Tax Relief Extension Act of 1999. This law created two suspension periods and allowed claims to be filed on Form 1139, Form 1045, Form 1120-X, and Form 1040-X. The statute has expired for the vast majority of these claims, so the instructions have been removed from both IRM 21.7.4 and IRM 21.5.9. However, if for some reason a statute is still open, the instructions in IRM 21.7.4 and IRM 21.5.9 can be found in prior revisions of the IRMs located on the *Electronic Publishing Website*.

21.5.9.5.6.3  
(04-01-2020)

**Carryback Applications  
and Claims Filed in  
Conjunction with  
Amended Returns Filed  
for the Loss Year**

- (1) Taxpayers may file an amended return that creates (or modifies) a net operating loss and submit the carryback application/claim based on that amendment at the same time.
- (2) The amended loss year return and the TENT/RINT may be assigned to different CSRs.
- (3) In order to ensure consistent treatment and to help meet the IRS' commitment to process TENTs/RINTs as quickly as possible, follow the procedures outlined in the following paragraphs when an amended loss year return is received in conjunction with the related carryback claim/application.
- (4) Taxpayers are required to include a copy of any amended return generating or modifying the net operating loss with the carryback application/claim (TENT/RINT). See IRM 21.5.9.4.2, *Identifying Processable and Unprocessable Carryback Applications/Claims*.
  - a. Review the copy of the amended return.
  - b. Research IDRS/CIS for evidence that the amended return has been received or processed.

**Note:** Amended returns are generally scanned into CII within 14 days of the IRS received date.

- c. If no evidence of the amended return is found, reject the TENT/RINT, as there is no basis on which to process the carryback adjustment.
- (5) If the amended return is located on IDRS/CIS and has not been processed, the TENT/RINT and the loss year amended return should be worked by the same CSR/TE, if possible. If not possible, coordinate the processing of the amended loss year return and the carryback claim with the other CSR/TE.
- (6) Coordination with regard to the amended return must involve the following:
  - a. Verify that the starting figures on the TENT/RINT agree with the figures on the amended loss year return. If the figures do not agree, reject the TENT/RINT and include a copy of the unprocessed amended loss year return. See IRM 21.5.9.4.5, *Master File Verification - Incorrectly Calculated Carryback Applications/Claims*.
  - b. Ensure the amended return is processable (i.e., includes all required documentation and is signed). If the amended return is not processable and will be rejected back to the taxpayer, reject the TENT/RINT as well, as there is no basis on which to process the carryback adjustment.
  - c. Determine if the loss year amended return is based on a specific issue that the IRS has identified for automatic disallowance without Examination involvement. If the amended return will be disallowed, the TENT/RINT must also be rejected/disallowed.

**Example:** See IRM 21.6.6.2.43.1, *Claims due to Corporate Misconduct*.

- d. Evaluate the loss year amended return for CAT-A criteria and a required referral to Examination. See *IRM Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General*. See paragraphs (7) and (8) below for additional information for processing these claims.
- (7) If the loss year amended return is processable and has not already been processed, ask the employee assigned the amended loss year return to input

the adjustment as soon as possible. Explain that the TENT/RINT must be processed within the 45-day interest-free period in order to eliminate or reduce the amount of interest issued on the carryback refund. See IRM 21.5.9.5.8, *Carryback Manual Refund*, if the 45-day interest-free period is in jeopardy.

- (8) If the loss year amended return adjustment cannot be input for any reason, and the amended return cannot be reassigned to the carryback employee, follow the instructions in the table below. How the carryback is resolved is determined by whether it is a TENT or a RINT.

If	And	Then
<p>The carryback is a TENT (Form 1045 or Form 1139)</p>	<p>The TENT figures match the loss year amended return figures  <b>Note:</b> Do not consider CAT-A criteria prior to processing the TENT.  <b>Reminder:</b> If the TENT figures do not match the loss year amended return figures, follow the instructions in Paragraph (6) above.</p>	<ol style="list-style-type: none"> <li>1. Process the TENT and issue the refund.  <b>Note:</b> Do not wait for the loss year amended return adjustment to be input.</li> <li>2. Monitor the loss year until either the amended return adjustment has been input or the loss year amended return is selected for examination.</li> <li>3. If the loss year amended return adjustment is made, verify the adjustment matches the figures that were used for the TENT adjustment. If not, follow reassessment procedures for TENTs. See IRM 21.5.9.5.16.5, <i>Reassessing Carryback Applications</i>.</li> <li>4. If the loss year amended return is selected for examination, then refer the TENT to Examination. See IRM 21.5.9.5.16.4, <i>Carryback Applications with Examination Criteria</i>.</li> </ol>

If	And	Then
<p>The carryback is a RINT  <b>Reminder:</b> A RINT <b>cannot</b> be processed until the loss year adjustment has been input.</p>	<p>The loss year amended return is selected for examination</p>	<p>Send the RINT to the Examination area working the amended loss year return.                      Otherwise, if the amended loss year return cannot be processed for any other reason:</p> <ul style="list-style-type: none"> <li>• Reject the RINT.</li> <li>• Advise the taxpayer they can refile the carryback claim once they have received a notice from the IRS for the loss year amended return adjustment.</li> </ul> <p><b>Caution:</b> If the claim or amended return is received within 180 days of the Refund Statute Expiration Date (RSED), follow IRM 21.5.3.4.3, <i>Tax Decrease and Statute Consideration</i>.</p>

21.5.9.5.6.4  
 (10-01-2024)  
**Carryback Applications and Claims with Section 965 Involvement**

- (1) The Tax Cuts and Jobs Act of 2017, Section 14103(a), *Treatment of Deferred Foreign Income Upon Transition to Participation Exemption System of Taxations*, amended section 965 to generally require that, for the last taxable year of a deferred foreign income corporation (DFIC) that begins before January 1, 2018, the subpart F income of the DFIC is increased by the greater of the accumulated post-1986 deferred foreign income of the DFIC as of November 2, 2017, or December 31, 2017. Accordingly, a United States shareholder that owns stock of the DFIC under IRC 958(a) generally must include in gross income its pro rata share of the accumulated post-1986 deferred foreign income of the DFIC. If the United States shareholder owns at least one DFIC and one earnings and profit deficit foreign corporation, the United States shareholder’s pro rata share of the accumulated post-1986 deferred foreign income of the DFIC is reduced by the DFIC’s allocable share of the United States shareholder’s aggregate foreign earnings and profit deficit.
- (2) In general, section 965(n) and the applicable regulations allow a taxpayer to make an election for a taxable year to not take into account its section 965(a) inclusions, reduced by section 965(c) deductions, for the taxable year and any taxes deemed paid for the taxable year with respect to its section 965(a) inclusion that are treated as dividends under section 78 in determining:
  - a. Its net operating loss deduction for the taxable year or
  - b. The amount of taxable income for the taxable year that may be reduced by NOL carryovers or carrybacks.
- (3) Section 965(n) will generally affect carryback claims filed on tax year 2017 and subsequent.
- (4) To process the carryback claim or application on tax years 2017 and subsequent, include the appropriate hold code on the adjustment, if applicable. See

*Frequently asked questions about carrybacks of NOLs for taxpayers who have had Section 965 inclusions for additional information.*

**Caution:** A hold code may be required if a taxpayer actually made or is deemed to have made a section 965(n) election for a taxable year in which it had a section 965(a) inclusion (section 965 year). See IRM 21.5.9.5.10.8.8, *Carryback Applications (TENTs) with Section 965 Involvement - CARES Act*, for more information. This is because a taxpayer may not receive a refund or credit of any portion of properly applied section 965-year tax payments unless and until the amount of payments exceeds the entire income tax liability for the section 965 year, including any section 965(h) net tax liability to be paid in installments in subsequent years, if a section 965(h) election was made.

**Reminder:** Follow guidance in IRM 21.5.9.5.10.3 if the loss year is affected by the Tax Cuts and Jobs Act of 2017.

- (5) If there is a section 965(h) net tax liability, coordination with the P&A staff at the centralized AM section 965 sites (BMF- Ogden or IMF- Brookhaven) must be completed. Take the following actions.
- a. Input the carryback adjustment on the applicable accounts and include hold code 4 only on those accounts with section 965(a) inclusion.
  - b. Forward the case to your site Carryback P&A Analyst who will coordinate with the P&A Analyst at the appropriate centralized AM section 965 site (BMF - Ogden or IMF - Brookhaven)
- Note:** The centralized AM section 965 site will input the required TC 767/ CRN 263 including a hold code on any accounts with a remaining credit balance.
- c. After the review and appropriate actions have been completed by the centralized AM section 965 site have been completed, the account will be returned to the carryback team to complete any remaining actions such as offsets to a balance due or issuing a manual refund per the guidance in IRM 21.5.9.5.8 *Carryback Manual Refund*.
  - d. Issue the appropriate carryback letter to notify the taxpayer of the difference between the expected carryback refund and the actual carryback refund.
- (6) For additional guidance on section 965, see IRM 21.5.13, *IRC 965 Transition Tax Procedures - Accounts Management*.

21.5.9.5.7  
(05-06-2024)  
**Carryback Interest**

- (1) Interest is not paid on an overpayment resulting from a carryback claim/ application when it is refunded within the 45-day interest-free period. See IRM 20.2.9.2, *Determining the Overpayment Interest Period*, to establish whether the 45-day interest-free period has been met. Refer to the *45-day interest-free charts* on SERP as an additional resource.

**Reminder:** When missing information is required to process a carryback claim or application, the 45-day interest-free period does not begin until the information required to math verify the tax liability change is received and the claim or application is processible. For additional information, see IRM 20.2.9.2, IRC 6611(f)(4)(B), and IRC 6611(g).

**Reminder:** If a carryback claim/application is filed by a nonresident alien and is not processed within 45-days, thus allowing interest on the refund, the IRS is required to withhold tax on the interest. See IRM 21.8.2.9.13, *Refunds on Form 1120-F/FSC That Include Interest*, or IRM 21.8.1.15, *Manual Refunds to Non-resident Aliens That Include Interest*, for additional information.

- (2) If the 45-day interest-free period for a carryback application or claim is missed, refer to IRM 20.2.9.2, *Determining the Overpayment Interest Period*, which describes the date interest on the overpayment will begin. See IRM 20.2.4.8.1, *Systemic Refunds*, for the date interest on the overpayment will end.
- (3) Adjustments for carryback allowances (TCs 294, 295, 298, 299) must contain an interest computation date (INTCMP-DT) and tentative carryback application/claim received date (TCB-DT) to post. The INTCMP-DT is used by the IRS computer as the credit availability date when computing allowable interest on a carryback overpayment. The TCB-DT is used by the IRS computer to determine the start of the 45-day interest-free period. See IRM 21.5.9.5.16.3 *Carryback Application Interest Computation Dates*, for TENT input requirements. See IRM 21.5.9.5.17.3, *Carryback Claim Interest Computation Dates*, for RINT input requirements.

**Caution:** Do **not** include an amended claims date (AMD-CLMS-DT) on adjustments for carryback allowances (TCs 294, 295, 298, 299).

- (4) See the *Carryback 45-Day Interest-Free Charts* on SERP to review a current carryback interest-free chart that includes the following:
  - TCB date
  - Last date for IDRS Input - computer generated refund
  - Output cycle of refund
  - The 23-C date of refund
  - Generated date of Refund check
  - Last Day for Manual Refund without paying interest

**Note:** Details for the bulleted items above are found in the respective BMF and IMF keys, located on the landing page for the charts.

**Caution:** Discontinue use of any local 45-day interest-free period chart. The Carryback 45-day interest-free charts located on SERP under the IRM Supplements Tab are required to be utilized when processing carryback cases.

- (5) If a systemic carryback refund is being issued with a manual interest calculation, TC 770, compute overpayment interest using the following chart:

If account is	And the refund is	Then compute interest to the 23C date of the carryback adjustment that will generate the refund
IMF	\$100,000 or more	Minus 11 calendar days
IMF	Less than \$100,00	Minus 18 calendar days
BMF	Any amount	Minus 18 calendar days

**Note:** The \$100,000 threshold is based on the **refund amount**. The refund amount is the carryback adjustment principal (i.e., TC 295/299/305,309 sum), plus any penalty and/or interest re-computations, less offset(s) to other liabilities.

Use the IDRS Online Input Table in Section 16 of the *Document 6209* to determine the 23C date of the transaction. See IRM 20.2.4.8.1 , *Systemic Refunds*, and IRM 3.30.123.24(10) , *Processing Timeliness Criteria for CADE 2*, for additional information.

**Caution:** Consider the impact to the 23C date if more than one adjustment must be input to the same tax module or an adjustment includes a Posting Delay Code (PDC). Using a PDC on a transaction will defer the posting of the transaction to the Master File until the number of cycles equal to the posting delay value (1-6) has passed. For more information see IRM 21.5.9.5.6, *Multiple Adjustments*, and IRM 21.5.2.4.17, *Posting Delay Code (PDC)*.

**Example:** Carryback adjustments to the same gain year from multiple loss years or to the same gain year and loss year but with different received dates require separate adjustments. Even a TC 290.00 correcting the AGI or TXI will cause the second adjustment, TC 299/TC 295, to resequence for one cycle. Adjustments post in sequential order, so a TC 290 adjustment will post one cycle before a TC 295 adjustment.

**Reminder:** If issuing a manual refund, it is not necessary to input a TC 770 with the adjustment. The interest will be manually computed and input with the manual refund as a TC 770, whether for zero or for a money amount.

(6) Refer to IRM 20.2.9, *Interest on Carryback of Net Operating Loss*, for additional information concerning interest on carryback cases.

21.5.9.5.7.1  
(10-01-2018)

**Carryback Interest -  
Actions to Take on All  
Carryback Cases when  
Computer-Generated  
Refund will be Issued  
within 45 Days**

(1) The Office of Servicewide Interest has identified an issue with some IMF (Individual Master File) and BMF (Business Master File) computer-generated carryback refunds. In certain instances, overpayment interest is generating when the refund is issued within the 45-day interest-free period.

(2) Until further notice, follow the steps below prior to inputting a carryback adjustment.

**Exception:** Do not follow these procedures if you will be issuing a manual refund because the 45-day interest-free period is either in jeopardy or has expired, or because the refund is for \$1M or more.

- a. Determine if a computer-generated refund will be issued within 45 days. See the appropriate *Carryback 45-Day Interest-Free Chart* on SERP. If yes, go to Step b. If no, a manual refund may be necessary. See IRM 21.5.9.5.8 *Carryback Manual Refund*, for additional information on the issuance of carryback manual refunds.
- b. On the gain year tax module(s), look for any payments or credits with a date that is later than the Interest Computation Date of the carryback adjustment.

**Example:** A 201712 Form 1040 Net Operating Loss (NOL) is being carried back to 201612. The Interest Computation Date of the 2017 NOL is 04/15/2018. An analysis of the 201612 module shows two TC 670 payments. One is dated 03/15/2018. One is dated 05/18/2018. In this case, the module contains one payment (TC 670 dated 05/18/2018) that is later than the Interest Computation Date of the NOL carryback (04/15/2018).

**Example:** A 201712 Form 1120 NOL is being carried back to 201612. The Interest Computation Date of the 2017 NOL is 04/15/2018. An analysis of the 201612 module shows two TC 670 payments. One is dated 02/14/2018. One is dated 05/15/2018. In this case, the module contains one payment (TC 670 dated 05/15/2018) that is later than the Interest Computation Date of the NOL carryback (04/15/2018).

- c. If any payments are present on a gain year module that meet the condition in Step b, and a computer-generated refund will be issued within 45 days, input a TC 770 for zero with the carryback adjustment.
- d. If no payments are present on a gain year module that meet the condition in Step b, and a computer-generated refund will be issued within 45 days, a TC 770 is not necessary for this situation.

**Note:** There are other conditions involving adjustments to Earned Income Tax Credit (EITC) and other refundable credits that require a TC 770 for zero to be input with the carryback adjustment. See IRM 21.5.9.5.5, *IDRS Input of a Carryback Adjustment - Information on Adjusting AGI, TXI, EITC, ACTC, and ES Penalty*, and IRM 21.5.9.5.12.4, *Carryback Net Operating Loss (NOL) Effect on Refundable Credits*, for information on those conditions.

21.5.9.5.8  
(05-06-2024)  
**Carryback Manual  
Refund**

- (1) Document CII when any of the following occurs:
  - Contact with the Accounting function is made for manual refund(s) totaling 50 million or more for the same taxpayer.
  - Manual refund is rejected and the Accounting feedback form is attached.
  - Manual refund rebuttal is issued.
- (2) If a credit transfer is required before issuing a manual refund use the IAT tools, as mandated IRM 21.2.2-2, *Accounts Management Mandated IAT Tools*, for the input of the credit transfer and input a TC 570 or a credit freeze code as part of the transfer. This will prevent systemic and erroneous refunds.
- (3) The following chart provides instructions for when a Carryback manual refund must be issued. Follow the manual refund procedures in IRM 21.4.4, *Manual Refunds*.

If	And	Then	Additional Information
The refund amount is \$5,000 or more	The 45-day interest free period is in jeopardy	Issue a manual refund	If one module has a \$6,000 refund, and the 45-day interest-free period is in jeopardy, issue a manual refund. If another module has a \$4,500 refund, do not issue a manual refund for that module
The refund amount is \$25,000 or more	The 45-day interest-free period has expired	Issue a manual refund	If one module has a \$25,000 refund, and the 45-day interest-free period has expired, issue a manual refund. If another module has a \$10,000 refund, do not issue a manual refund for that module
An X- Freeze is present on the module, regardless of the amount of the carryback refund		Issue a manual refund	<p>The X- freeze is set when the module credit</p> <p>#</p> <p>#</p> <p>prevents any credits from systemically offsetting or refunding. Effective January 2010, the X- freeze is released once the credit available for refund or offset (including principal and any overpayment interest the taxpayer is entitled to)</p> <p>#</p> <p>See IRM 21.5.6.4.47, <i>X-Freeze</i>, for additional information</p>
The 90-day TENT processing time is in jeopardy		Issue a manual refund if the TENT is 70 days or older	See IRM 21.5.9.5.16.1 <i>Carryback Application Processing and Filing Requirements</i> , for additional information

If	And	Then	Additional Information
The refund amount, including interest, exceeds \$1 million.		Issue a manual refund	Prepare Form 5792 for manual refunds under \$100 million, and Form 3753 for manual refunds \$100 million and over. Manual refunds over \$1 million that include overpayment interest must be reviewed by the Technical Unit. See IRM 21.4.4.6, <i>Other Manual Refund Requirements</i> , for review processing. Also see IRM 21.4.4.5, <i>Preparation of Manual Refund Forms</i> , for additional information
The name and/or address differs from Master File	There is a filing status change, or consolidated corporate return, etc.	Issue a manual refund	Attach an explanation to the manual refund. Input TC 971 Action Code 037, as needed. See IRM 21.4.4.6, <i>Other Manual Refund Requirements</i> , for additional information
The taxpayer or spouse is deceased		Issue a manual refund	See IRM 21.4.1.5.9.4, <i>Deceased Taxpayers</i> , for additional information
An offset credit will be included in the carryback refund		Issue a manual refund	Refer to IRM 21.4.6.4.1.1, <i>Tax Offset Reversal</i> , for guidance on determining when the tax credit offset must be reversed

If	And	Then	Additional Information
The refund is over \$1 million dollars when the request is for a direct deposit		Issue a direct deposit manual refund	Form 3753 must be used per IRM 21.4.4.5.2, <i>Preparation of the Form 3753, Manual Refund Posting Voucher</i> . Prepare Form 3753 when the taxpayer is requesting a wire transfer (Form 8302), see IRM 3.17.79.3.10.1, <i>Form 8302, Electronic Deposit of Tax Refund of \$1 Million or More</i> . Manual refunds over \$1 million that include overpayment interest must be reviewed by the Technical Unit. See IRM 21.4.4.6, <i>Other Manual Refund Requirements</i> , for review processing
The refund is authorized by the Insolvency Unit or Appeals on “-V” freeze accounts or “-W” freeze accounts		Issue a manual refund after obtaining approval from the Insolvency Unit or Appeals	See IRM 21.5.6.4.44, <i>-V Freeze</i> , for additional information
The refund is \$50 million or more but less than \$500 million		Contact the Campus Accounting Function using the information in IRM 21.4.4-3, <i>Accounting Function - Manual Refund Team Contact Information</i> , prior to issuing a manual refund	See IRM 21.4.4.6(2), <i>Other Manual Refund Requirements</i> , and IRM 21.4.4.5.2(7), <i>Preparation of the Form 3753, Manual Refund Posting Voucher</i> , for additional information. Notate the contact with the Campus Accounting Function in CII

If	And	Then	Additional Information
The refund is \$500 million or more		Contact the Campus Accounting Function using the information in IRM 21.4.4-3, <i>Accounting Function - Manual Refund Team Contact Information</i> , prior to issuing a manual refund. Additionally, send a secure email to the <i>Carryback Headquarters Analyst</i> and include the following information: TIN Name Control IRS Received Date AM Received Date Claim/Application Amount Date Closed Amount of Tax Decrease	See IRM 21.4.4.6(2), <i>Other Manual Refund Requirements</i> , and IRM 21.4.4.5.2(7), <i>Preparation of the Form 3753, Manual Refund Posting Voucher</i> , for additional information. Notate the contact with the Campus Accounting Function and email to Headquarters in CII

**Note:** See IRM 21.4.4.6.1, *Monitoring Manual Refunds*, for monitoring requirements.

- (4) If a carryback claim/application is filed by a nonresident alien and is not processed within 45-days, thus allowing interest on the refund, the IRS is required to withhold tax on the interest. See IRM 21.8.2.9.13, *Refunds on Form 1120-F/FSC That Include Interest*, or IRM 21.8.1.15, *Manual Refunds to Nonresident Aliens that Include Interest*, for additional information.
- (5) When issuing a Carryback Manual Refund consider previously assessed failure to file, failure to pay penalties and interest that will be affected by the adjustment actions. Any decrease in penalties or interest already paid must be included in the overpayment amount. In addition, unassessed accruals of penalty and/or interest may reduce the overpayment amount. See IRM 21.5.9.5.12.4, *Carryback Net Operating Loss (NOL) Effect on Refundable Credits*, (5) and (6) for additional information.

21.5.9.5.8.1  
(10-01-2024)  
**General Agreement on Tariffs and Trade (GATT) Processing**

- (1) After its amendment by the General Agreement on Tariffs and Trade (GATT), IRC 6621(a)(1) established two types of interest rates for interest accruing after December 31, 1994: The corporate rate to be applied to the extent that a corporate overpayment for a tax period is less than or equal to \$10,000, and the other, an even lower rate, to be applied to the extent that such an overpayment for a taxable period exceeds \$10,000 (the GATT rate).
- (2) If a CSR/TE (Customer Service Representative/Tax Examiner) is preparing a manual refund for a corporate account, such as Form 1120, the corporate and GATT rates **must** be considered in the computation of any overpayment

interest. See IRM 20.2.4.10, *Special Overpayment Interest Rules for Corporations*, and subsequent subsections, for detailed instructions.

21.5.9.5.9  
(04-01-2020)

**Carrybacks on Retention Register**

- (1) There are instances when a gain year is no longer available on CFOL and must be reinstated from the on-line retention register. The following paragraphs provide information for reinstating these accounts.
- (2) Reinstatement of on-line register accounts can be completed by reviewing the guidance in:
  - a. IRM 21.2.2.5.9, *On-Line Retention Register*, for reinstating retention register accounts (IMFOLB/BMFOLB), or
  - b. IRM 21.2.2.5.10, *Requester Responsibilities*, when reinstating accounts via microfilm.

**Note:** In the event the microfilm cannot be located, forward an email through the management chain to the Carryback Headquarter Analyst for assistance.
- (3) Prepare a manual refund (Form 5792) for the amount shown on the gain year if the interest-free period is in jeopardy.

21.5.9.5.10  
(10-01-2024)

**Carryback Net Operating Loss (NOL)**

- (1) A net operating loss (NOL) is created when certain deductions exceed income from all sources. These deductions must relate to a trade or business, work as an employee, or casualty or theft losses. Any loss remaining after applying the NOL to preceding years lowers taxes in a later year. An NOL deduction reduces the taxable income for a taxable year to which the NOL is carried and may allow a refund for taxes already paid if the NOL is carried back to an earlier year. See IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*, if the NOL is carried back to a year in which Section 965 is reported has not been paid in full. Any loss remaining after applying the NOL to preceding years can be used as a deduction to reduce the taxable income for a later year. The taxpayer must use the NOL before applying unused credit.
 

**Note:** The Tax Cuts and Jobs Act of 2017, Section 13302, except as modified by the CARES Act, allows for the carryback of certain net operating losses incurred in the trade or business of farming and for non-life insurance companies **only**. All other entity types can carry net operating losses forward **only**. See IRM 21.5.9.5.10.3, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses*, and IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*, for additional information.
- (2) For individual taxpayers, calculate NOL in the same manner as taxable income, but exclude any:
  - NOL carryback or carryover from another year.
  - Net Capital Loss that decreased the taxable income.
  - 1202 exclusion (exclusion of 50 percent or more of gain from small business stock).
  - Deduction for exemptions.
  - Non-Business deductions exceeding non-business income (see paragraphs 4 and 5 below).

- Domestic production activities deduction (former section 199 and current section 199A(g)). See IRM 21.7.4.4.27, *Qualified Business Income Deduction (QBID)*, for additional information.
  - Qualified business income deduction.
- (3) For corporate taxpayers, calculate NOL in the same manner as taxable income with the following modifications:
- Exclude NOL carryback or carryover from another year.
  - Exclude domestic production activities deduction (former section 199). See IRM 21.7.4.4.27, *Qualified Business Income Deduction (QBID)*, for additional information.
  - Disregard the aggregation limitations that apply to the dividends received deductions for dividends received from a domestic corporation, dividends received on certain preferred public utility stock, and dividends received from certain foreign corporations.
- Note:** Schedule C from Form 1120 and a statement showing the re-computed dividend deduction must be attached to the loss year return.
- Exclude any Section 250 deduction.
- (4) The following are examples of Non-Business Income:
- Dividends and interest (SCH B)
  - Alimony received
  - Trust income (SCH E)
  - Non-business capital gains in excess of non-business capital losses (SCH D)
  - Social Security Benefits
- (5) The following are examples of Non-Business Deductions:
- Individual Retirement Arrangement (IRA) Keogh, or Simplified Employee Pension (SEP), Archer Medicare Advantage (MSA) Plans
  - Alimony paid
  - Medical Expenses
  - Charitable contributions
  - Standard Deduction
  - Education Expenses
  - Student Loan Interest
  - Tuition and Fees Deduction
  - Penalty on early withdrawal of savings
  - Health Savings account deduction
- (6) For any tax year that a homeowner's association elects to file , Form 1120-H, **U.S. Income Tax Return for Homeowners Associations**, a net operating loss deduction is not allowed in that year per IRC 528(d)(2)(B).
- (7) The Taxpayer Relief Act (TPRA) of 1997, Sec. 1082, limits the NOL carryback period to two years and extends the NOL carryforward period to 20 years. This applies to NOLs arising in taxable years beginning after August 5, 1997 (date of enactment). For tax years beginning on or before August 5, 1997, the carryback period for an NOL was three years and the carryforward period was 15 years.

- (8) The Tax Cuts and Jobs Act of 2017, Section 13302, as amended by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, Section 2303, repealed the two-year NOL carryback and other specified NOL carryback provisions and provided for an indefinite carryforward period of Net Operating Losses. Exceptions include losses incurred in the trade or business of farming and non-life insurance companies who retain the option to carry NOLs back two years. Non-life insurance companies are limited to a 20-year carryforward.
- (9) For a *farming loss* arising in tax years beginning after August 5, 1997 and ending prior to January 1, 2018, the carryback period is five years. For a farming loss arising in those tax years, and ending prior to January 1, 2018, the taxpayer may make an irrevocable election to:
- Waive the special five-year carryback period for the farming loss, or
  - Forgo the entire carryback period.

If	Then
Electing <b>a)</b> above	Carryback the NOL two years, then forward 20 years.
Electing <b>b)</b> above	Carryforward the NOL 20 years.

**Note:** For more about the election, see IRM 21.5.9.5.2, *Carryback/Carryforward Election*.

**Reminder:** The Tax Cuts and Jobs Act (TCJA) of 2017, Section 13302, repealed the five-year carryback period and allows for a two-year carryback period for farming losses. Additionally, taxpayers reporting an NOL due to farm losses can elect to forgo the carryback period and carry the losses forward. For information regarding an election to forgo the carryback period see IRM 21.5.9.5.2. The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 changed the carryback provisions of the TCJA for tax years beginning in 2018, 2019, and 2020. See IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136) Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*, for additional information.

- (10) For tax periods ending on or prior to December 31, 2017, NOLs qualifying as “eligible losses” retain the three-year carryback period. (The losses **cannot** be carried back two years.) These eligible losses (besides certain farming losses) are:
- IMF (Individual Master File) - Losses of property arising from fire, storm, shipwreck, other casualty, or theft
  - BMF (Business Master File) - (Small business) - NOL attributable to federally declared disasters

**Reminder:** An “eligible” loss also includes a farming business loss incurred in a federally declared disaster area. The Tax Cuts and Jobs Act of 2017 repealed all other special carryback periods. See IRM 21.5.9.5.3, *Special Carryback/Carryforward Periods*, for additional information.

- (11) Verify an individual taxpayer's NOL computation using Form 1045, Schedule A. Any corrections or changes made to taxpayer figures must be either directly edited in CII or by attaching a "dummied" to the CII case.
- (12) An NOL carryback, wherever applicable, is required unless the taxpayer *timely* elects to forgo the carryback period and carry the NOL forward.

21.5.9.5.10.1  
(10-01-2019)  
**Tax Equity and Fiscal  
Responsibility Act  
(TEFRA) Partnership  
Related Claims  
(Individual (IMF) Only)**

- (1) Carryback RINTs/TENTs can be filed for TEFRA-related Net Operating Losses. For additional information, see IRM 21.6.6.2.23, *Tax Equity and Fiscal Responsibility Act (TEFRA) Partnerships Related Claims*.

21.5.9.5.10.2  
(10-01-2021)  
**The Health Care and  
Education Reconciliation  
Act of 2010 - Net  
Investment Income Tax  
(NIIT) Effect on  
Carryback Adjustments -  
Individuals, Estates and  
Trusts Only**

- (1) The Health Care and Education Reconciliation Act of 2010 (PL 111–152) added a Net Investment Income Tax (NIIT) under IRC 1411 of the Internal Revenue Code for tax years 2013 and subsequent. NIIT applies to individuals, estates and trusts.
- (2) For IMF, the 3.8 percent tax applies when a taxpayer has net investment income and modified adjusted gross income (MAGI) above the thresholds outlined in IRM 21.8.1.13.6, *Net Investment Income Tax*, and IRM 21.6.4.4.19, *Net Investment Income Tax*. For BMF, see IRM 21.7.4.4.1.7.1, *Form 8960, Net Investment Income Tax - Individuals, Estates, and Trusts*, for additional information when the 3.8 percent net investment income tax is applicable. The NIIT is 3.8 percent of the taxpayer's net investment income or the excess of the MAGI over certain thresholds, whichever is smaller.
- (3) The NIIT for a gain year is recalculated based on the carryback of a net operating loss (NOL) to that year.
- (4) Recalculating net investment income is necessary when processing carryback claims filed by taxpayers whose NOL deductions do not decrease their Adjusted Gross Income (AGI) to below the threshold although their section 1411 NOL still decreases their net investment income for the gain year.
  - a. If a taxpayer has an NOL allowed under section 172 for purposes of determining regular income tax, the taxpayer may also be allowed to deduct some, or all, of the NOL in computing net investment income. Because NOLs are computed and carried over year-by-year, a taxpayer must first determine for each NOL year what portion of the NOL is attributable to net investment income. To determine how much of the accumulated NOL can be used in the current tax year as deduction against the net investment income, a taxpayer must first calculate the applicable portion of the NOL for each loss year.
 

**Caution:** No portion of an NOL incurred in a tax year beginning before 2013 is permitted to reduce net investment income.
  - b. When a taxpayer calculates the section 1411 NOL in any tax year in which a taxpayer incurs an NOL, the section 1411 NOL is the lesser of the amount of the NOL for the loss year the taxpayer would incur if only items or gross income that are used to determine net investment income and only properly allocable deductions (other than a section 1411 NOL)

are taken into account in determining the NOL under sections 172(c) and 172(d), or the amount of the taxpayer's NOL for the loss year.

- c. When taxpayers use a section 1411 NOL, they can deduct an NOL that originated in a previous year against the current year income. A portion of the NOL may be deductible in computing net investment income for that year, regardless of whether they are subject to the NIIT in that year without the NOL deduction. The amount of the regular income tax NOL used in calculating net investment income is called the "applicable portion". The applicable portion is the percentage of the regular income tax NOL that's a section 1411 NOL. Because NOLs are calculated on a year-by-year basis, the applicable portion of each NOL that's used in the current year may be different.

- (5) In addition to including a Form 8960, *Net Investment Income Tax - Individuals, Estates, and Trusts*, with the carryback claim/application, the taxpayer should also include their calculation of section 1411 NOL for NIIT as supporting documentation if the carryback causes the taxpayer's net investment income for the gain year to decrease and, as a result, the NIIT for that year. Contact the taxpayer if any of the supporting documentation for NIIT is missing per IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*.

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21.5.9.5.10.3  
(10-01-2023)  
**Tax Cuts and Jobs Act  
(TCJA) of 2017 (P.L.  
115-97), Sections  
Affecting Net Operating  
Losses**

- (1) The Tax Cuts and Jobs Act of 2017 was signed into law on December 22, 2017 as Public Law 115-97. The following sections of the Tax Cuts and Jobs Act of 2017 affect carryback cases.
- a. Section 11012 temporarily prohibits taxpayers other than corporations from claiming excess business losses for tax years beginning after December 31, 2017 and before January 1, 2026. Excess business losses prohibited under Section 11012 are carried forward and treated as an NOL carryforward in the subsequent tax year.
- Reminder:** The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 suspends the requirement for non-corporate taxpayers to apply the excess business loss limitations for tax years 2018, 2019, and 2020. The American Rescue Plan Act of 2021 (ARP) section 9041 extends the requirement to apply the excess business losses limitation by one year, to taxable years beginning after December 31, 2025.
- b. Section 12001 repealed the corporate alternative minimum tax (AMT) for tax periods beginning after December 31, 2017.
- c. Section 12002 modified the AMT credit for corporations to allow the AMT credit to offset regular tax liability for any taxable year and made the credit refundable for any taxable year beginning after December 31, 2017 and before January 1, 2022 in the amount equal to 50 percent (100 percent beginning in 2021) of the excess of the minimum tax credit for the taxable year over the amount of the credit allowable for the year against the regular liability.

**Reminder:** CARES Act, Section 2305, provides for the modification of credit for prior year minimum tax liability of corporations. For tax years beginning in 2018 and 2019 only, a corporation is

allowed a refundable minimum tax credit amount equal to 50 percent (100 percent for tax years beginning in 2019) of the excess of minimum tax credit over the corporation's regular tax liability.

- d. Section 13302 modified the rules governing NOL deduction. First, for NOLs arising in tax years beginning after December 31, 2017, it limited the deduction to 80 percent of taxable income determined without regard to the NOL deductions, with an exception for non-life insurance companies. Second, it repealed the two-year and other specified carryback provisions as described in IRM 21.5.9.5.3, *Special Carryback/Carryforward Periods*, for NOLs arising in tax years ending after December 31, 2017, with the exception of certain losses incurred in the trade or business of farming and non-life insurance companies. Third, section 13302 allowed for a two-year carryback for certain losses incurred in the trade or business of farming and for non-life insurance companies for NOLs arising in tax years ending after December 31, 2017. Fourth, it allowed an indefinite carryforward of NOLs, with the exception of non-life insurance companies which can carry forward an NOL 20 tax years. Fifth, it allowed taxpayers eligible to carryback NOLs to waive the carryback period as described in IRM 21.5.9.5.2, *Carryback/Carryforward Election*.

**Reminder:** The Coronavirus Aid, Relief, and Economic Security Act of 2020 suspends the 80 percent taxable income limitation requirement applicable to tax years 2018, 2019, and 2020.

- e. Section 13511 repealed the operations loss deduction for life insurance companies and allows the net operating loss deduction that can be carried forward under section 172 for tax periods beginning after December 31, 2017.
- f. Section 13516 repealed the special estimated tax payment rules for insurance companies for tax periods beginning after December 31, 2017.

21.5.9.5.10.3.1  
(04-01-2020)  
**TCJA - NOL Carryback  
and Carryforward  
Periods**

- (1) Taxpayers can no longer carry net operating losses back to previous tax periods, unless their NOLs are incurred in the trade or business of farming or unless they are non-life insurance companies. All taxpayers can carry their NOLs forward indefinitely, with the exception of non-life insurance companies, which are limited to a 20-year NOL carryforward period. See IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*, for exceptions for tax years 2018, 2019, and 2020.

**Reminder:** Carryback employees will work carryforward cases and elections to forgo the carryback period. Do not reassign these case types to a non-carryback team.

- (2) Taxpayers with eligible farming losses and non-life insurance companies can file an NOL carryback application or claim requesting a two-year carryback. Any remaining NOL not absorbed in the two previous tax years (gain years) is then carried forward. See IRM 21.5.9.5.3, *Special Carryback/Carryforward Periods*, for carryback and carryforward rules.
- (3) If a taxpayer no longer eligible to carry back a net operating loss files an election to forgo the carryback period, notate the CII history as no action and close the case.

**Note:** If the taxpayer includes other actionable issues with the election to forgo the carryback period, take the appropriate actions on the additional issues and notate the CII history the election to forgo the carryback period was filed by a taxpayer no longer eligible to carry net operating losses back per TCJA.

21.5.9.5.10.3.2  
(04-01-2020)

**TCJA - Identification of Farming Losses Eligible for Carryback**

(1) A **farming business** means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity. The farmer is not required to care for the plant or animal during its entire lifecycle but must do more than merely hold for resale. Below are examples of farming activities **allowed** in a two-year carryback:

- Animals held for breeding (e.g., cattle, horses, chickens, etc.)
- Beef cattle ranching
- Dairy farm
- Fish farm
- Growing crops (e.g., fruits, vegetables, grains, nuts, vineyard, etc.)
- Growing/raising ornamental trees (other than evergreen trees that are more than six years old at the time they are severed from their roots)
- Horticultural (a branch of agriculture that deals with the art, science, technology, and business of growing plants. It includes the cultivation of medicinal plants, fruits, vegetable, nuts, seeds, herbs, sprouts, mushrooms, algae, flowers, seaweeds and non-food crops such as grass and ornamental trees and plants)
- Nursery
- Sod farm

(2) A **farming business** may include activities that are **not allowable** in a two-year carryback, but the losses can be carried forward. Those include:

- Cash received for the use of pasture or farmland based on a flat charge when there is no material participation in the farming operation
- Contract harvesting of an agricultural or horticultural commodity grown or raised by another
- Farm labor
- Farm management for a fee or on a contract basis
- Income from breeding, raising, or caring for dogs, cats, or other pet animals
- Packaging plants or animals
- Processing of commodities or products beyond those activities that are normally incident to the growing, raising, or harvesting of such products (e.g., non-incident processing activities, reselling activities, and contract harvesting for others, merely hunting or merely catching)
- Processing activities that are not incidental to growing, raising or harvesting (e.g., such as canning, freezing, slaughtering, or combining multiple food products into a single item)
- Resale of plants or animals
- Timber
- Veterinary
- Winery

(3) In order to determine whether a farming corporation or individual filing an NOL is eligible for a two-year carryback under Section 13302 of TCJA, a review of the NAICS code is required. For BMF the NAICS codes are found on ENMOD and/or BMFOLE. For IMF, the NAICS codes may be found on TXMOD as

“PIA-PBA” (Principal Industry Activity - Principal Business Activity) code or is located on Form 1040, Schedule F, Line B or for Schedule E Part II review the employer identification number(s) listed on line 28 on ENMOD and/or BMFOLE. Take the following actions if the NAICS code:

- a. Begins with “111” or “112,” the taxpayer is engaged in a farming business eligible for the two-year NOL carryback. Process the application/claim.
- b. Taxpayers using NAICS code 113210 (forest nurseries and gathering of forest products) may or may not be engaged in a farming business. Review attachments to determine if a statement is attached indicating the taxpayer is a forest nursery. If no statement is attached, reject the application or claim using guidance in IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*. If rejecting via the appropriate carryback letter, request clarification regarding their farming activities under NAICS code 113210. In addition to the appropriate paragraph advising the taxpayer to resubmit their application or claim, include the following in an open paragraph:  
***We need additional information before we can process your (application or claim). Our records indicate your primary business activity is forest nurseries and gathering of forest products. Please provide a description of your specific business activities involving forest nurseries and gathering of forest products.***
- c. Does not begin with “111” or “112”, or is not 113210, and the application/claim is not accompanied by documentation supporting the NOL is from a farming business, reject the application/claim as per IRM 21.5.9.4.3.

21.5.9.5.10.3.3  
(05-25-2021)

**TCJA - Form 1138,  
Extension of Time for  
Payment of Taxes by a  
Corporation Expecting a  
Net Operating Loss  
(NOL) Carryback**

- (1) This section provides procedures for processing Form 1138, *Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss (NOL) Carryback*, due to changes included in the Tax Cuts and Jobs Act of 2017 (TCJA), Section 13302.
- (2) Process a Form 1138 filed for tax period 2016 and prior or tax periods 2018, 2019, and 2020 filed under the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) using guidance in IRM 21.5.9.5.10.7, *Form 1138, Extension of time for Payment of Taxes by a Corporation Expecting a Net Operating loss (NOL) Carryback*.
- (3) Process a Form 1138 filed for tax periods affected by TCJA using the following guidance.
- (4) Changes to the law due to TCJA now limits which taxpayers are eligible to carry a net operating loss back. A non-life insurance company files a Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*, and corporate farmers will file either a Form 1120, *U.S. Corporate Income Tax Return*, or Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*. See IRM 21.5.9.5.10.3.2, *TCJA - Identification of Farming Losses Eligible for Carryback*, for guidance on determining corporate farmers with NOLs eligible for a two-year carryback based on Section 13302 of the Tax Cuts and Jobs Act.
- (5) If Form 1138 is identified as filed by a non-life insurance company or a corporate farm eligible for the two-year carryback, process the request per guidance in IRM 21.5.9.5.10.7, *Form 1138, Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss (NOL) Carryback*.

- (6) If a Form 1138 is identified as not eligible per IRM 21.5.9.5.10.7(8), *Form 1138, Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss (NOL) Carryback*, or not eligible for a two-year NOL carryback per IRM 21.5.9.5.10.3.2, *TCJA - 2018 Fiscal Year BMF Carryback Applications and Claims*, reject the form and notify the taxpayer.

21.5.9.5.10.3.4  
(10-01-2023)  
**TCJA - 2018 Fiscal Year  
BMF Carryback  
Applications and Claims**

- (1) The Tax Cuts and Jobs Act of 2017 (TCJA), Section 13302 repealed the two-year and all special carryback periods for net operating losses, unless the net operating losses (NOLs) are (1) certain losses from a farming business or (2) losses sustained by non-life insurance companies who retain the two-year carryback period for net operating losses arising in tax periods beginning **after** December 31, 2017. For losses arising in tax years ending after 2017, most taxpayers were no longer eligible to file claims or applications for refund for an NOL carryback but instead were required to carry their NOLs forward. The Coronavirus Aid, Relief, and Economic Security (CARES) Act, PL116-136, reversed the TCJA limitation on NOL carryback and provided that all NOLs incurred in a taxable year beginning after December 31, 2017, and before January 1, 2021 must be carried back five years unless the taxpayer properly elects to relinquish the entire carryback period.
- (2) Determine if the carryback application/claim is for a loss year that ended prior to 2018. If it is, process it using IRM 21.5.9 guidance for non-TCJA cases.
- (3) The Coronavirus Aid, Relief, and Economic Security Act of 2020 modified the rules for fiscal year 2018 returns. See IRM 21.5.9.5.10.8.11 *Fiscal Year 2018 Processing under the CARES Act*, for processing of fiscal year 2018 returns (loss years beginning in 2017 and ending in 2018) under the CARES Act.
- (4) If the fiscal year 2018 application/claim is determined to be unprocessable as per guidance in IRM 21.5.9.4.2, *Identifying Processable and Unprocessable Carryback Applications/Claims*, reject the case per IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*, advising the taxpayer of the reason(s) for the rejection.

21.5.9.5.10.3.5  
(10-01-2023)  
**TCJA - Net Operating  
Losses Incurred in Tax  
Years Beginning  
January 1, 2018 and  
Subsequent**

- (1) Certain NOLs incurred in the trade or business of farming and NOLs incurred by non-life insurance companies for tax periods ending after December 31, 2017 are eligible for a two-year carryback.

**Reminder:** NOL carryback periods, including all special carryback periods as described in IRM 21.5.9.5.3, *Special Carryback/Carryforward Periods*, have been repealed for tax years ending after December 31, 2017, except in the case of NOLs incurred by non-life insurance companies and certain NOLs incurred in the trade or business of farming.

**Note:** The Coronavirus Aid, Relief, and Economic Security (CARES) Act, PL 116-136, reversed the TCJA limitation on NOL carryback and provided that all NOLs incurred in taxable years 2018 through 2020 (including those incurred in a farming business or by a non-life insurance company) must be carried back five years unless the taxpayer properly elects to relinquish the entire carryback period.

- (2) Non-life insurance companies file Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*. These are identified by filing require-

ment code 04 on ENMOD and BMFOLE. Non-life insurance companies are eligible to file a two-year carryback of NOLs and are processed utilizing current IRM 21.5.9 carryback procedures.

- (3) Net Operating Losses incurred by farmers will require a review of their North American Industry Classification System (NAICS) Code. For BMF the NAICS codes are found on ENMOD and BMFOLE. For IMF, the NAICS Code may be found on TXMOD as “PIA-PBA” code or can be found on:
- Form 1040, Schedule F, *Profit or Loss From Farming*, Line B
  - Locate the EIN listed on Form 1040 Schedule E, *Supplemental Income and Loss*, Part II line 28
- Note:** Review the NAICS code for the EIN on the Schedule K-1, *Beneficiary's Share of Income, Deductions, Credits, etc.*, reporting the net operating loss
- (4) Take the following actions to assist in the identification farming NOLs eligible for a two-year carryback:
- a. Determine if the NAICS code begins with “111” (crop production) or “112” (animal production).
  - b. Process carryback applications and claims reporting farming NOLs with NAICS codes beginning with “111” and “112” utilizing carryback procedures in IRM 21.5.9.5.10.3, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses*, unless the taxpayer is requesting an NOL carryback of more than two-years. If the application or claim indicates a carryback period longer than two years, reject the application or claim per IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*.
  - c. Taxpayers using NAICS code 113210 (forest nurseries and gathering of forest products) may or may not be engaged in a farming business. Review attachments to determine if a statement is included indicating the taxpayer is a forest nursery. If no statement is attached, reject the application or claim using per IRM 21.5.9.4.3. If rejecting, request clarification regarding their farming activities under NAICS code 113210.  
**Note:** See IRM 21.5.9.5.10.3.2, *TCJA - Identification of Farming Losses Eligible for Carryback*, for information on farming business activities eligible and non-eligible for a two-year carryback.
  - d. Taxpayers may be engaged in multiple trades or businesses. Taxpayers can only provide the NAICS code for the primary business activity which may not reflect business farming activities. If unable to determine whether the NOL carryback application or claim is due to farming activities eligible for an NOL carryback, reject the application or claim to the taxpayer per guidance in IRM 21.5.9.4.3. Include the following paragraph in the carryback letter:  
***Our records indicate your principal business is not a farming business as defined in IRC 264A(e)(4). If one or more of your trades or businesses includes farming activities eligible for a net operating loss carryback under the Tax Cuts and Jobs Act, please provide a description of your specific business activities involving farming for reconsideration of your (application or claim).***
- (5) Reject all other carryback applications and claims filed by entities no longer eligible to carryback NOLs per IRM 21.5.9.4.3. Advise the taxpayer of the

reason for the reject and provide guidance the NOL can be carried forward only.

21.5.9.5.10.3.6  
(04-01-2020)  
**TCJA - Responses to Request for Additional Information Requested from Farmers with North American Industry Classification System (NAICS) Code 113210**

- (1) When a response is received for farmers using NAICS code 113210, forward the response through the management chain to the Carryback Planning & Analysis (P&A) Analyst for review. Document Correspondence Imaging Systems (CII) with the following notation, "AM HQ Review."

21.5.9.5.10.3.7  
(04-14-2021)  
**TCJA - Section 11012 - Form 461, Limitation on Business Losses for Non-Corporate Entities**

- (1) Section 11012 of the Tax Cuts and Jobs Act of 2017 prohibits taxpayers other than corporations (i.e., Form 1040, Form 1040-NR, Form 1041, Form 1041-QFT, Form 1041-N and Form 990-T filers) from claiming excess business losses beginning with tax periods after December 31, 2017 and ending before January 1, 2026.

**Reminder:** The Coronavirus Aid, Relief, and Economic Security Act of 2020 suspends the requirement for non-corporate taxpayers to apply the excess business loss limitations for tax years 2018, 2019, and 2020. The American Rescue Plan Act of 2021 (ARP) section 9041 extends the requirement to apply the excess business losses limitation by one year, to taxable years beginning after December 31, 2025.

- (2) Losses disallowed under this section are treated as an NOL carryforward in the subsequent year and added to any other NOL carryforwards previously reported. Taxpayers with a farming business must apply the excess business loss limitation before carrying any net operating loss back two years.
- (3) An excess business loss exists when the aggregate deductions attributable to the taxpayer's trade(s) or business(es) exceeds the sum of:
- the aggregate gross income or gain from those trades or business(es) and
  - the applicable threshold amount
- (4) Total income/loss items for purposes of calculating an excess business loss include the following:
- Wages and salaries
  - Business income or loss
  - Business Capital gain or loss
  - Other gains or losses from Form 4797, *Sale of Business Property*
  - Rental real estate, royalties, partnerships, S corporations, trusts
  - Farm income or losses
  - Any other business income or deductions not previously listed

**Note:** Taxpayers use the new Form 461, *Limitation on Business Losses*, to compute the carryforward amount of excess business losses.

- (5) If a taxpayer files an amended return to report or increase an excess business loss and likewise reports or increases a net operating loss carryforward,

ensure a new Form 461, *Limitation on Business Losses*, is attached. If not attached reject the application/claim advising the taxpayer of the missing information utilizing guidance in IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*.

- (6) Taxpayers with losses from a farming business must apply the excess business loss limitation **before** carrying any NOL back two years. If both farming and non-farming business losses are incurred that are more than the threshold amount, first allocate the threshold amount to the farming losses.
- (7) If the application/claim is processable and includes all required documentation, process the request. For IMF use Reason Code 159 when processing a carry-forward claim reporting or increasing the excess business losses.

**Reminder:** Once an excess business loss is calculated and a net operating loss is determined, see IRM 21.5.9.5.10.3.8, *Net Operating Loss Calculator - 80 Percent Taxable Income Limitation Calculation for Net Operating Loss for Tax Years Beginning 2018 and Subsequent*, for additional guidance regarding the NOL Calculators and determining the 80 percent limitation on NOLs.

21.5.9.5.10.3.8  
(10-01-2024)

**Net Operating Loss  
Calculator - 80 Percent  
Taxable Income  
Limitation Calculation  
for Net Operating Loss  
for Tax Years Beginning  
2018 and Subsequent.**

- (1) Section 13302 provides a calculation of an allowable net operating loss (NOL) deduction to the lesser of:
  - a. the aggregate of the net operating loss (NOL) carryovers plus the net NOL carrybacks or
  - b. 80 percent of the taxable income computed without including an NOL deduction.

**Exception:** The 80 percent limitation does not apply to non-life insurance companies.

**Reminder:** The Coronavirus Aid, Relief, and Economic Security Act of 2020 suspends the 80 percent taxable income limitation requirement for losses arising in taxable years beginning after Dec. 31, 2017 and before Jan. 1, 2021 (beginning in 2018, 2019, and 2020). See IRM 21.5.9.5.10.8.1, *Repeal of 80 Percent Taxable Income Limitation for Tax Years Beginning Before January 1, 2021- CARES Act*, for additional information.

**Note:** Under CTRA 2020, farmers electing to waive the CARES Act provisions are subject to the 80% taxable income limitation for net operating loss deductions (NOLDs).

- (2) Any NOL incurred in a tax year beginning before January 1, 2018, is not subject to the 80 percent taxable income limitation. When calculating the appropriate NOL carryback or carryforward amount, NOLs are absorbed in the order in which they arose, starting with the earliest loss year. Thus, NOLs incurred prior to January 1, 2018 are absorbed first. Then the 2018 NOLs are absorbed.

- (3) In order to calculate the net operating loss deduction (NOLD) for tax periods beginning after December 31, 2017, subject to the 80 percent taxable income limitation, for net operating losses carried back (or forward) an NOL calculator was developed.

**Reminder:** Only eligible farming net operating losses carried back on BMF and IMF accounts are subject to the 80 percent taxable income limitation. Net operating losses incurred by a non-life insurance company reported on Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*, is **not** subject to the 80 percent taxable income limitation.

- (4) Access the Corporate and Non-Corporate NOL Calculator on SERP under the *IRM Supplements* tab.

**Caution:** Do not utilize the NOL Calculators in instances where more than one loss has been carried to a gain year. For example, a taxpayer files Form 1045 for 2023 carrying back a farming loss to 2021 and 2022. The original 2021 return shows that the taxpayer had a carryover from 2020 to 2021. Forward these cases through the management chain to the Headquarter Carryback Analyst for review.

- (5) If the Net Operating Loss Deduction (NOLD) computed by the taxpayer does not match the NOL Calculator, refer to guidance in IRM 21.5.9.4.7, *Carryback Tolerances - Master File Verification, Math Verification, Application/Claim Processing, Push Codes*, (4) for additional information.
- (6) When processing a carryback case subject to the 80 percent limitation, attach the computation to the CII case.

21.5.9.5.10.4  
(07-29-2024)

**Allocating Carryback Net Operating Losses (NOLs)**

- (1) In general, for non-community property states, the taxpayer must file an allocation schedule if their marital status, filing status or spouses change in any carryback gain or loss year. For non-community property states, accept the allocation provided by the taxpayer. See Exhibit 21.5.9-2, *Allocation Requirements for Non-Community Property States*. For processing procedures on over tolerance claims, see paragraph (4) below.

**Note:** These instructions do not restrict your ability to reject a claim when appropriate. See Exhibit 21.5.9-2.

- (2) An allocation schedule is not required if the income, deductions, and NOL are split 50-50 in the following community property states:

- Arizona
- California
- Idaho
- Louisiana
- Nevada
- New Mexico
- Texas
- Washington
- Wisconsin

- (3) The allocation schedule may be provided and deemed appropriate in community property states if the taxpayer has income from separate property

that is not treated as community property, or if the taxpayer provides reasonable evidence that the parties must allocate their loss pursuant to stipulation or decree approved by the state court. The allocation schedule must properly show which income, deductions, withholding, tax liability and refund belongs to each spouse. A signed statement that loss belongs to the other spouse is needed.

If	Then
Both taxpayers were married to each other and filed joint returns for all the years involved	Treat the NOL deduction as a joint NOL
Both taxpayers were not married to each other during the gain year	Only the spouse who incurred the NOL in the loss year may take the deduction

- (4) The following rules apply to taxpayers whose marital status has changed between the taxable year they incur an NOL and the taxable year they seek to use the NOL:
- a. A taxpayer cannot use an NOL incurred before or after marriage to offset the income of a spouse. For example, a taxpayer cannot carryback an NOL incurred after a divorce or death of a spouse to offset the spouse's portion of the jointly reported income.
  - b. A taxpayer who incurs an NOL after a divorce or the death of a spouse may use the NOL to offset only the taxpayer's share of income reported on a joint return filed when the taxpayer and the spouse were married. The refund or credit cannot exceed the recomputed joint overpayment after the NOL is applied.
  - c. An overpayment attributable to Spouse A from a joint tax return cannot be used to offset the tax liability of Spouse B from a separate return or a joint return with another taxpayer. Each spouse's share of the overpayment from the joint return must be determined. Math verify the allocation worksheet(s) on over-tolerance cases to ensure that each spouse receives the correct refund.
  - d. The taxpayer's former spouse may be entitled to a refund of tax due to the carryback of the taxpayer's NOL to a year in which the ex-spouses filed a joint return, because of the former spouse's "separate interest" in the joint overpayment.
  - e. A former spouse may file a "separate interest" claim or application for refund or credit from a tax year in which the former spouse filed a joint return. Both former spouses' signatures are not required on the request. The signature of the former spouse requesting the refund or credit is sufficient.
- (5) Use the following steps when a person (the loss year spouse) carries an NOL back to a taxable year, in which that person filed a joint return with a former spouse.
- a. Recompute the joint tax liability for the carryback year, limiting the maximum amount of the NOL deduction to what the loss year spouse's taxable income for the carryback year would have been, if the spouses had filed married filing separately for that tax year.

- b. After applying the NOL, compute what each spouse's separate tax liability for the carryback year would have been if the spouses had filed married filing separately for that carryback year. Then allocate the recomputed joint tax liability between the spouses based on the following formulas.

Variable 1	Multiplied by	Variable 2	Equals	Result
Former Spouse's Separate Tax Liability (divided by) Total Separate Tax Liabilities	X	Recomputed Joint Tax Liability	=	Former Spouse's Share of Recomputed Joint Tax Liability

- c. Next, determine each former spouse's contribution toward the payment of the joint tax liability for the carryback year. In a non-community property state, federal income taxes withheld from the wages of a spouse are treated as contributions by that spouse toward the payment of the joint tax liability. In the absence of evidence to the contrary, allocate joint estimated tax payments between former spouses based on the following formula:

Variable 1	Multiplied by	Variable 2	Equals	Result
Former Spouse's Separate Tax Liability (divided by) Total Separate Tax Liabilities	X	Joint Estimated Tax Payment	=	Former Spouse's Share of Joint Estimated Tax Payment

- d. The refund or credit due each former spouse is the excess of that spouse's contribution to the payment of the recomputed joint tax liability over that spouse's share of the recomputed joint tax liability.

**Note:** Use joint rate if spouse is deceased.

- (6) If the taxpayer's spouse without the NOL is entitled to a refund:
- Do not allow a refund to the spouse not reporting the NOL, without a signed claim or application.
  - Send a Letter 662C to notify the spouse not reporting the NOL that they may be entitled to a refund of their separate interest in the overpayment.

**Note:** Pub 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*, provides taxpayers with allocation instructions.

- (7) Issue a manual refund in the name of the taxpayer that filed the carryback claim. See Title 26 Code of Federal Regulations (CFR) 301.6402-2 and Rev. Rul. 80-8, 1980-1 C.B 298.
- Use the appropriate Hold Code on the adjustment.
  - Input TC 971, Action Code 037, to cross-reference the spouse receiving the refund. See IRM 21.4.4.6, *Other Manual Refund Requirements*.

- c. Include a brief justification in the Remarks section of the manual refund form to support the name line and/or address.
- (8) Any reassessments must be made against the spouse who received the refund:
- a. Freeze the account with TC 470 no closing code (CC).
  - b. Assess the appropriate Master File account.
  - c. Prepare a C-Letter to advise taxpayer of the separate reassessment.
  - d. Prepare Form 3465, *Adjustment Request*, to advise Accounting to input TC 400 and the correct account to bill.
  - e. Send both the C-Letter and Form 3465 to Accounting for further processing.

21.5.9.5.10.5  
(02-05-2020)

**Carryback Net Operating Loss (NOL) Affecting Alternative Minimum Tax (AMT)**

- (1) The taxpayer calculates Alternative Minimum Tax (AMT) on "Tax Preference Items," or benefits received from deductions, lower tax rates, and exclusions from tax.
- (2) An NOL carryback may increase or decrease the amount of AMT owed.
- (3) A carryback of most general business credits does not decrease the amount of AMT owed. See IRC 38(c) for exceptions.
- (4) A carryback of foreign tax credit can increase the amount of AMT owed.
- (5) Ensure the taxpayer reporting or changing AMT has attached the following, unless the examiner can verify AMT through IDRS, CFOL research, etc.:
  - a. Revised Form 6251, *Alternative Minimum Tax Computation*, for each gain year, to Form 1045 or 1040-X. Verify all figures reported on Form 1045 or 1040-X, for each gain year.

**Note:** Original Form 6251 information can be viewed on CC TRDBV.

- b. Form 4626, *Computation of Alternative Minimum Tax-Corporations and Fiduciaries*, to Form 1139 or Form 1120-X. Verify these figures with Form 1139 or Form 1120-X for the tax year involved.

**Caution:** Thorough verification of figures and computations must be made on Form 6251 (Individual Master File) and Form 4626 (Business Master File) and related schedules, to the extent possible, on carryback cases. As an example, for IMF, charitable contributions should be verified on Schedule A, and Alternative Minimum Tax verified on the Form 6251. Employees must verify the accuracy of the Master File figures, to the extent possible, before rejecting a claim when there are differences between Master File and figures on the claim. See IRM 21.5.9.4.5, *Master File Verification - Incorrectly Calculated Carryback Applications/Claims*.

- (6) Various legislative acts over the last several years have allowed for certain NOLs to offset 100 percent (from 90 percent) of the taxpayer's Alternative Minimum Taxable Income (AMTI). Some of these are The Job Creation and Workers Assistance Act of 2002, Gulf Opportunity Zone Act of 2005 (GO Zone), Kansas Disaster Net Operating Losses (2008), Midwest Disaster Net Operating Losses (2008), National Disaster Relief Act of 2008, The Worker, Homeownership, and Business Assistance Act of 2009 (which also includes elections made under the American Recovery and Reinvestment Act of 2009). Information on these legislative acts can be found in specific subsections of

this IRM. See IRM 21.5.9.5.10 *Carryback Net Operating Loss (NOL)*.

21.5.9.5.10.6  
(10-01-2024)

**Carryback Applying Net Operating Loss Deduction (NOLD)**

- (1) Net Operating Loss Deduction (NOLD) is the net operating losses carried back or carried over to another year and taken as a deduction in the carryback or carryforward years (gain years).
- (2) Apply the NOLD as a business deduction, even if taxpayer did not have business income that gain year. The NOLD offsets income from all sources including capital gains, in excess of capital losses.
- (3) The NOLD is fully absorbed in a gain year when:
  - It is less than or equal to the adjusted gross income (AGI), with certain modifications, minus the total standard deductions or itemized deductions for IMF (Individual Master File).
  - It is less than or equal to taxable income for BMF (Business Master File).

21.5.9.5.10.6.1  
(10-01-2020)

**Computing the Individual (IMF) Carryback Net Operating Loss Deduction (NOLD)**

- (1) When recomputing taxable income and tax liability, subtract the NOLD from the Adjusted Gross Income (AGI). Recompute any income or deduction based on, or limited to, a percentage of the adjusted gross income or modified adjusted gross income, after applying the NOLD such as:
  - Passive activity losses from real estate rentals
  - Taxable social security benefits
  - IRA deductions
  - Excludable savings bond interest
  - Medical expenses
  - Personal casualty and theft losses
  - Miscellaneous deductions subject to the 2 percent limit
  - Itemized deduction limitation
  - Phase out of the deduction for personal exemptions

**Note:** Charitable contribution deductions are not recomputed.

**Note:** Recompute the tax, using the new taxable income. While it is necessary to refigure the income tax, AMT, and credits, do not refigure self-employment tax.

**Reminder:** The Tax Cuts and Jobs Act of 2017, Section 11041, suspended the deduction for personal exemptions for tax years beginning after December 31, 2017 and before January 1, 2026.

- (2) When the NOL is not fully absorbed, compute modified taxable income for each affected gain year. Modified taxable income determines how much NOL is absorbed in a gain year and how much remains to be carried to a later year.
  - a. Start with the correct taxable income shown on the Master File (MF) rather than the income reported on taxpayer's return.
  - b. Recompute the NOLD, disregarding NOLs for the loss year and subsequent years.
  - c. Add back the Section 1202 exclusion.

- d. Add back the Domestic Production Activities Deduction (former section 199 and current section 199A(g)) and the Qualified Business Income Deduction (Section 199A).
- e. Add back the Net Capital Loss deduction from Schedule D, Form 1040.
- f. Recompute any income or deductions based on or limited to a percentage of the AGI.
- g. Add back the deduction for exemptions.
- h. Subtract the modified taxable income from the NOL to determine how much NOL may be carried to the next gain year.
- i. Repeat steps a through h until the loss is used, or until the carryover period expires.

**Note:** Verify taxpayer's NOL absorption computation using Form 1045, Schedule B.

21.5.9.5.10.6.2

(02-05-2020)

**Computing the  
Carryback Business  
(BMF) Net Operating  
Loss Deduction (NOLD)**

- (1) When recomputing taxable income and tax liability:
  - a. Make no modification if the NOLD is fully absorbed in the applicable preceding year.
  - b. Subtract the NOLD from the taxable income of the gain year.
  - c. Recompute deductions, credits, or tax computations based on or limited to a percentage of the taxable income, or tax liability such as dividends paid on Preferred Stock or alternative tax.
  - d. Compute the tax using the new taxable income.
- (2) When a Net Operating Loss (NOL) is not fully absorbed, compute modified taxable income in each affected gain year. Modified taxable income determines how much NOL is absorbed in each year.
  - a. Use the correct taxable income on Master File, rather than taxpayer's reported income.
  - b. Add back any NOLs deducted for the loss year and subsequent years.
  - c. Add back the section 199 or section 199A deductions.
  - d. Recompute deductions limited to a percentage of the taxable income.
  - e. Subtract modified taxable income from the NOL to determine how much NOL may be carried to the next gain year.
  - f. Repeat steps a through e until loss is used or until the expiration of the applicable carryover period.

**Caution:** Do not reduce the Personal Holding Company Tax (on Form 1120, Schedule PH), or the Accumulated Earnings Tax assessed by Examination.

**Note:** Do not recompute charitable contribution deductions.
- (3) If an NOL occurs in more than one year, the earlier loss year is deducted before the later loss.

21.5.9.5.10.7  
(05-25-2021)  
**Form 1138, Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss (NOL) Carryback**

(1) This section provides procedures for processing Form 1138, *Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback*.

- Process a Form 1138 filed for NOLs expected in tax years 2018, 2019, and 2020 affected by the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act) per IRM 21.5.9.5.10.8.12, *Processing Form 1138 Filed for Tax Periods Under the CARES Act*.
- Process a Form 1138 filed for NOLs expected in tax years covered by the Tax Cuts and Jobs Act (TCJA) per IRM 21.5.9.5.10.3.3, *TCJA - Form 1138, Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss (NOL) Carryback*.

(2) The extension applies to tax required to be paid **after** the filing of Form 1138. The payment of tax that may be postponed cannot exceed the expected overpayment from the carryback of the NOL.

**Note:** Form 1138 may be submitted with Form 7004, *Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*, to allow the taxpayer to defer payment of some or all of the tax due to be paid with the extension request.

(3) In general, the extension for paying the tax expires at the end of the month in which the return for the tax year of the expected NOL is required to be filed (including extensions). The corporation can further extend the time for payment by filing Form 1139, *Corporation Application for Tentative Refund*, before the period of extension ends. See Example in Paragraph (4).

(4) **EXAMPLE:**

- A corporation files Form 7004, *Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*, for its 201712 tax year. The taxpayer expects to owe \$50,000 on the 201712 tax return. The extended return due date is 09/15/2018.
- At the same time, the corporation files Form 1138 to extend the time to **pay** the \$50,000 tax for 201712 because the corporation expects to have an NOL of \$100,000 in 2018.
- The corporation timely files a balance due return for 201712 on 09/10/2018 with \$50,000 of tax due.
- The extension of time to pay the \$50,000 tax for the 201712 tax year expires on 04/30/2019 (the end of the month in which the return for the NOL tax year (201812) is required to be filed (04/15/2019)).
- If the corporation files a tentative carryback application (Form 1139) on or before 04/30/2019, the extension of time to pay the \$50,000 201712 tax is further extended until the Form 1139 is either processed or rejected.

(5) Corporations may also file Form 1138 to defer payment of an amount assessed as a deficiency, interest, or penalty. If Form 1138 is filed after the return due date it must be filed by the 10th day following the initial notice of assessment, regardless of the amount shown in the notice.

(6) For purposes of calculating the Failure to Pay (FTP) penalty, a carryback applied to an earlier gain year is deemed to be a payment that is available on the due date of the loss year return. See IRM 20.1.2.3.5, *Carrybacks and Carryovers*. However, a Failure to Pay penalty is not imposed for any portion of

unpaid tax that is satisfied by an NOL carryback when the corporation has filed Form 1138. Under Treas. Reg. 1.6164-1(b) and Treas. Reg 1.6164-2(a), the time for payment of the portion of tax satisfied by the carryback is automatically extended when the IRS accepts Form 1138.

- (7) Interest is charged on postponed amounts from the date that the payments would normally be due.
- (8) Reject Form 1138 if:
  - Deferred tax is not corporate income tax
  - Deferred tax is not due for the prior year (check for balance due on the tax year immediately preceding tax year entered on Line 1, Form 1138)
  - Form 1138 is incomplete and/or is not signed by taxpayer or valid representative
  - The deferred tax is paid
  - The corporation is a Personal Service Corporation (PSC) with a valid Section 444 election for the year to which (or from which) the corporation is seeking an NOL carryback. (If ENMOD shows a TC 054 or TC 055 and the entity’s FYM is other than 12, the PSC has a valid Section 444 election.)
- (9) Suspend the Form 1138 if the **gain** year has not been processed. Push code the Form 1138 to the gain year tax module and return to the CSR. When the push code is returned, follow the instructions in Paragraph (10).
- (10) Process Form 1138 using the table below.

If	Then
Form 1138 is accepted	<ol style="list-style-type: none"> <li>1. Determine the deferred amount (Form 1138, Line 6c).</li> <li>2. Inform the taxpayer by mail, using Letter 2643C, that Form 1138 has been accepted. Request payment for any undeposited amount within 30 days (Form 1138, Line 3 minus Line 6c). See Step 5 below.</li> <li>3. Input TC 470 CC 98 on the immediately preceding tax year where there is the balance due. This sets a W- freeze on the module and suspends both collection action and offsets into the module.</li> <li>4. Input TC 930 DLN Code 85 using your tax examiner number on the <b>loss</b> year. When the loss year return posts, follow the instructions in paragraph (12) below.</li> <li>5. Monitor for fourth payment of any non-deferred amount. Release the freeze with TC 472 CC 98, if payment not received within 30 days.</li> </ol>
Form 1138 is not accepted	<ol style="list-style-type: none"> <li>1. Correspond with taxpayer, using Letter 2643C to explain why Form 1138 was rejected.</li> <li>2. Associate Form 1138 with the original gain year return.</li> </ol>

- (11) A TC 470 CC 98 (W- freeze) is released by any of the following actions.
- Input of a TC 295
  - Systemically (after 52 cycles)
  - Input of TC 472 CC 98
  - When module becomes zero or credit balance
- (12) In order for the taxpayer to get the further extension noted in Paragraph (3), Form 1139 must be filed by the end of the month in which the loss year return is due (including extensions). Otherwise, the extension to pay the prior year tax expires on that date (see paragraph (4) above). Monitor the loss year for receipt of Form 1139 by the required date. Follow the instructions in the table below.

**Example:** Form 1138 is filed and accepted for an extension to pay taxes for 201612. This grants the taxpayer an extension to pay the tax for 2016 until 04/30/2018 (the end of the month in which the loss year return is due). Form 1120 is timely filed for 201712 on 04/15/2018. The taxpayer files Form 1139 on or before 04/30/2018. This filing allows the taxpayer an additional extension to pay the 2016 tax until the Form 1139 is either accepted or rejected. If the taxpayer does not file Form 1139 by 04/30/2018, then the extension to pay the 2016 tax expires on that day. In that case, input TC 472 CC 98 to release the W- freeze on the prior year module to allow the normal collection and offset routine to resume.

If Form 1138	Then
Is filed by the required date	<ul style="list-style-type: none"> <li>• On the gain year, abate any assessed Failure to Pay (FTP) penalty (TC 270 or 276), utilizing penalty relief code 010, on the portion of tax that is satisfied by the carryback.</li> <li>• No further action is required. Input of TC 295 on the gain year releases the TC 470 CC 98 and allows normal collection/offset routine to resume on any amount not paid by the NOL.</li> </ul>
Is not filed by the required date	Input TC 472 CC 98 to release TC 470 and allow the normal offset and collection routine to resume. Associate Form 1138 with the original gain year return.

21.5.9.5.10.8  
(10-01-2020)  
**Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and Section 2305) Overview – Net Operating Losses**

- (1) The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) of 2020 was signed into law on March 27, 2020, as Public Law 116-136. Section 2303, *Modifications for Net Operating Losses*, amends section 172(a) of the Internal Revenue Code and provides a temporary repeal of the 80 percent taxable income limitation for net operating loss (NOL) deductions enacted by the Tax Cuts and Jobs Act (TCJA). Section 2303 of the CARES Act, *Modifications for Net Operating Losses*, amends section 172(b)(1) of the Internal Revenue Code to provide relief from changes made by the Tax Cuts and Jobs Act (TCJA) for tax years beginning in 2018, 2019, and 2020. Section 2304 of the CARES Act, *Modification of Limitation on Losses for Taxpayers Other than Corporations*,

amends section 461(l) of the Code to provide relief for non-corporate taxpayers from disallowance of excess business losses. Section 2305, *Modification of Credit for Prior Year Minimum Tax Liability for Corporations*, of the CARES Act updates the refundable percentage of prior year minimum tax (Corp. AMT) credit from 50 percent to 100 percent and provides taxpayers the option to file a request for the refund of the Corp. AMT credit for tax years 2018 and 2019 by filing Form 1139, *Corporation Application for Tentative Refund*.

- (2) Section 2303 and Section 2304 of the CARES Act, provide special rules for the temporary amendment of limitations imposed by certain Tax Cuts and Jobs Act of 2017 (TCJA) provisions for net operating losses (NOLs) incurred in tax years beginning in 2018, 2019, and 2020. The items temporarily repealed include:
  - a. The 80 percent taxable income limitation of NOLs arising in tax years beginning after December 31, 2017.
  - b. Disallowance of NOL carrybacks for entities other than eligible farming businesses and non-life insurance companies.
  - c. The requirement for non-corporate taxpayers to file Form 461, *Limitation on Business Losses*.
  - d. The two-year carryback requirements for business losses incurred in the trade or business of farming and losses incurred by non-life insurance companies.
- (3) The CARES Act, Section 2303, provides additional special rules for net operating losses beginning in tax years 2018, 2019, and 2020 which include the following:
  - a. Net operating losses incurred in taxable years beginning after December 31, 2017 and before January 1, 2021 are eligible for a five-year carryback.
  - b. The net operating losses incurred by taxpayers who file Form 1120-REIT are not permitted to be carried back to prior tax periods or are net operations losses allowed to be carried back to any taxable year the taxpayer files Form 1120-REIT, but taxpayers are permitted to carryback net operating losses incurred in non-REIT tax periods to non-REIT gain years.
  - c. Net operating losses incurred by taxpayers who file Form 1120-L, *U.S. Life Insurance Company Income Tax Return*, are eligible for the five-year carryback. These losses are carried back to taxable years beginning before January 1, 2018 as operations loss deductions under section 810.
  - d. Taxpayers that carry a net operating loss back to a section 965-year are treated as making a section 965(n) election with regard to that net operating loss.
  - e. Taxpayers that carry a net operating loss back may make a special election to not carry the net operating loss back to any section 965-year. However, the section 965 years count in determining the number of taxable years to which the net operating loss can be carried.
- (4) Section 2305 of the CARES Act accelerates the recovery of unused corporate minimum tax credits (MTC) that are reported as refundable credits in line 5c of Form 8827, *Credit for Prior Year Minimum Tax - Corporations*, and allows the refundable MTCs to be claimed on a Form 1139, if the taxpayer elects to treat all of the unused MTCs as refundable in 2018 or 2019.

- (5) The following twelve IRM subsections contain specific guidance for processing Form 1139 or Form 1045 with net operating losses, section 965 inclusions, and 100 percent refund of MTC filed under provisions of the CARES Act.
- 21.5.9.5.10.8.1  
(10-01-2024)  
**Repeal of 80 Percent Taxable Income Limitation for Tax Years Beginning Before January 1, 2021- CARES Act**
- (1) The CARES Act provides for a temporary repeal of the 80 percent taxable income limitation for Net Operating Losses per the Tax Cuts and Jobs Act (TCJA) of 2017 for NOL deductions in taxable years beginning after Dec. 31, 2017 and before Jan. 1, 2021 (beginning in 2018, 2019, and 2020). The 80 percent taxable income limitation is reinstated for losses arising in tax years beginning after December 31, 2017 that are deducted in tax years beginning Jan. 1, 2021 and thereafter.
- (2) Net operating loss applications and claims filed for tax years beginning in 2018, 2019 and 2020 are processed utilizing previously established procedures in IRM 21.5.9.5.10, *Carryback Net Operating Loss (NOL)*, without consideration of procedures for TCJA guidance beginning in IRM 21.5.9.5.10.3, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses*.
- (3) Taxpayers who were eligible to carry back net operating losses under TCJA and filed a carryback application or claim prior to the March 27, 2020, CARES Act enactment date must file an amended return to reverse the 80 percent taxable income limitation.
- 21.5.9.5.10.8.2  
(05-06-2020)  
**Entities Eligible for Five-Year Carryback of NOLs - CARES Act**
- (1) The CARES Act temporarily removes the restriction that only eligible farming businesses and non-life insurance companies can carry back net operating losses (NOLs). Corporate and non-corporate taxpayers incurring an NOL in tax years beginning in 2018, 2019, and/or 2020 are permitted to carryback net operating losses five years.
- (2) The five-year carryback period is automatically extended to those taxpayers incurring net operating losses. Unless the taxpayer specifically elects to relinquish the carryback period, the five-year carryback is mandatory. The CARES Act does not require taxpayers to elect a three, four, or five-year carryback period.
- (3) A taxpayer with an NOL arising in a taxable year beginning in 2018, 2019, or 2020 and one or more section 965 years may elect to exclude the section 965 years from the five-year carryback period. See IRM 21.5.9.5.10.8.6, *Carryback Elections Filed Under the CARES Act*, and IRM 21.5.9.5.10.8.8, *Carryback Applications (TENTs) with Section 965 Involvement - CARES Act*, for additional information.
- 21.5.9.5.10.8.3  
(10-01-2024)  
**Form 461, Limitation on Excess Business Losses - Carryback - CARES Act**
- (1) The CARES Act postpones the requirement for non-corporate taxpayers to apply the Excess Business Loss limitations of the Tax Cuts and Jobs Act of 2017, the amount by which the total deductions attributable to all of the taxpayer's trades or businesses which exceed total gross income and gains attributable to those trades or businesses, plus applicable threshold amounts (\$250,000 for single filers/\$500,000 for joint filers in 2018; \$255,000/\$510,000 in 2019).
- (2) The CARES Act postpones the requirement to file Form 461, *Limitation on Business Losses*, for losses in tax years beginning in 2018, 2019 and 2020. The requirement to file this form is reinstated beginning with tax year 2021.

- (3) Taxpayers who were eligible to carry back net operating losses under TCJA and filed a carryback application or claim prior to the March 27, 2020, CARES Act enactment date must file an amended return to reverse any excess business loss limitations.

**Reminder:** For IMF use Reason Code 159 when processing a carryforward claim reporting or increasing the excess business losses.

21.5.9.5.10.8.4  
(05-06-2020)

**Carryback Net Operating Loss Incurred by Life Insurance Companies - CARES Act**

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

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

- (2) Under the Tax Cuts and Jobs Act (TCJA) of 2017 life insurance companies may incur a net operating loss, but not a loss from operations under section 810, in tax years beginning after December 31, 2017. Under the CARES Act some of these losses may be carried back to taxable years in which life insurance companies were entitled to an operations loss deduction under section 810 but not a net operating loss deduction under section 172. For these tax years section 2303(b)(1) of the CARES Act allows a life insurance company to deduct the NOL carryback as if it were an operations loss deduction for the carryback year.
- (3) The CARES Act allows for a five-year carryback of net operating losses for life insurance companies. Operations loss deductions/net operating loss deductions are reported on line 21b of Form 1120-L.
- (4) Carryback of net operating losses incurred by life insurance companies for tax years 2018, 2019, and 2020 for five years are processed by following guidance provided in IRM 21.5.9.5.10, *Carryback Net Operating Loss (NOL)*, without consideration of procedures for TCJA guidance beginning in IRM 21.5.9.5.10.3, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses*.

21.5.9.5.10.8.5  
(10-01-2020)

**Carryback Net Operating Loss Incurred by a Real Estate Investment Trust (REIT) - CARES Act**

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

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

- (2) A corporation, trust, or association that meets certain conditions must file a Form 1120-REIT if they elect to be treated as a REIT. See IRM 21.7.4.4.4.11.11, *Form 1120-REIT, U.S. Income Tax Return for Real Estate Investment Trusts*, for additional information. However, a taxpayer who files Form 1120-REIT may terminate their REIT status and become a regular C Corporation. This taxpayer could have previous tax periods where they filed as a C Corporation before electing REIT status. In those instances where an NOL in a C Corporation tax year following the termination of REIT status was incurred, a carryback of that NOL to the pre-REIT C Corporation tax years before converting to a REIT is allowable.

**Caution:** Before processing a carryback for a taxpayer who has been identified as a REIT, ensure each of the carryback periods are reviewed to verify the

NOL is incurred in a non-REIT, C Corporation tax period(s) and is carried back to a non-REIT tax period, C Corporation tax period.

21.5.9.5.10.8.6  
(05-06-2020)  
**Carryback Elections  
Filed Under the CARES  
Act**

- (1) The CARES Act provided for carryback elections in addition to the previously existing election to forgo a carryback period. *Rev. Proc. 2020-24* provides additional clarification of the elections discussed in the CARES Act. These additional elections are discussed in this section.
- (2) Taxpayers have an option to file the following elections:
  - a. File an election to forgo all of the carryback periods and carry the losses forward, or
  - b. IRC 965 taxpayers - file an election to not carryback NOLs to tax periods with section 965 inclusions only, or
  - c. Fiscal Year 2018 Taxpayers (tax years beginning in 2017 and ending in 2018) - file an election to revoke a previous waiver of the carryback period and carryback the NOL under pre-TCJA law.

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

- (3) The CARES Act provides for an extension of the timeframe to file an election to forgo the carryback, exclude section 965 tax periods or revoke an election to forgo the carryback period for fiscal year 2018 filers. See the chart in IRM 21.5.9.5.10.8.7, *Tentative Carryback Applications (TENTs) Filed Under the CARES Act - Extension of time to File*, for additional information.

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

21.5.9.5.10.8.7  
(10-01-2024)  
**Tentative Carryback  
Applications (TENTs)  
Filed Under the CARES  
Act - Extension of Time  
to File**

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

**Note:** *Notice 2020-23, Update to Notice 2020-18, Additional Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic*, postpones the deadline of a time-sensitive act that a taxpayer affected by the COVID-19 pandemic must perform between April 1, 2020, and July 14, 2020. The postponed deadline is July 15, 2020. As a result, a TENT due between April 1, 2020, and July 14, 2020, is considered timely filed if filed by the postponed due date of July 15, 2020.

**Example:** A taxpayer sustaining an NOL in a taxable year ending on December 31, 2018, would normally have until December 31, 2019 to file a TENT to carry back the NOL, as applicable, but will now have until July 15, 2020

to file a TENT. Notice 2020-26 extends the due date to June 30 and Notice 2020-23 further postpones that date until July 15, 2020.

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

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

If	And	Then
Form 1139 or Form 1045 for tax year 2019 is filed	Includes all types of carryback requests (i.e., NOL, NCL (corporations only), unused general business credits)	Considered timely if filed by the last day of tax year 2020 (December 31, 2020, in the case of a calendar year taxpayer)
Form 1139 or Form 1045 for fiscal year 2019 is filed	Includes an NOL arising in taxable years beginning in 2019 and ending on 6/30/2019 only (does not include the carryback of any other item)	Fiscal year 2019 ending on 6/30/2019 is considered timely if filed by December 30, 2020. <b>Caution:</b> A Form 1139 or Form 1045 filed on a fiscal year ending after 6/30/2019 is not provided an extension of time to file. See <i>Notice 2020-26, Extension of Time to File Application for Tentative Carryback Adjustment</i> , for additional information.

If	And	Then
Form 1139 or Form 1045 for tax year 2018 is filed	Includes an NOL arising in taxable years beginning in 2018 and ending on or before 6/30/2019 only (does not include the carryback of any other item)	<p>Considered timely if filed within 18 months from the close of the tax year (by June 30, 2020, in the case of a calendar year taxpayer)</p> <p><b>Note:</b> <i>Notice 2020-23, Update to notice 2020-18, Additional Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic</i>, postpones the due date for tax year 2018 TENTs to July 15, 2020. Additionally, question 20 of the <i>Temporary procedures to fax certain Forms 1139 and 1045 due to COVID-19</i>, specifically provides guidance regarding Notice 2020-23 for the extended due dates applicable to TENTs with due dates on or after April 1, 2020 and before July 15, 2020.</p>
Form 1139 for tax year 2018 is filed	Includes the accelerated refund of 100 percent corporate MTC under section 2305(b) of the CARES Act only	Considered timely if filed by December 30, 2020 (special rule under CARES Act 2305(d)).

If	And	Then
Form 1139 is filed for both an applicable 2018 NOL and 100 percent refundable corporate MTC in 2018	Includes both an NOL carryback for a loss arising in a taxable year beginning in 2018 and ending on or before 6/30/2019, and the special election for the 100 percent corporate MTC for taxable years beginning in 2018	Form 1139 filed for both an applicable loss carryback, plus the 2018 MTC must be filed by the earlier of within 18 months from the close of the taxable year or December 30, 2020. <i>Notice 2020-23</i> , Update to Notice 2020-18, Additional Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic, provides an additional time to file until July 15, 2020 for any Form 1139 that would otherwise be due between April 1, 2020 and July 14, 2020. <b>Example:</b> A Form 1139 for taxable year ending June 30, 2019 is timely if filed by December 30, 2020. <b>Example:</b> A Form 1139 for taxable year ending December 31, 2018 is timely if filed by July 15, 2020.
Form 1139 for 2018 fiscal year (tax years beginning before January 1, 2018 and ending after December 31, 2017) is filed	Includes only NOLs arising in a 2018 fiscal year (only applicable to taxpayers previously prohibited a carryback under TCJA). See IRM 21.5.9.5.10.3.1, <i>TCJA - NOL Carryback and Carryforward Periods</i> , for additional information)	Considered timely if filed by July 27, 2020 under Rev. Proc. 2020-24.

**Caution:** When determining if an application is timely received verify the signature date and postmark date prior to rejecting the case.

- (5) Section 2305(a) of the CARES Act allows corporations to receive a refund of their unused Minimum Tax Credit (MTC) in years 2018 and 2019. Section 2305(b) of the CARES Act allows a special election to accelerate 100% of the refund of MTC to 2018. This accelerated credit is reported on Form 1139, Line 29. The total available MTC carryover amount reported on Form 1139, Line 1(d) should match the amount from line 9 of the original 2018 Form 8827, *Credit for Prior Year Minimum Tax - Corporations*. See IRM 21.7.4.4.9.4, *Coronavirus Aid, Relief and Economic Security Act of 2020 (CARES Act) (PL 116-136, Section 2305)*, for additional information. If a corporation does not take 100% of the refund in 2018, their 2018 MTC is equal to the sum of their regular tax liability for 2018 and 50% of the excess of the available MTC over the 2018 regular tax liability. Their 2019 MTC is then equal to 100% of the unused MTC and is reported on Form 8827 for 2019.
- (6) Taxpayers who incurred certain losses in the trade or business of farming or losses from non-life insurance companies and who previously filed an election

to forgo the carryback period for calendar year 2018 are **not** permitted to revoke the previous election and then file to carry the NOL back to five prior years under the CARES Act. However, fiscal year 2018 filers do have the option to revoke a previously filed election to forgo the carryback period.

- (7) TENTs filed for tax year 2019 are considered timely if filed by the close of tax year 2020 (December 31, 2020, for calendar year taxpayers).
- (8) Review the application to identify processable and unprocessable applications by following guidance in IRM 21.5.9.4.2, *Identifying processable and Unprocessable Carryback Applications/Claims*.

**Caution:** See IRM 21.5.9.5.10.8.10, *TENTs Received via the Temporary EFAX Process*, for special instructions for unprocessable TENTs.

- (9) If a determination is made that the application was not timely received, follow guidance in IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*.
- (10) If a determination is made that the application is processable, follow guidance in IRM 21.5.9.5.10, *Carryback Net Operating Loss (NOL)*, without consideration of procedures for TCJA guidance beginning in IRM 21.5.9.5.10.3, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97), Sections Affecting Net Operating Losses*.

21.5.9.5.10.8.8  
(05-06-2020)  
**Carryback Applications  
(TENTs) with Section  
965 Involvement -  
CARES Act**

- (1) Carryback TENTs including section 965 involvement included on Form 1139 and Form 1045 are now processable. Do not reject a TENT for an NOL carried back to a section 965-year.
- (2) The CARES Act allows taxpayers to make a special election with respect to NOLs arising in a taxable year beginning in 2018, 2019, and 2020 to exclude section 965 years from the five-year carryback period for those NOLs. For an NOL arising in a taxable year beginning in 2018 or 2019, this election must be made by the due date, including extensions, for filing the taxpayer's Federal income tax return for the first taxable year ending after March 27, 2020. For an NOL arising in a taxable year beginning in 2020, this election must be made by the due date, including extensions, for the filing of the taxpayer's Federal income tax return for that taxable year. A taxpayer that carried back an NOL arising in any of these three years, and does not elect to exclude section 965 years from the carryback period, will be deemed to have made a section 965(n) election that limits the amount of the loss that can be carried back to each section 965-year. Additionally, in this case, the taxpayer may not disregard section 965 years in the carryback period when applying an NOL to the carryback period and determining whether the taxpayer has an overpayment and can receive a refund or credit for any of the remaining years in that period. See IRM 21.5.9.5.10.8.6, *Carryback Elections Filed Under the CARES Act*, for additional information.
- (3) Follow guidance in IRM 21.5.9.5.6.4, *Carryback Applications and Claims with Section 965 Involvement*, for the processing of TENTs with section 965 involvement.

21.5.9.5.10.8.9  
(07-08-2020)

**Form 1139 Requesting Refundable Credit for Prior Year Minimum Tax Credit (MTC) for Corporations - CARES Act**

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

**Note:** Although Section 2305 of the CARES Act provides taxpayers an opportunity to request a refund of the prior year corporate refundable MTC, they are not prohibited from utilizing a Form 1120-X, *Amended U.S. Corporation Income Tax Return*, to request a refund of the corporate refundable MTC. The IRS implemented a temporary process for taxpayers to submit Form 1139 via EFAX for TENTs requesting refunds per the CARES Act. For additional information regarding this process see IRM 21.5.9.5.10.8.10, *TENTs Received via Temporary EFAX Process*.

- (2) Taxpayers filing Form 1139 requesting the refund of the corporate MTC are instructed to complete the following lines on Form 1139.
- Enter on Line 1(d) the MTC carryforward to tax year 2019 (as reported on the original Form 8827 Line 9).
  - Enter on line 29 the difference between the amount reported on the original tax year 2018 Form 8827 Line 8(c) and the amount reported on the revised Form 8827 Line 8(c).

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

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

- (3) When processing Form 1139 requesting the 100 percent refundable corporate MTC for tax year 2018 review tax year 2019 for the possible filing of a Form 1120-X requesting the same refund. Taxpayers may have e-filed or mailed Form 1120-X prior to the implementation of the EFAX process for Form 1139 and the posting of *Notice 2020-26* providing for the extension of time to file an application for tax year 2018. Caution **must** be exercised when processing a Form 1139 filed for tax year 2018 and Form 1120-X requesting the 100 percent refundable corporate MTC.
- (4) Taxpayers who file a Form 1139 to request a 100 percent refundable corporate MTC are instructed to include "Electing to Take 100% Refundable Credit Amount in 2018 - per CARES Act Section 2305(b)" at the top of the Form 1139 and Form 8827. The submission of the corrected Form 8827 is the supporting

documentation for the refund of the prior year minimum tax credit. Take the following actions to adjust the prior year minimum tax credit reported on Form 1139:

- Math verify Form 8827. The original 2018 Form 8827 Line 9 should match the Form 1139, Line 1(d). The tentative refund amount on Form 1139, Line 29 should be the difference between the original Form 8827, Line 8(c) and the revised Form 8827, Line 8(c).
- Input TC 298 for zero (.00) and CRN 793 for the amount reported on Line 29 of Form 1139 as a positive amount.
- Input the INT-CMP-DT using the return due date of the 2018 tax period without considering any extensions.
- Input an amended claims date (AMD-CLMS-DT).

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

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

- (5) Taxpayers may file Form 1139 requesting a combination of the corporate refundable MTC by completing Lines 1(d) and 29 as well as the appropriate lines to report the NOL. A Form 1139 received with a combination of refundable corporate MTC and net operating losses will require two separate adjustments. See (3) above for adjustment input guidance for the corporate refundable MTC. Follow guidance in IRM 21.5.9.5.10, *Carryback Net Operating Loss (NOL)*, without consideration of procedures for TCJA guidance beginning in IRM 21.5.9.5.10.3, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97)*, *Sections Affecting Net Operating Losses*, for NOL adjustments per the CARES Act.
- (6) Process all Form 1139 requests and allow the refund(s) **prior** to routing as per CAT A criteria included in IRM 21.5.9.5.16.4, *Carryback Application with Examination Criteria*.

21.5.9.5.10.8.10  
(10-01-2021)  
**TENTs Received via the  
Temporary EFAX  
Process**

- (1) The IRS implemented a temporary process to ensure taxpayers received refunds filed on Form 1139 or Form 1045 (TENTs) during the timeframe IRS Service Centers were closed due to COVID-19. The temporary EFAX process to receive TENTs was implemented on April 17, 2020 and was discontinued December 31, 2020. Taxpayers were advised of this process on IRS.gov in FAQs included in *Temporary procedures to fax Form 1139 and Form 1045 due to COVID-19*.
- (2) TENTs received via EFAX were processed for the following scenarios **only**:
  - a. Filed per section 2305(b) of the CARES Act requesting the 100 percent refund of the corporate refundable MTC reported on line 8c of Form 8827, *Credit for Prior Year Minimum Tax - Corporations*, for tax year 2018
  - b. Filed per Section 2303 of the CARES Act requesting up to a five-year carryback of net operating losses (NOLs)

- c. Filed per section 2303 and 2305 of the CARES Act requesting both a refund of the corporate refundable MTC and up to a five-year carryback of NOLs
- (3) Find specific guidance for processing TENTs filed under the CARES Act received via the temporary EFAX process in the 2020 archived revision of IRM 21.5.9. The fax numbers were disabled at midnight on December 31, 2020.
- 21.5.9.5.10.8.11  
(07-08-2020)  
**Fiscal Year 2018  
Processing under the  
CARES Act**
- (1) *Revenue Procedure. 2020-24*, I.R.B. 73, provides guidance on the net operating loss (NOL) rule changes under the CARES Act. Under section 4.04(1) of Revenue Procedure 2020-24, taxpayers that sustain NOLs on their fiscal year 2018 returns (tax period that begins in 2017 and ends in 2018) may take one of the following actions on or before July 27, 2020:
- File a Form 1139 or Form 1045 to carry their NOL back two years.
  - Elect to forgo the two-year carryback period.
  - Elect to reduce a carryback period. (For taxpayers incurring a farming NOL before TCJA, the carryback period was five years unless the taxpayer elects to use the two-year period.)
  - Revoke a prior election to forgo any carryback period.
- (2) Taxpayers who do not take one of the above actions by July 27, 2020 are required to carry back their NOL under the pre-TCJA rules by amending their returns for the carryback years.
- 21.5.9.5.10.8.12  
(05-25-2021)  
**Processing Form 1138  
Filed for Tax Periods  
Under the CARES Act**
- (1) Taxpayers eligible to carry back a net operating loss per the CARES Act for tax years 2018, 2019, and 2020 are eligible to file a Form 1138, *Extension of time for Payment of Taxes by a Corporation Expecting a New Operating Loss Carryback*, requesting an extension of time to pay a balance due on the immediately preceding tax year.
- (2) Process a Form 1138 filed under the CARES Act using guidance in IRM 21.5.9.5.10.7, *Form 1138, Extension of Time for Payment of Taxes by a Corporation Expecting a Net Operating Loss Carryback*.
- 21.5.9.5.10.9  
(04-07-2021)  
**COVID-related Tax Relief  
Act (CTRA) of 2020,  
section 281- Special  
Rules for Farming Net  
Operating Losses -  
Overview**
- (1) The Consolidated Appropriations Act, 2021 (P.L. 116-260) was signed into law on December 27, 2020 and included the COVID-related Tax Relief Act (CTRA) of 2020, Section 281 of the CTRA titled *Election to waive application of certain modifications to farming losses*, amended Section 2303 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) of 2020, by adding new subsection (e) as if originally included in the CARES Act section. As a result, section 2303(e) of the CARES Act allows a taxpayer with a farming loss NOL for any taxable year beginning in 2018, 2019, or 2020 to make an election to disregard the CARES Act Amendments.
- (2) The following sections provide guidance for elections to waive the carryback period as well as revocations of elections to waive the carryback period filed prior to the enactment of the CARES Act for farming losses arising in tax years 2018, 2019, and 2020.

21.5.9.5.10.9.1  
(04-07-2021)

**Timely Election to Waive the Carryback Period for Farming Losses - CTRA of 2020**

- (1) Consider an election to waive the carryback period for farming losses under CTRA of 2020 timely if made by the due date (including extensions of time) or an amended return is filed and received within six months of the due date of a tax year 2020 return. Taxpayers must make elections to waive the carryback periods in writing. See IRM 21.5.9.5.2, *Carryback/Carryforward Election*, (1)(a) exception for additional information for certain Form 1120 series returns.
- (2) Consider elections to waive the carryback period filed under CTRA of 2020 for tax years 2018 and 2019 timely (including extensions of time) if filed with the original tax year 2020 return or by filing an amended return with the election to waive the carryback period within six months of the due date of the original 2020 income tax return.

**Caution:** Taxpayers who were eligible to carryback farming net operating losses under the Tax Cuts and Jobs Act (TCJA) of 2017 who filed an election to waive the two-year carryback period prior to the enactment of CARES Act are **not** required to file a revised election to waive the five-year carryback period under CTRA.

**Note:** Consider an election to waive the carryback period submitted by a fiscal year 2018 or 2019 filer timely under CTRA if received after December 27, 2020, but by the due date of the fiscal year 2020 return (including extensions of time).

- (3) An election to waive a carryback period is irrevocable unless direction is specifically provided in legislation. See IRM 21.5.9.5.10.9.2, *Revocation of an Election to Waive the Carryback Period for Farming Losses - CTRA of 2020*, for more information.

21.5.9.5.10.9.2  
(04-07-2021)

**Revocation of an Election to Waive the Carryback Period for Farming Losses- CTRA of 2020**

- (1) Consider a revocation of an election to waive the carryback period filed prior to December 27, 2020, date of enactment of CTRA of 2020, for farming losses incurred in tax years 2018 or 2019 processible and timely if received by the due date of the tax year 2020 income tax return (including extensions of filing).

If	And	Then
<b>Example 1:</b> A taxpayer eligible to carryback farming net operating losses under TCJA filed an election to waive their two year carryback period for tax year 2019 on February 2, 2020.	The taxpayer filed their 2020 income tax return by April 15, 2021. They subsequently filed a revocation of the 2019 election to waive their carryback period on March 3, 2021.	This is a timely filed revocation.
<b>Example 2:</b> Same scenario as the first example.	The taxpayer filed an extension of time to file (due 10/15/2021) and a revocation on July 22, 2021.	This is also a timely filed revocation because it was filed by the extended due date.
<b>Example 3:</b> Same scenarios as the first example.	The revocation is filed on October 30, 2021.	This is not a timely filed revocation.

21.5.9.5.11  
(10-01-2023)  
**Net Capital Loss  
Carryback**

- (1) The following sections provide specific guidance for processing of net capital loss (NCL) IMF or BMF cases and Net 1256 Contract Losses.
- (2) See IRM 21.5.9.5.3, *Special Carryback/Carryforward Periods*, for guidance regarding special rules specific to net capital loss carryback and carryforward cases.
- (3) See the following sections for Individual and Corporation instructions in the event a taxpayer reports both a net operating loss and a net capital loss on the same gain year(s).

21.5.9.5.11.1  
(03-06-2020)  
**Net Capital Loss (NCL) -  
Individuals -  
Carryback/Carryforward  
Limitations**

- (1) For individuals, capital losses in any year are deductible to the extent of capital gains, plus a limited amount of ordinary income (\$3,000 Married Filing Joint, or \$1,500 Married Filing Separately). Any excess is a net capital loss (NCL).
- (2) Carry the NCL forward only (not back) on an IMF (Individual Master File) return. For an election to carry back losses from IRC 1256 contracts, see IRM 21.5.9.5.11.3, *Net 1256 Contract Loss Carryback*.
- (3) A capital loss retains its character as short-term or long-term when it is carried forward. The Schedule D instructions provide a worksheet for computing the amount of the NCL carryforward. The carryforward is combined with other capital gains and losses in the carryforward year. If the combined net losses exceed the deduction limit in that year, there is an NCL carryforward to the following year.

21.5.9.5.11.2  
(03-06-2020)  
**Net Capital Loss (NCL) -  
Corporations -  
Carryback/Carryforward  
Limitations**

- (1) A corporation can deduct capital losses only up to the amount of its capital gains. In other words, if a corporation has an excess capital loss, it cannot deduct the loss in the current tax year. Instead, it carries the loss to other tax years and deducts it from any net capital gains that occur in those years.
- (2) Unused losses may be carried back three years and forward five years. Losses not deducted in the carryback and carryforward years are forfeited.

**Note:** The entire amount of any net capital loss must be carried to the earliest of the taxable years to which such net capital loss may be carried. See Treas. Reg. 1.1212-1(a)(3)(ii).

- (3) Corporations may carry back a capital loss only to a year with a capital gain, and only to the extent of the gain in that year. This means that an NCL carryback will never reduce the corporation's taxable income below zero since the NCL carryback cannot exceed the capital gain in the carryback year. Combine the loss with all other capital losses in the carryback year until they offset any capital gains for that year.
- (4) Carryback the NCL before the Net Operating Loss (NOL). A capital loss carried back cannot cause or increase an NOL in the carryback year.
- (5) For tax years beginning after December 31, 2004, the net capital loss for a corporation cannot be carried back to any year the corporation is a:
  - Real Estate Investment Trust (REIT), or
  - Regulated Investment Company (RIC).
- (6) For tax years beginning on or before December 31, 2004, the net capital loss for a corporation cannot be carried back to any year the corporation is a:

- Foreign Personal Holding Company
- Regulated Investment Company (RIC)
- Real Estate Investment Trust (REIT)
- Foreign Investment Company with an IRC 1247 Election

21.5.9.5.11.3  
(03-06-2020)

**Net 1256 Contract Loss  
Carryback**

- (1) This section provides procedures for working Form 6781, *Gains and Losses from Section 1256 Contracts and Straddles*. Taxpayers holding section 1256 contract(s) during the year should file this form.
- (2) The Commissioner must approve claims based on revocation of a section 1256(d) mixed straddle election. The approval of the revocation must be attached to the case.
- (3) For tax years 2001 and prior, a taxpayer could file only an amended return (Form 1040-X) for these losses. For tax years 2002 and later, a taxpayer can file either a tentative (Form 1045) or an amended return (Form 1040-X).
- (4) Route to Examination for technical advice if:
  - The taxpayer cannot provide approval and insists the claim be processed.
  - Amended return, increasing losses on Form 6781, meets Category A criteria.
- (5) An individual taxpayer can carryback section 1256 contract(s) losses three years but can only apply them to section 1256 contract(s) gains. Assume there were no section 1256 contract(s) if the taxpayer does not carryback to the second or third preceding tax year.

**Caution:** Section 1256 carrybacks are not available to corporations, partnerships, estates, or trusts. If a loose Form 6781 is received in Accounts Management for a corporation, partnership, estate, or trust, follow the instructions in Paragraph 9 to have the Form 6781 associated with the applicable tax return (Form 1120, Form 1065, Form 1041, etc.).

- (6) TENTs and RINTs must have the following documents attached:
  - Pages one and two of the loss year return
  - Original and revised Form 6781 for the gain year(s)
  - Original and revised Schedule D for the gain year(s)
- (7) Verify that the taxpayer:
  - Has a valid election on Form 6781 to carryback all or part of the loss
  - Did not deduct the loss in both the loss and gain years
  - Completed Box D and Line 6 on Form 6781 for the loss year (Corporations, partnerships, estates and trusts are not eligible to check box D.)
  - Applied section 1256 contract(s) losses only to section 1256 contract(s) gains
  - Did not use section 1256 contract(s) losses from the loss year to create a net operating or capital loss in the carryback year
- (8) Input using the same rules as other TENT and RINT adjustments.

**Note:** Taxpayer must allocate the amount of loss, income, credits, and refunds if there is a Filing Status change.

- (9) When Form 6781 is received in Accounts Management, and it is determined no adjustment is necessary, follow the instructions below.

If	Then
Original return is not posted	File the loose Form 6781 with a TC 930 push code.
Original return has posted	Attach to the original return.

21.5.9.5.12  
(07-29-2024)  
**Carryback of Released Credits**

- (1) This section provides guidance for processing carryback of released or unused credits.
- (2) See IRM 21.5.9.5.3, *Special Carryback/Carryforward Periods*, for guidance regarding special rules specific to the carryback of unused Biofuel Producer Credit, Credit for Oil and Gas Production from Marginal Wells, and credits defined in section 6417(b).
- (3) See Exhibit 21.5.9-1, *General Business Credits, Foreign Tax Credit, and Other Non-Refundable Credits - Availability for Carryback/Carryforward*, for guidance regarding the carryback or carryforward availability of non-refundable credits.

21.5.9.5.12.1  
(03-06-2020)  
**Carryback Credits Ordering Rule**

- (1) General business credits reported on Form 3800, *General Business Credit*, are treated as used on a first-in, first-out basis by offsetting the earliest-earned credits first. This is referred to as the credit ordering rule. Therefore, the order in which the credits are used in any tax year is:
- a. Carryforward to that year, the earliest ones first,
  - b. The general business credit earned in that year, and
  - c. The carryback to that year.
- (2) For more information, see *Instructions for Form 3800, General Business Credit*.

21.5.9.5.12.2  
(07-29-2024)  
**Carryback Unused Credits**

- (1) In general, the carryback period for unused general business credits is one year (carried to the first preceding year), and the carryforward period is 20 years. Unused applicable credits listed in IRC 6417(b) may be carried back 3 years and forward 20 years. Unused credits for oil and gas production from marginal wells (Form 8904 ), are carried back 5 years and forward 20 years. See IRM 21.5.9.5.3, **Special Carryback/Carryforward Periods**, for a list of specific credits.
- (2) In a community property state, there can only be a 50/50 split of unused credits, unless the taxpayer provides reasonable evidence of another division sanctioned by the state court. A return indicating a change to marital status in a non-community property state, or a consolidated corporation, requires an allocation schedule.
- (3) When determining a credit carryback, consider the following items:
- The availability of credits for carryback and carryforward
  - Net Operating Loss (NOL) carryback that released the credits
  - Recapture of Investment Credits and Low Income Housing Credits

- Foreign Tax Credit
  - Alternative Minimum Tax (AMT)
- (4) Certain insurance companies are allowed carryback credits per IRC 847(8). These credits are verified from the 4615 Account, maintained in the Accounting Function. Use the below table to assist with identifying BMF TENT/RINT cases with IRC 847 “special estimated tax payments.”

If	Then Look for Section 847 “special estimated tax payments (SETPs)” on
Form 1120	Schedule J, Part II, Line 13 (Page 1, Line 32b for 2010 and prior revisions) may include remarks from taxpayers indicating SETPs.
Form 1120-PC	Page 1, Lines 14b and/or 14d Page 2, Schedule A, Lines 12 and/or 27
Form 1120-L	Page 1, Lines 6 and/or 17 Lines 29b and/or 29d
<i>Form 8816</i>	There can be one or multiple Forms 8816

**Note:** The Tax Cuts and Jobs Act of 2017, Section 13516, repealed the special estimated tax payment for insurance companies. The information in the chart above is applicable to tax years beginning prior to January 1, 2018.

- (5) A Form 1139 with Section 847 SETPs will reflect amounts from the originally filed returns where Section 847 amounts are included. However, the maximum refund available to the taxpayer based on the reduction of the tax liability would be tax after NOL Carryback “without Section 847.” See example below:

Form 1139	Filed Without Section 847 SETPs	Filed With Section 847 SETPs
Tax payments <b>before</b> Carryback NOL	\$6,947,300	\$12,416,100
Tax payments <b>after</b> Carryback NOL	\$601,870	\$1,148,750
Regular Tax Decreased	\$6,345,430	\$11,267,350
SETP to Credit (Debit)		\$4,921,920
Amount due (Refund)		\$(6,345,430)

**Note:** In the above example, the maximum refund the taxpayer could receive from Form 1139 is \$6,345,430. The \$12,416,100 should match the TC 150 on the tax module. After the carryback, the total tax on the module should now be \$1,148,750. This would be a reduction in tax of \$11,267,350. If the taxpayer’s maximum refund is \$6,345,430, the difference of \$4,921,920 would have to be credited to the 4615 account.

21.5.9.5.12.3  
(07-29-2024)

**Released Credits  
Available for  
Carryback/Carryforward**

- (1) A Net Operating Loss (NOL) or Net Capital Loss (NCL) carryback reduces taxable income and tax liability. General business credits no longer needed after application of the carryback to reduce the liability for a tax year are “released.” The released credits are now available to carryback one year/ carryforward 20 years.
- (2) The taxpayer can carry back the released general business credit on the same application showing the NOL or NCL that created the released credit, with the following exceptions. The taxpayer must use Form 1040-X or Form 1120-X when:
  - Foreign tax credits are released.
  - Carrying back to years that have a section 965(a) inclusion.
  - A prior year minimum tax credit is released.
  - A prior year general business credit is released because of the release of foreign tax credit.
  - An NOL for a year for which a corporation has a section 965(a) inclusion.

The taxpayer can also file a separate application or claim carrying back the released credits.

- (3) The period of limitations for credit or refund is governed by the year of the NOL or NCL that caused the release of the credit. See IRC 6511(d)(2)(A) . Use the appropriate transaction code (TC 295/TC 299) and the same Interest Computation Date (INTCMP-DT) as was used with the NOL or NCL carryback adjustment.

**Reminder:** IRC 39(a) requires unused general business credits to be carried back one year. Any remaining unused credit can then be carried forward 20 years.

**Example:** Taxpayer carries a 2020 NOL back to tax year 2015. The carryback of the 2020 NOL to 2015 releases a general business credit. The taxpayer then files amended returns to carry the general business credit released by the 2020 NOL back one year to 2014 and then forward to tax year 2016. Use a TC 299 and the same INTCMP-DT as was used with the NOL or NCL carryback adjustment.

- (4) If a systemic refund will be issued, interest must be manually computed. Refer to IRM 21.5.9.5.7, *Carryback Interest*, for additional information.
- (5) Correspond with the taxpayer concerning released credits not carried back. Letter 662C can be used. Advise taxpayer to file a separate claim or application to carry back the released credits, if statutory filing time permits. For additional information regarding the statutory requirements for released credits see IRM 25.6.1.7, *Credits and Payments*, or IRM 25.6.1.10.3.4.4, *Foreign Tax Credit*.
- (6) See IRM 21.5.9.5.10.8.9, *Form 1139 Requesting Refundable Credit for Prior Year Minimum Tax Credit (MTC) for Corporations - CARES Act*, for processing guidance specific to the 100 percent corporate refundable MTC reported on Form 8827.

- (7) The carryforward period for the released business credit is based on the year the credit was originally determined. If the released credit is from a previous carryback or carryforward, carry it forward according to the original credit year.

21.5.9.5.12.4  
(10-01-2024)  
**Carryback Net Operating  
Loss (NOL) Effect on  
Refundable Credits**

- (1) A change in AGI (Adjusted Gross Income) can result in the taxpayer being eligible for refundable credits not claimed on the original return or ineligible for refundable credits that were originally claimed. It can also increase or decrease the amount of refundable credit originally claimed. The taxpayer must provide the appropriate forms or schedules to substantiate any such changes. For additional information on refundable credits, see IRM 21.6.3.4.2, *Refundable Credits*.
- (2) The taxpayer applying the NOL may be entitled to Earned Income Tax Credit (EITC), Additional Child Tax Credit (ACTC), Recovery Rebate Credit, Premium Tax Credit or other refundable credits on one or more gain years, due to the decrease in AGI that now qualifies the taxpayer for one or more of these credits. **It is important to note that any refundable credit could be affected by an NOL carryback on a gain year.**

**Note:** Due to IDRS programming limitations, Recovery Rebate Credit adjustments cannot be combined with a TC 294/295/298/299 adjustment. Separate adjustments are required. Refer to

IRM 21.5.9.5.6, *Multiple Adjustments*.

- (3) The taxpayer must provide Schedule EIC for EITC if the taxpayer did not previously qualify for EITC, but now qualifies due to the change in AGI. See IRM 21.6.3.4.2.7.10, *Earned Income Tax Credit (EITC) - Claims*. Schedule EIC is not needed if the taxpayer previously claimed EITC and the EITC amount is simply being increased due to the change in AGI. Schedule EIC is also not required if the EITC is claimed with no qualifying children.

**Caution:** Before making an adjustment to EITC, see IRM 21.6.3.4.2.7.14, *Earned Income Tax Credit (EITC) and Command Code DDBCK*, for instructions on the required use of CC DDBCK. Also see IRM 21.6.3.5, *Credit Recertification*.

- (4) The taxpayer must file Schedule 8812 for ACTC. Schedule 8812 is not required if the CSR/TE can “dummy in” the form and arrive at the figure the taxpayer is claiming. If the CSR/TE cannot arrive at the same figure, Schedule 8812 is required. See IRM 21.6.3.4.2.8.2, *Additional Child Tax Credit (ACTC) - Adjusting the Credit*, for additional information.

- (5) **Overpayment Interest Issues** - If additional refundable credits are allowed:
- a. You **must** manually compute the overpayment interest on the gain year using TC 770. See IRM 21.5.9.5.7, *Carryback Interest*, for more information.

**Exception:** If issuing a manual refund, it is not necessary to input a TC 770 for zero (.00) with the adjustment. The interest will be manually computed and input with the manual refund as a TC 770, whether for zero or for a money amount.

- b. The EITC, ACTC, and/or other refundable credit is triggered by the carryback adjustment. Therefore, the credits are available on the **loss year** due date (determined without regard to extensions). See Note below for rules on computation of overpayment interest on these refundable credits.
- c. Credit interest should only be allowed if the 45-day period **will not** be met. See the *Carryback 45-Day Interest-Free Charts* on SERP and IRM 20.2.9.2, *Determining the Overpayment Interest Period*.
- d. If the 45-day period **will** be met, you must input TC 770 for zero (.00); otherwise, interest will be erroneously computed by Master File on the refundable credit from the due date of the gain year return (determined without regard to any extension of time for filing). See exception under (a) above.

**Note:** Pursuant to IRM 20.2.9.2(1), *Determining the Overpayment Interest Period*, interest is computed **from** the **later** of the:

- 1) Loss year return due date (determined without regard to any extension of time for filing)
  - 2) Received date of a delinquent loss year return
  - 3) Date the loss year return is filed in processable form (provided the processable date is after the due date, including any extension of time for filing)
  - 4) Date the overpayment on the gain year arose
- (6) Reducing the AGI based on a carryback adjustment never decreases the taxpayer's previously reported refundable credit(s).

21.5.9.5.12.5  
(03-06-2020)  
**Carryback/Carryforward  
Restrictions on Biofuel  
Producer Credit, Form  
6478**

- (1) The Biofuel Producer Credit (Form 6478) is a component of the general business credit included on Form 3800, *General Business Credit*.
- (2) Any unused credit remaining is not available for carryback to prior years.
- (3) IRC 40(e)(2) limits the number of years to carry forward the credit to three years starting in the tax year when the credit component terminates. See IRM 21.7.4.4.8.3.4, *Form 6478, Biofuel Producer Credit*, for additional information.

21.5.9.5.12.6  
(03-06-2020)  
**Carryback Related to  
Recaptured Investment  
Credits and Low Income  
Housing Credits**

- (1) Recapture of the investment credit occurs when there is an increase in non-qualified non-recourse financing, a disposition of investment credit property, or a cessation of use as investment credit property. Recapture of the low-income housing credit occurs, generally, when there is a decrease in qualified basis from one year to the next or a disposition of a qualified low-income building (or an interest therein). If the taxpayer claimed more investment credit or low-income housing credit than the recomputed credit, the difference is recaptured.
- (2) Taxpayers compute the recapture tax on:
  - Form 4255, *Recapture of Investment Credit*
  - Form 8611, *Recapture of Low-Income Housing Credit*
- (3) Taxpayers attach Form 4255 or Form 8611 to the original or amended return, claim, or application.
- (4) The Investment Credit recapture tax can only be offset by other credits when:

- a. A Net Operating Loss (NOL), Net Capital Loss (NCL), or unused credit carryback releases the original Investment Credit used in the last year; or
- b. The recapture tax amount decreases the original Investment Credit amount in the initial claim year.

21.5.9.5.12.7  
(10-01-2024)

**Carryback of Excess  
Foreign Tax Credit (FTC)**

- (1) Taxpayers must carryback excess Foreign Tax Credit (FTC) on Form 1040-X, Form 1120-X, or other amended returns. Excess FTC cannot be filed on a Form 1045 or Form 1139 and are to be rejected.

**Note:** Any carryback cases assigned to Philadelphia as ITCB/IRNT (IMF International Carryback) or Ogden as ITCB/IRNT (BMF International Carryback), which are later determined to be domestic or below International tolerance must have the CII category code updated and the case processed in Philadelphia (IMF) or Ogden (BMF).

- (2) Excess FTC carryback/carryforward limitations are located in Exhibit 21.5.9-1, *General Business Credits, Foreign Tax Credit, and Other Non-Refundable Credits - Availability for Carryback/Carryforward*.

**Note:** A taxpayer can only carry back excess foreign tax credits to a year in which there was foreign income subject to U.S. tax. If the taxpayer is claiming FTC on a tax period without foreign income subject to U.S. tax, disallow the claim and notify the taxpayer of the specific tax period(s) that do not have foreign income subject to U.S. tax.

- (3) If the carryback of excess FTC produces an overpayment in the carryback year, any claim for refund of that overpayment is subject to 10-year statute of limitations from the due date of the tax return for the year in which the foreign tax was paid or accrued, see IRM 25.6.1.10.3.4.4, *Foreign Tax Credit*.
- (4) For 199808 and subsequent ending periods, the excess FTC carryback interest rules are identical to other carrybacks, IRC 6611(f). See IRM 21.5.9.5.7, *Carryback Interest*.
- (5) When an excess FTC carryback reduces an underpayment for a previous tax year, the carryback does not affect the computation of the interest on the underpayment for the period ending with the filing date for the tax year in which the foreign taxes were paid or accrued.
- (6) When an excess FTC carryback attributable to a Net Operating Loss (NOL) or Net Capital Loss (NCL) carryback from a subsequent year reduces an underpayment for an earlier tax year, the carryback does not affect the computation of the interest on the underpayment for the period ending with the filing date for the subsequent tax year in which the NOL or NCL carryback arose.
- (7) Computational instructions for carrybacks of excess FTC can be found in:
  - IRM 21.8.1.4.7, *Carryback and Carryover - Foreign Tax Credit* (Individual Master File)
  - IRM 21.8.2.10.7, *Carryback and Carryover - Foreign Tax Credit* (Business Master File)
  - IRM 20.2.10.3.4, *Carrybacks and Carryovers of Excess Foreign Taxes Paid*

**Note:** Excess Foreign Tax Credit carryback claims are International criteria, filed on Form 1040-X or Form 1120-X, and can be filed by both International and Domestic taxpayers. Route IMF Foreign Tax Credit (FTC) carryback claims to the Philadelphia Campus, BLN 3–J23.134 and BMF Foreign Tax Credit (FTC) carryback claims to the Ogden Campus. If using CII, carryback FTC cases must be reassigned through the system after updating the case information, if required. For detailed information on reassigning cases through CII, refer to IRM 3.13.6, *Submission Processing Image Control Team (ICT) Correspondence Scanning*. When reassigning a case in CII ensure to update the Category Code appropriately to eliminate delay in processing.

**Example:** TENT = ITCB and RINT = IRNT

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21.5.9.5.13  
(10-01-2013)  
**Carrybacks Filed by  
Estates and Trusts**

- (1) This Section outlines the procedures for estates and trusts claiming Net Operating Loss (NOL) carrybacks by filing:
  - Form 1045, *Application for Tentative Refund*, (TENT)

- Amended Form 1041, *U.S. Income Tax Return for Estates and Trusts*, (RINT)

- (2) The estate, trust, or organization must compute the NOL on a separate schedule and attach it to the claim or application. (Generally, on Schedule A, of Form 1045)
- (3) See IRM 21.5.9.5.13.2, *Computing the Net Operating Loss (NOL) of Estates and Trusts*, for instructions on computing the NOL of estates and trusts.
- (4) Taxpayers filing an amended Form 1041 are instructed to check the amended return box and to write "NOL Carryback" on the top of the form.

21.5.9.5.13.1  
(12-17-2018)

**Form 1040-NR Filed by a Fiduciary - Carryback Application/Claim Processing (Processed at Cincinnati Only)**

- (1) A fiduciary filer of Form 1040-NR may file a RINT/TENT requesting a carryback refund. However, a Form 1040-NR filed by a fiduciary is processed on Non-Master File (NMF). Therefore, the processing of the RINT/TENT must be coordinated between the Cincinnati Carryback Team and the Cincinnati AM BMF NMF Team for resolution.
- (2) All RINT/TENT cases received requesting a refund on the Form 1040-NR filed by a fiduciary are to be reconrolled to 0241326771 for NMF assistance. Include in the CII notes the tax periods necessary for review to process the RINT/TENT.
- (3) The BMF NMF team will require the assistance of the Carryback Team for verification, review and preparation of the carryback adjustment. Once the Carryback Team has completed the preparation of the carryback adjustment documents, forward the completed documents to the NMF team for preparation of the appropriate documentation for input on the Automated Non-Master File system.

21.5.9.5.13.2  
(04-01-2020)

**Computing the Net Operating Loss (NOL) of Estates and Trusts**

- (1) When computing the NOL, the estate or trust will complete Schedule A of Form 1045 and exclude the following:
  - Charitable contribution deduction (Schedule A, Form 1041)
  - Income distribution deduction (Schedule B, Form 1041)
  - Exemption amount
- (2) Verify the NOL computation using the Schedule A (Form 1045) line item entries compared to the related line items on Form 1041 (or use CC BRTVU).
- (3) The allowable exemptions for estates and trusts are:
  - \$600 - Estates
  - \$300 - Trusts, required to distribute all their income
  - \$100 - Trusts, not required to distribute all their income

**Note:** The exemption amount, in lieu of a personal exemption, is not deductible for NOL purposes.

- (4) Like individuals, estates and trusts cannot include a Net Operating Loss Deduction (NOLD) from another year or use a Net Capital Loss (NCL) to increase an NOL.

- (5) Treat the estate or trust as an individual when applying the NOLD to the carryback years and computing the “intervening year modifications.” Use Form 1045, Schedule B.
- (6) If the NOLD is fully absorbed in the earliest gain year, no intervening year modifications are required:
  1. Subtract the NOLD from the TXI.
  2. Recompute any income or deduction based on or limited to a percentage of the income.

**Note:** Do not recompute charitable contributions.
  3. Recompute the tax, using the new taxable income.
- (7) If the NOLD is not fully absorbed in the earliest gain year, add back “intervening year modifications” to recompute the taxable income in each affected gain year.
  - a. Start with the taxable income shown on Master File, rather than income reported on taxpayer’s return. Add back charitable contribution and income distribution deductions.
  - b. Add back any net capital loss deduction.
  - c. Add back the exemption amount.
  - d. Recompute income or deductions based on or limited to a percentage of AGI, only if you have entries for b) or c) above.
  - e. Recompute the NOLD disregarding NOLs for the loss year and succeeding years.

**Note:** Net Operating Loss deductions are taken on Form 1041 as an itemized deduction not subject to the two percent limitation.
  - f. Compute corrected tax liability.
- (8) Paragraphs (9), (10), and (11) discuss the effects an estate/trust NOL may have on the individual beneficiaries.
- (9) When an NOL carryback occurs, income beneficiaries may be entitled to a refund on their individual return. The income amount previously included in their gross income from the carryback year would be limited to the estates/trusts’ distributable net income after application of the NOL carryback. The correction in distributable net income applicable to the beneficiary will be reflected on an amended Schedule K-1 when the estate/trust prepares its Form 1045/Form 1041 to carry back its NOL.
- (10) When an income beneficiary receives an amended Schedule K-1, due to the estate/trust NOL carryback discussed in Paragraph (9), the individual must file an amended return within three years of the due date of the return (including extensions) of the taxable year of the NOL. For example, a 2010 refund claim resulting from a 2012 calendar year estate/trust NOL carryback generally must be filed by April 15, 2016 if the 2010 estate/trust return was not extended. Even though the adjustment to the individual’s account is not an NOL attributable to the individual taxpayer, use a TC 299 and the trust/estate’s loss year due date as the Interest Computation Date when making the adjustment to the individual beneficiary’s tax module. Use the amended return received date as the TCB date on the adjustment. See Rev. Rul. 61-20.

**Caution:** In the example above, the RSED for the individual's timely filed 2010 return is April 15, 2014. However, because the amended return is the result of an NOL carryback of an estate or trust, of which the individual is a beneficiary, the taxpayer has until April 15, 2016 to file an amended return, based on the amended K-1, and to receive a refund. Use of the TC 299 and the Interest Computation Date of the estate/trust's loss year return allows the adjustment to post and the refund to issue with the correct amount of allowable interest (if any).

- (11) On the termination of the estate or trust, any unused NOL carryover that would be allowable to the estate or trust in a later tax year, but for the termination, is allowed to the beneficiaries succeeding to the property of the estate or trust. Beneficiaries claiming the NOL on their individual returns can only carry the NOL forward.
- (12) The Tax Cuts and Jobs Act of 2017, Section 13302, repealed the two year and other specified carryback provisions. Taxpayers with net operating losses incurred in the trade or business of farming and non-life insurance companies are required to carry NOLs back two-years.

21.5.9.5.13.3  
(04-01-2020)

**Carrybacks Filed by  
Trustee in Bankruptcy**

- (1) A separate "estate" is created when an individual debtor files for bankruptcy under chapter 7 or 11 of the Bankruptcy Code. After that, the individual debtor and the bankruptcy estate are treated as separate taxable entities, and, either one, or both, may have carrybacks.
- (2) An individual debtor with non-exempt assets, may choose to end his or her tax year the day before filing the bankruptcy case, using:
  - One Form 1040 on or before the due date for the tax year ending the day **before** the bankruptcy case commences
  - One Form 1040 for the taxable year beginning **the day** the bankruptcy case commences

**Note:** Each short period is considered a "taxable year" for carryback purposes.

- (3) A trustee in bankruptcy or the debtor in possession may identify a Net Operating Loss (NOL) or unused credit when filing Form 1041 on behalf of the Bankruptcy Estate. The trustee or debtor must sign Form 1041 and attach a copy of the Form 1040 showing the estate's income, deductions, credits, etc. The trustee or debtor may file either Form 1045 or *Form 1040-X* (normally with Schedule A of Form 1045 as a worksheet) to claim the carryback. See Publication 536, *Net Operating Losses (NOLs) for Individuals, Estates, and Trusts*.

**Note:** A separate carryback from the debtor's activities is carried back by the debtor in the same manner as any other individual.

- (4) A bankruptcy estate computes taxable income the same way as an individual:
  - Using one personal exemption; and claiming itemized deductions or the basic standard deduction as married filing separately
  - Computing tax using the married filing separately rate; and
  - Succeeding to, and taking into account certain tax attributes of the debtor under Section 1398 (g), including NOL and credit carryovers

- (5) If any carryback year of the estate is a taxable year before the estate's first taxable year, the carryback year is taken into account for the debtor's taxable year corresponding to the carryback year. See IRC 1398 (j)(2)(a). Therefore, a carryback from the estate's activities is the only one that can be carried back and used against the debtor's pre-bankruptcy years during the bankruptcy case.
- (6) The debtor in a bankruptcy case cannot carry back to a taxable year before the debtor's taxable year in which the case commences any NOL or credit arising in a taxable year ending after the case commences. Therefore, an NOL or credit that arises from the debtor's non-estate activities during the bankruptcy case can only be carried forward and used against the debtor's post-bankruptcy income.
- (7) Upon "termination" of the estate (termination is not defined in the code or regulations), the debtor succeeds to and takes into account certain tax attributes of the estate under section 1398 (i), including NOL and credit carryovers.
- (8) When you process these returns, if an account has a **-V** and/or **-W** freeze, and an indicator (TC 520 with closing codes 60-67, 81, 83, or 85-89), contact the Insolvency Unit before making the adjustment.
- (9) The Tax Cuts and Jobs Act of 2017, Section 13302, repealed the two year and other specified carryback provisions. Taxpayers with net operating losses incurred in the trade or business of farming and non-life insurance companies retain the option to carry net operating losses back two years.

21.5.9.5.14  
(10-01-2024)  
**Carrybacks Filed by  
Exempt and Charitable  
Organizations**

- (1) Exempt and charitable organizations may claim a net operating loss and net operating loss deduction.
  - *Form 990-T, Exempt Organization Business Income Tax Return.* Procedures for processing Form 990-T are located in IRM 21.7.7, *Exempt Organization and Tax Exempt Bonds*
- (2) Expedite carryback claims involving Exempt Organizations to the Ogden Campus within three days of Accounts Management received date.
- (3) See IRM 21.3.6, *Forms and Information Requests*, and IRM 21.7.7.6.16.11, *Form 990-T Employee Plan (EP) Claim Procedures*, for more information.
- (4) The Ogden Campus processes carrybacks filed by exempt and charitable organizations.

21.5.9.5.15  
(10-01-2024)  
**Carryback "Claim of  
Right"**

- (1) A taxpayer may file for a refund based on a "Claim of Right" adjustment on Form 1045 or Form 1139 (whether or not the claim is related to a carryback) in order to be eligible for 90-day processing. The taxpayer only enters:
  - Line 33 on Form 1045, or
  - Line 29 on Form 1139
- (2) Follow instructions in IRM 21.6.6.2.10, *Claim of Right - IRC 1341, Repayments of Income Previously Reported*.
- (3) Attach Form 1045 or Form 1139 as the source document.

21.5.9.5.16  
(04-01-2020)

**Carrybacks Filed on  
Form 1045 and Form  
1139 (Applications)**

- (4) A Claim of Right adjustment for a year may result in a Net Operating Loss (NOL) for that year or an NOL or Net Capital Loss (NCL) for a prior year. Carrybacks and carryforwards prior to the year of the adjustment are taken into account in determining the amount of the adjustment. Normal rules apply for carrying forward any unused NOL or NCL past the year of the adjustment.

- (1) This section provides procedures for working applications for tentative refunds (TENTs). Taxpayers file carryback TENTs using these forms:

- Form 1045, Application for Tentative Refund for IMF (Individual Master File)
- Form 1139, Corporation Application for Tentative Refund for BMF (Business Master File)

- (2) When processing Form 1045, consider the following:

- Net Operating Loss (NOL)
- Net Operating Loss Deduction (NOLD)
- Earned Income Tax Credit (EITC)
- Net Capital Loss (NCL)
- Allocations for filing status changes
- Alternative Minimum Tax (AMT)
- Carryback/carryforward periods
- Additional Child Tax Credit (ACTC)
- IDRS/Master File verification of loss year and gain year
- Statute expiration

- (3) When processing Form 1139, consider the following:

- Special Rules for BMF (Business Master File) NOLs and NOLD
- BMF (Business Master File) NCL
- BMF (Business Master File) Carryback/Carryforward Periods
- Consolidated Corporations
- Personal Service Corporation
- Form 1138

21.5.9.5.16.1  
(07-29-2024)

**Carryback Application  
Processing and Filing  
Requirements**

- (1) Form 1045 and Form 1139 have a 90-day processing requirement. The start of the 90-day statutory processing period begins on the later of:

- The date the complete application is filed, or
- The last day of the month that includes the due date (including extensions) for filing the income tax return for the year in which the loss or credit arose.

- (2) The 90-day processing period allows the IRS an opportunity to review, perfect and process an application. The 90-day period does not allow the taxpayer any additional time, beyond the normal 12-month period, to perfect, modify or refile an application.

- (3) Therefore, if any information is missing, it is **critical that two telephone attempts be made** to contact the taxpayer requesting the missing information be faxed in order to complete the processing of the application. **Document CII** with the times and dates of the telephone attempts. See IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*, for additional information.

- (4) An application for a tentative refund is **not** treated as a claim for credit or refund. It may be rejected, in whole or in part, if there are any material omissions, math errors that cannot be corrected within the 90-day period, or the application includes a released credit required to be filed on Form 1040-X or Form 1120-X. See IRM 21.5.9.5.12.3, *Released Credits Available for Carryback/Carryforward*. If the application is rejected in whole or in part, no suit challenging the rejection may be brought in any court.
- (5) If an application is not processable and the 90-day period has expired or will expire shortly, the application must be rejected. If a processable application is not received within 12 months from the end of the loss year, the taxpayer must file an amended return (e.g., Form 1040-X or Form 1120-X) before the period of limitation expires, to claim the carryback. See IRM 25.6.1.10.3.4.1, **Net Operating Loss (NOL) Carryback or Capital Loss Carryback**, for additional information about the period of limitations for carryback claims.
- (6) To meet the 90-day legal requirement, the adjustment must be input by the time frames below.
  - a. Within 70 days of the TENT received date or
  - b. Within 70 days of the last day of the month that includes the due date (or extended due date) for filing the loss year return.

**Reminder:** Every effort must be made to process the carryback within the 45-day interest-free period mentioned in (7) below. *The Carryback 45-Day Interest-Free Charts* are located on SERP under the IRM Supplement tab.

- (7) IRC 6411(a) requires that the loss year return must be filed on or before the date a tentative carryback application (Form 1045 or Form 1139) is filed. It is not necessary for the loss year return to be posted to Master File at the time the TENT is processed. If the loss year return has not posted, verify the date on Line 2b of Form 1139 or Form 1045 has been entered and is not a date that is in the future. If blank or a future date was entered, reject the application and advise the taxpayer the TENT can be resubmitted once the loss year return has been filed. See IRM 21.5.9.4.2, *Identifying processable and Unprocessable Carryback Applications/Claims*.
- (8) TENTs have a 45-day interest-free period. See IRM 21.5.9.5.16.3, *Carryback Application interest Computation Dates*.
- (9) Taxpayers filing for a TENT must file the application within one year from the end of the loss year (e.g., 201812, on or before Dec. 31, 2019).

**Exception:** A corporation that becomes a new member of a consolidated group files a separate return for the period up to the date the corporation became a new member of the consolidated group. Regulations under IRC 1502 (for separate return years of new members that begin on or after January 1, 2001) specify that certain corporations can file their tentative carryback application for the short period, separate return year, within one year from the end of the current taxable year of the “consolidated group” that the new member joins. If such corporations choose to file for a tentative carryback for the separate return year, those corporations must, on Form 1139, check “yes” on line 5a and complete line 5b.

**Example:** Both Corporation X and Y are calendar year filers. Corporation X is being acquired by the Y consolidated group on June 30, 2017 in a transaction that does not qualify as a reverse acquisition. Corporation X closes its books on June 30, 2017. Corporation X has filed a short period, separate return for January through June. Previously, Corporation X ending its tax year in June would only have until June 30, 2018 to file a Form 1139. However, the regulations under IRC 1502, allow Corporation X to use the Y consolidated group's tax year end to determine the proper date for filing Form 1139. Therefore, under the regulations, Corporation X will have until Dec. 31, 2018 to file a Form 1139 instead of June 30, 2018.

21.5.9.5.16.2

(04-01-2020)

**Carryback Application  
Transaction Codes,  
Blocking Series, and  
Correspondence  
Imaging Inventory (CII)  
Requirements**

- (1) Unique transaction codes and blocking series are used to adjust TENTs.
- (2) Transaction codes which identify TENTs are:
  - 294 - Reverses Tentative Carryback Adjustment/Increase
  - 295 - Tentative Carryback Adjustment /Decrease
- (3) Blocking series which identify TENTs are:
  - 91 - Without the original gain year return
  - 92 - With original gain year return
  - 92 - Account manually brought back from retention register
  - 95 - Reassessment on a statute imminent or expired year
- (4) Save the PDF of any letter generated on a carryback case. Attach to the CII case with the Attach File button instead of capturing the "request completed" screen. See IRM 21.5.1.5.1, *CII General Guidelines*, for additional CII requirements.

21.5.9.5.16.3

(05-06-2024)

**Carryback Application  
Interest Computation  
Dates**

- (1) TENT adjustments require input of the interest computation date (INTCMP-DT) and carryback received date (TCB-DT).
  - INTCMP-DT provides the date overpayment interest begins and the credit availability date for purposes of computing underpayment interest.
 

**Note:** The INTCMP-DT is generally the loss year return due date (determined **without** regard to any extension of time for filing, and **without** regard to the extension for COVID-19).

**Exception:** Use the current date for the INTCMP-DT if the application is received in processable form **prior** to the loss year return due date and the Net Operating Loss (NOL) adjustment is **input prior** to the loss year return due date.
  - TCB-DT determines the expiration date of the 45-day interest-free period.
 

**Note:** The TCB-DT is generally the TENT received date, TENT processable date, loss year return due date (determined **without** regard to any extension of time for filing, and **without** regard to the extension for COVID-19), or loss year return processable date (whichever is later).

**Exception:** Use loss year return due date for the TCB-DT (determined **without** regard to any extension of time for filing, and **without** regard to the extension for COVID-19), if the application is received in processable form **prior** to the loss year return due date and the Net Operating Loss (NOL) adjustment is **input prior** to the loss year return due date.

**Caution:** Do **not** include an AMD-CLMS-DT on these adjustments.

**Reminder:** You **must** manually compute overpayment interest if a systemic refund is being issued and the **loss year return was not timely filed or additional refundable credits are allowed**. See IRM 21.5.9.5.7, *Carryback Interest*, for more information.

(2) When the 45-day interest-free period is missed, the INTCMP-DT is used by the computer when determining the start date of overpayment interest on the overpayment.

**Reminder:** The due date for a timely filed Form 1040-NR that includes wages that are **not** subject to U.S. withholding is five and a half months after the end of the taxable year. For calendar year Form 1040-NR filers the date would be June 15.

**Note:** In the table below, the loss year return due date is determined **without** regard to any extension of time of filing, and **without** regard to the extension for COVID-19.

If a Processable Application is Received	And	Then Input
<p><b>Prior</b> to the loss year return due date</p> <p><b>Caution:</b> The loss year return must have been filed on or before the date the TENT was filed.</p>	<p>The NOL adjustment is <b>input prior</b> to the loss year return due date</p>	<ul style="list-style-type: none"> <li>• TCB-DT - Use the loss year return due date</li> <li>• INTCMP-DT - Use the current date</li> <li>• Override code "C"</li> </ul> <p><b>Caution:</b> For underpayment interest purposes, the NOL credit is not available until the loss year return due date.</p> <p><b>Note:</b> Overpayment interest is not paid in this situation. The 45-day count for issuing the interest-free refund does not begin until the loss year return due date.</p>

If a Processible Application is Received	And	Then Input
<p><b>Prior</b> to the loss year return due date  <b>Caution:</b> The loss year return must have been filed on or before the date the TENT was filed.</p>	<p>The NOL adjustment is <b>input on or after</b> the loss year return due date</p>	<ul style="list-style-type: none"> <li>• TCB-DT - Use the loss year return due date</li> <li>• INTCMP-DT - Use the loss year return due date</li> <li>• No override code</li> </ul> <p><b>Note:</b> The 45-day count for issuing an interest-free refund in this situation does not begin until the loss year return due date or processable date (the TCB date). If the refund is not issued within 45 days of the later of these dates, overpayment interest is paid beginning on the loss year due date.</p>
<p><b>On or after</b> the loss year return due date</p>	<p>The loss year return was <b>timely filed</b> (received on or before its due date, extended due date, or the due date provided by the COVID-19 emergency declaration).</p> <p><b>Example:</b> Taxpayer files extension until 10/15/2019 for his 201812 Form 1120. The processable loss year return for 2018 is received on 08/20/2019. The IRS receives a TENT from the taxpayer on 08/25/2019.</p> <p><b>Example:</b> The COVID-19 emergency declaration extended the due date for the taxpayer's 2019 Form 1040 to 07/15/2020. The processable loss year return for 2019 is received on 06/01/2020. The IRS receives a RINT/TENT from the taxpayer on 06/29/2020.</p>	<ul style="list-style-type: none"> <li>• TCB-DT - Use the TENT received date, TENT processable date, or loss year return processable date (whichever is later)</li> <li>• INTCMP-DT - Use the loss year return due date</li> <li>• No override code</li> </ul> <p><b>Example:</b> In the first example, since the IRS received a processable TENT on 8/25/2019, we have 45 days from 8/25/2019 (the TCB-DT) to issue a refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on the loss year return due date (04/15/2019 - the INTCMP-DT) because the loss year return was timely filed on or before its extended due date.</p> <p><b>Example:</b> In the second example, since the IRS received a processable TENT on 06/29/2020, we have 45 days from 06/29/2020 (the TCB-DT) to issue a refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on the loss year return due date (04/15/2020 - the INTCMP-DT) because the loss year return was timely filed on or before the due date provided by the COVID-19 emergency declaration (07/15/2020).</p>

If a Processible Application is Received	And	Then Input
<p><b>On or after</b> the loss year return due date</p>	<p>The loss year return was <b>not timely filed</b> (received after its due date, extended due date, or the due date provided by the COVID-19 emergency declaration)</p> <p><b>Example:</b> Taxpayer filed an extension for his 201812 Form 1120 to 10/15/2019. The processable return for 2018 is received on 10/29/2019. The return is late filed. The IRS receives a TENT from the taxpayer on 11/05/2019.</p> <p><b>Example:</b> The COVID-19 emergency declaration extended the due date for the taxpayer’s 2019 Form 1040 to 7/15/2020. The processable return for 2019 is received on 8/10/2020. The return is late filed. The IRS receives a TENT from the taxpayer on 8/31/2020.</p>	<ul style="list-style-type: none"> <li>• TCB-DT - Use the TENT received date, TENT processable date, delinquent loss year return received date, or loss year return processable date (whichever is later)</li> <li>• INTCMP-DT - Use the loss year return due date</li> </ul> <p><b>Note:</b> The delinquent loss year return received date is <b>not</b> input in the INTCMP-DT field because the carryback is available on the normal loss year return due date.</p> <ul style="list-style-type: none"> <li>• No override code</li> </ul> <p><b>Reminder:</b> If the <b>adjustment results in an overpayment and a systemic refund will be issued</b>, use TC 770 to <b>manually address/compute overpayment interest</b>. Use TC 770 .00 if no interest is due.</p> <p>For overpayment interest purposes, the delinquent loss year return received date (or loss year return processable date, whichever is later) is considered when determining the overpayment interest period. See IRM 20.2.9.2, <i>Determining the Overpayment Interest Period</i>, for the appropriate interest start date.</p> <p><b>Exception:</b> If issuing a manual refund, it is not necessary to input a TC 770 for zero (.00) with the adjustment. The interest will be manually computed and input as a TC 770 with the manual refund whether for zero or for a money amount.</p>

If a Processible Application is Received	And	Then Input
		<p><b>Example:</b> In the first example, since the IRS received a processible TENT on 11/05/2019, we have 45 days from 11/05/2019 (the TCB date) to issue a refund without interest. If the refund is not issued within that 45-day time-frame, interest is paid beginning on 10/29/2019 (the received date of the late-filed loss year return). You must manually compute the interest and input with TC 770. Otherwise, Master File will calculate the interest from the normal return due date (the INTCMP-DT), generating more interest than the taxpayer is entitled to receive.</p> <p><b>Example:</b> In the second example, since the IRS received a processible TENT on 8/31/2020, we have 45 days from 8/31/2020 (the TCB date) to issue a refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on 8/10/2020 (the received date of the late-filed loss year return). Interest must be manually computed and input with TC 770. Otherwise, Master File will calculate the interest from the normal return due date (the INTCMP-DT of 4/15/2020), generating more interest than the taxpayer is entitled to receive.</p>

- (3) For exceptions and additional information, see IRM 20.2.9.2, *Determining the Overpayment Interest Period*, and IRM 20.2.4.8.1, *Systemic Refunds*.

**Note:** Refer to IRM 20.1.2.2.3.3, *Taxpayers Abroad*, for information regarding individual filers outside of the United States.

21.5.9.5.16.4  
(07-29-2024)  
**Carryback Application with Examination Criteria**

- (1) Process Form 1045 and Form 1139 and allow the refund(s) **prior** to routing TENTs with CAT-A criteria.

**Reminder:** In addition to the guidance in (1), a Form 1139 requesting only the 100 percent refundable corporate minimum tax credit is processed and refund(s) allowed prior to routing to CAT-A.

**Caution:** Do **not** input a TC 971 AC 013 on any of the carryback-related tax modules prior to forwarding the TENT to Examination. The TC 971 AC 013 sets the -A freeze and indicates there is an unprocessed claim or amended return being forwarded. This is not the case with a TENT where the carryback application has already been processed and paid prior to referral.

**Note:** When preparing Form 5792, *Request for IDRS Generated Refund (IGR)* or Form 3753, *Manual Refund Posting Voucher*, include a citation of IRM 21.5.9.5.16.4 on Form 5792 and Form 3753 Section II, 1d, to ensure Accounting is aware of the IRM requirements for processing carryback tentative applications.

(2) An application for a tentative refund is **not** treated as a claim for credit or refund. Unless otherwise specified, follow the guidelines in paragraph 3 below when referring carryback applications to CAT-A. The following CAT-A criteria are specific to carryback applications filed on Form 1045 and Form 1139:

- Joint Committee Cases (JCC) - Carryback aggregate adjustment(s) resulting in a combined IMF (Form 1040) or BMF (Form 1041) **refund(s)** totaling \$2,000,000 or BMF (Form 1120 series) C-Corp **refund(s)** totaling \$5,000,000 or more. Select JCC as the secondary referral reason and include remarks if necessary.
- Form 1040 (IMF) or Form 1041 (BMF) tentative aggregate tax as JCC.)
- Form 1120 series (BMF) tentative aggregate tax decrease(s) totaling
- **TC 520, TC 576 (-Q Freeze), or TC 420** with an AIMS status **greater than 08** in the carryback gain or loss year tax periods.
- Consolidated corporate return loss years for which affected gain years were filed under a different EIN.

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applications in CII, select **HQ Reserved 5** as the **primary reason** from the Reason Referred drop down menu. Refer to IRM 21.5.9.4.2.1, *Carryback Applications/Claims from Financial Institutions in Receivership - Form 56-F Filed*, for additional information.

**Note:** The Tax Cuts and Jobs Act (TCJA) of 2017 restricted the carryback of net operating losses (NOLs) to non-life insurance companies and to the portion of an NOL attributable to a farming loss. Insolvent Financial Institutions can no longer carryback NOLs under the TCJA. The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, Section 2303, amended IRC 172(b)(1) of the Internal Revenue Code to provide relief from changes made by the Tax Cuts and Jobs Act (TCJA) for tax years 2018, 2019, and 2020. The information for Insolvent Financial Institutions above is applicable only to NOLs carried back under the CARES Act.

- **BMF ONLY - IRC 847 Insurance Companies:** Suspend using CII if any of the following are indicated, "Special Estimated Tax Payments (SETP)", "Special Estimated Tax Deposits", "Special Estimated Tax

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**Reminder:** The Tax Cuts and Jobs Act of 2017, Section 13516, repealed the special estimated tax payment for insurance companies. The information in the chart above is applicable to tax years beginning prior to January 1, 2018.

- (3) When referring Carryback cases to CAT-A select the primary reason for referral as listed below:
- **IMF/IMF International:** To refer cases to CAT-A, select NOL Carryback/ Carryforward as primary referral reason from the drop down listing on CII. Select the appropriate secondary referral reason specific to the case and include remarks if necessary.
  - **BMF/BMF International:** To refer cases to CAT-A, select Carryback/ Carryforward TENT as primary referral reason from the drop down listing on CII. Select the appropriate secondary referral reason specific to the case and include remarks if necessary.
- (4) Always review the TENT for freeze codes to be addressed prior to processing the case as per IRM 21.5.9.4.6, *Carryback Freeze Conditions*. Exercise caution when working with a Department of Justice (DOJ) case. Do **not** process a TENT prior to reviewing the account for the following indicators:
- If an account with any module in status 72 and/or with an unreversed TC 520 with a closing code (cc) of 70, 75, 80 or 82 identified, follow the guidance in IRM 21.5.6.4.46, *-W Freeze*.
  - If an account with any module that includes a TC 550 and definer 04 (judgment) identified, follow the guidance in IRM 21.5.6.4.44(3), *-V Freeze*.
- Caution:** Actions on cases where the DOJ is litigating or has secured a judgment, without DOJ concurrence/approval, may have a negative serious impact on the ongoing litigation or secured judgment.
- (5) If taxpayer checked “yes” to the question, “Have you filed a petition in tax court for the year or years to which the carryback is to be applied?,” process the TENT and notify the Appeals Office. Contact information for Appeals can be found by selecting, *Appeals Case Routing*, under the Who/Where tax on SERP.
- (6) All large dollar and Joint Committee Cases must be expedited due to interest considerations. Refer to IRM 21.4.4.6, *Other Manual Refund Requirements*, for additional information on million dollar or more refunds.

21.5.9.5.16.4.1  
(04-01-2020)

**Carryback Application  
with an Open IMF/BMF  
Underreporter Issue (TC  
922 or TC 925)**

- (1) If there is an **open** IMF (Individual Master File) or BMF (Business Master File) Underreporter (AUR or BUR) case on any of the years (loss or gain years), contact the AUR or BUR Coordinator at the campus location (as identified by the first two digits of the TC 922 or TC 925) prior to processing the TENT. A listing of AUR and BUR Coordinators is located on SERP. See *AUR Coordinators Contact Information*, for IMF (Individual Master File) or *BUR Program*, for BMF (Business Master File).
- a. Prior to contacting the AUR or BUR Coordinator ensure a complete and processable carry back application has been received. If incomplete, reject the application back to the taxpayer and request additional necessary

- information per IRM 21.5.9.4.2, *Identifying processable and Unprocessable Carryback Applications/Claims*. If complete follow directions below.
- b. Advise the AUR or BUR Coordinator you have a tentative carryback application that involves one of the tax years with an open Underreporter issue.
  - c. The AUR or BUR Coordinator will review the case and determine if the case (or a response) is needed.

If	Then
The Underreporter issue can be resolved	<ol style="list-style-type: none"> <li>1. The AUR or BUR Coordinator will advise the Carryback Team to monitor IDRS for the posting of the Underreporter closing actions.</li> <li>2. Once the Underreporter closing actions have posted, continue processing the claim.</li> </ol>
The Underreporter issue <b>CANNOT</b> be resolved	<p><b>BMF (BUR):</b></p> <ul style="list-style-type: none"> <li>• The BMF Underreporter will notify the taxpayer that the claim cannot be processed because of outstanding BMF Underreporter issue.</li> <li>• Close the carryback control and notate CIS</li> </ul> <p><b>IMF (AUR): Include the relevant toll-free contact number when corresponding with the taxpayer.</b></p> <ul style="list-style-type: none"> <li>• The Carryback Team will notify the taxpayer that the claim cannot be processed because of the outstanding AUR issue.</li> </ul> <p><b>Note:</b> Include the relevant toll-free contact number when corresponding with the taxpayer.</p> <ul style="list-style-type: none"> <li>• Close the Carryback control and notate CII.</li> </ul>

**Caution:** A TC 922 (or TC 925 for BMF), by itself, does not mean there is an open AUR (BUR for BMF) case. The last Process Code associated with the TC 922 (TC 925 for BUR) shows the current status of the case. See IRM 21.3.1.6.52, *Status of Individual Master File (IMF) Underreporter Cases*, to determine if there is an open AUR case or IRM 21.3.1.7.49, *Letter 2030/2531 - Business Master File (BMF) Underreporter Program - General Information*, to determine if there is an open BUR case.

**Note:** A TC 925 may or may not be included on the account to assist with the identification of a BMF-AUR case. Therefore, until further notice, any carryback cases that have a multiple control with IDRS number 048xxxxxxx are not to be processed until contact is made with the *BUR Program* as listed on the SERP Who/Where Tab. These cases will be one of the following IDRS Categories:

- BUR0
- BUR1
- BURS
- BURC

21.5.9.5.16.5  
(04-01-2020)  
**Reassessing Carryback Applications**

- (1) TENTs can be reassessed without Examination deficiency or erroneous refund procedures.
- (2) Write (Letter 449C) or call taxpayer for a complete signed copy of any unfiled loss year return. Suspend the case for 40 calendar days (70 calendar days for overseas taxpayers). Forward the received loss year return for processing once received.
- (3) If the loss year return is not received, or does not support the application,

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- a. Input TC 294 to assess the difference between the allowed amount and the correct amount.
- b. Input TC 298 if the year to be assessed is statute imminent/expired.
- c. Enter the loss year return due date as the interest computation date (INTCMP-DT) for TC 294/298, unless the statute is imminent/expired. If the statute is imminent/expired, see IRM 20.2.9.4, *Carryback Recaptures*, for interest computation rules and use of blocking series 95.

**Caution:** Master File cannot accurately compute underpayment interest on the recovery of a prior TC 295 adjustment carrying an INTCMP-DT dated earlier than the loss year return due date. While the TC 294/298 input to Master File must carry that same INTCMP-DT, manually compute underpayment interest. Anytime underpayment interest is manually computed, recompute the entire tax module to ensure an accurate computation is made. See IRM 20.2.5.6.2, *Manual Computations*.

- d. Attach the application to the most current gain year.
- e. Change all affected tax years. A correction to one module may affect a carryover to another.
- f. Explain the change to taxpayer.
- g. Enclose a copy of the corrected Form 1045 or Form 1139 with the letter, if the change is too complex for a simple explanation.

**Note:** Mathematical/Clerical Appeal Rights do not apply to the reassessment of TENTs.

21.5.9.5.16.6  
(07-29-2024)  
**Carryback Tentative Refund Applications and Statute Consideration**

- (1) Follow the instructions in this subsection to resolve tentative refund applications where the period of limitation for credit or refund based on the loss year is imminent (180 days or less) or expired.
- (2) An application for tentative refund filed on Form 1045 and Form 1139 is **not** treated as a claim for credit or refund. It may be rejected, in whole or in part, if there are any material omissions, math errors that cannot be corrected within

the 90-day period, or the application includes a released credit required to be filed on Form 1040-X or Form 1120-X. If the application is rejected in whole or in part, no suit challenging the rejection may be brought in any court. The taxpayer does not have appeal rights under law for any rejected or unprocessed tentative refund application.

- (3) If the taxpayer timely files a Form 1045 or Form 1139 tentative refund application and the application is rejected or the tentative refund is not processed for any reason, the taxpayer must file a claim for credit or refund using Form 1040-X, Form 1041, or Form 1120-X on or before the period of limitations for credit or refund expires. The tentative refund application **cannot** be processed after the period of limitation for credit or refund has expired.

**Note:** A claim for credit or refund based on the carryback of an NOL or a Capital Loss must be filed within the three-year period from the due date of the loss year return plus the period granted for any extension of time to file. The three-year period runs from the extended return due date regardless of when the return is actually filed. See IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, for additional information.

- (4) If the tentative refund application was timely filed, processable, and the period of limitations for credit or refund for the loss year is **not expired**, process the application following normal procedures. If the timely filed application is not processable and the period of limitation for credit or refund is **imminent or expired**, continue processing per paragraph 6 below.
- (5) Research the current open TENT case and prior closed TENT cases in CII to determine if the taxpayer submitted amended returns for the carryback gain years.

If	And	Then
<p>Amended returns for <b>some or all</b> of the carryback gain years are part of the documentation scanned with the <b>current</b> active TENT case or a <b>prior</b> closed TENT case in CII</p>	<ul style="list-style-type: none"> <li>• The tentative refund application was <b>not timely filed</b> or is <b>not processable</b>, and</li> <li>• The amended returns were received <b>before the Assessment Statute Expiration Date (ASED) or the extended carryback claim due date for the loss year (3 years from the extended due date of the loss year return)</b>.</li> </ul>	<ol style="list-style-type: none"> <li>1. Print the amended return for the carryback gain year to PDF.</li> <li>2. Create a new CII case for each carryback gain year using category code RINT.</li> <li>3. Link each new CII RINT case to the TENT case.</li> <li>4. Send Letter 216C rejecting the tentative refund application and advise the taxpayer we will consider their carryback request for tax years (specify the tax years) using the amended returns filed.</li> <li>5. Attach a PDF copy of the 216C letter to the case in CII.</li> <li>6. Close the TENT case to the linked RINT cases.</li> <li>7. Review each carryback gain year amended return and supporting documentation.</li> <li>8. If required information is missing, determine if the additional information was provided with the documentation attached to the current or a prior case in CII.</li> <li>9. If the supporting documentation was provided and the claim is complete, process the claim.</li> <li>10. If additional information is needed to process the amended return(s): <ul style="list-style-type: none"> <li>• Make two telephone attempts to reach the taxpayer or authorized representative.</li> <li>• Document all phone attempts fully on CII.</li> <li>• If contact is unsuccessful, follow the guidelines in IRM 21.5.3.4.3, <i>Tax Decrease and Statute Consideration</i>, paragraphs 3 through 6.</li> </ul> </li> </ol>

If	And	Then
Amended returns for <b>some or all</b> of the carryback gain years are not part of the documentation scanned with the <b>current</b> active TENT case or a <b>prior</b> closed TENT case in CII	<ul style="list-style-type: none"> <li>• The tentative refund application was <b>not timely filed</b> or is <b>not processable</b>.</li> </ul>	1. Continue processing per paragraph 6 below.

- (6) Thoroughly research **all** CII images, EUP, and IDRS to determine if the taxpayer previously filed an amended return for each carryback gain year, then follow the guidance in the table below.

If	And	Then
<p>Amended returns for <b>some or all</b> of the carryback gain years were <b>previously filed</b></p>	<ul style="list-style-type: none"> <li>• The tentative refund application was <b>not timely filed</b> or is <b>not processable</b>, and</li> <li>• The amended return was <b>received before the ASED or extended carryback claim due date for the loss year</b>, and</li> <li>• The amended return was <b>not</b> processed, and</li> <li>• The <b>ASED or extended carryback claim due date for the loss year is 180 days or less (but not expired)</b>, and</li> <li>• A Letter 105C disallowance letter for the carryback gain year amended return <b>has not</b> been issued.</li> </ul>	<ol style="list-style-type: none"> <li>1. If the amended return is located on a closed case in CII: <ul style="list-style-type: none"> <li>• Print the amended return for the carryback gain year to PDF.</li> <li>• Create a new CII case for each carryback gain year using category code RINT.</li> <li>• Link each new RINT case to the TENT case, or</li> </ul> <p>If the amended return is located on an open case in CII:</p> <ul style="list-style-type: none"> <li>• Link the open RINT case to the TENT case.</li> </ul> </li> <li>2. Send Letter 216C rejecting the tentative refund application and advise the taxpayer we will consider their carryback request for tax years (specify the tax years) using the amended returns filed. <p><b>Note:</b> For any tax year where an amended return was not located, follow the guidance in the section below.</p> </li> <li>3. Attach a PDF copy of the 216C letter to the case in CII.</li> <li>4. Close the TENT case to the linked RINT case(s).</li> <li>5. Review each carryback gain year amended return and supporting documentation.</li> <li>6. If required information is missing, determine if the additional information was provided with the documentation attached to the current or a prior case in CII.</li> <li>7. If the supporting documentation was provided and the claim is complete, process the claim.</li> <li>8. If additional information is needed to process the amended return(s): <ul style="list-style-type: none"> <li>• Make two telephone attempts to reach the taxpayer or authorized representative.</li> <li>• Document all phone attempts fully on CII.</li> <li>• If contact is unsuccessful, follow the guidelines in IRM 21.5.3.4.3, <i>Tax Decrease and Statute Consideration</i>, paragraphs 3 through 6.</li> </ul> </li> </ol>

If	And	Then
Amended returns for <b>some or all</b> of the carryback gain years were <b>not located</b> through CII/EUP/IDRS research	<ul style="list-style-type: none"> <li>• The tentative refund application was <b>not timely filed</b> or is <b>not processable</b>, and</li> <li>• The <b>ASED or extended carryback claim due date for the loss year is 180 days or less (but not expired)</b></li> </ul>	<ol style="list-style-type: none"> <li>1. Send Letter 216C rejecting the tentative refund application and advise the taxpayer an amended return for tax year(s) (specify the tax year(s)) is required to claim the carryback.</li> <li>2. Provide the due date for filing the amended return(s) (<b>Loss year ASED or extended carryback claim due date for the loss year</b>).</li> <li>3. Attach a PDF copy of the 216C letter to the TENT case in CII.</li> <li>4. Close the TENT case.</li> </ol>

- (7) If the ASED or extended carryback claim due date is **expired** and an amended return was **not previously filed** or was **not located** through CII/EUP/IDRS research for any carryback gain year, issue Letter 216C, *Tentative Carryback Application Adjustment Request*, with opening paragraph “B” and the three open paragraphs below:

**Paragraph 1:** Form (insert 1045 or 1139) is valid for 12 months from the end of the loss year. An application for tentative refund is not treated as claim for credit or refund. A claim for credit or refund must be filed on an amended return before the period of limitations for credit or refund expires. The period of limitations to file a claim for credit or refund for loss year (insert loss year) expired on (insert ASED or extended carryback claim due date for the loss year).

**Paragraph 2:** If a tentative refund application is rejected in whole or in part or is not processed by the IRS for any reason, no suit challenging the rejection may be brought in any court and you do not have appeal rights under law.

**Paragraph 3:** Net Operating Losses (NOLs) that were required to be carried back are deemed to have been carried back, regardless of whether such a claim was in fact timely filed. An NOL carryforward is allowed only to the extent of the amount of the NOL reduced by amounts required to be carried back to preceding taxable years.

- (8) Employees should **not** be using the procedures in IRM 21.5.3.4.3, *Tax Decrease and Statute Consideration*, paragraphs 3 through 6, to disallow tentative refund applications (TENTs). If a Letter 105C, *Claim Disallowed*, was issued **for a tentative refund application**, send Letter 216C following paragraph 7 above and issue a Letter 544C *Apology for IRS Error*, with the open paragraph below:

We incorrectly sent you Letter 105C, Claim Disallowed, for your Form (insert 1045 or 1139) filed for loss year (insert loss year). Please disregard the letter you received. We'll mail you a Letter 216C, Tentative Carryback Application Adjustment Request.

- (9) If the taxpayer included a **copy** of a **previously filed** tentative refund application with a request to appeal a Letter 105C and research shows the Letter 105C was issued **based on an amended return** (e.g., Form 1040-X or Form 1120-X), follow the procedures in IRM 21.5.3.4.6.2, *Appeals and Responses to Letter 105C and Letter 106C*.

21.5.9.5.17  
(04-01-2020)

**Carryback Form 1040-X,  
Form 1120-X, Form 1041,  
Form 1120-C and Form  
990-T (Claims)**

- (1) This section outlines procedures for working RINTs. Taxpayers file carryback RINTs using these forms:
- Form 1040-X, *Amended U.S. Individual Income Tax Return*
  - Form 1120-X, *Amended U.S. Corporation Income Tax Return*
  - Amended Form 1041, *U.S. Income Tax Return for Estates and Trusts*
  - Amended Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*
  - Amended Form 990-T, *Exempt Organization Business Income Tax Return*. See IRM 21.7.7.6.16, *EO Claim Procedures*, for Form 990-T carryback processing.
- (2) Certain conditions and requirements separate RINTs from regular amended returns:
- Filing and Processing
  - Transaction Codes and Blocking Series
  - Interest Computation Dates
  - RINT/IRNT Verification
  - Multiple RINT/IRNT Claims
  - RINT/IRNT with CAT-A Criteria
  - Disallowance
  - Reassessment
  - Net 1256 Contract Loss Carryback

21.5.9.5.17.1  
(04-01-2020)

**Carryback Claim  
Processing and Filing  
Requirements**

- (1) The loss year return must be posted to Master File. See IRM 21.5.9.4.2, *Identifying processable and Unprocessable Carryback Applications/Claims*.
- (2) RINTs have a 45-day interest-free period. See IRM 21.5.9.5.7, *Carryback Interest*, for additional information.

21.5.9.5.17.2  
(04-01-2020)

**Carryback Claim  
Transaction Codes,  
Blocking Series and  
Correspondence  
Imaging Inventory (CII)  
Requirements**

- (1) RINTs can be identified by unique transaction codes and blocking series.
- (2) Unique adjustment transaction codes identify RINTs, which generate interest from the interest computation date. They are:
- 299 - Abatement of Prior Tax Assessment
  - 298 - Additional Tax Assessment
- (3) Unique adjustment blocking series identify RINTs. They are:
- 91 - without the original return
  - 92 - with original gain year return
  - 92 - a manual transfer from the retention register
  - 95 - reassessment on statute imminent or expired year

- (4) Save the PDF of any letter generated on a carryback case. Attach to the CII case with the Attach File button instead of capturing the “request completed” screen. See IRM 21.5.1.5.1, *CII General Guidelines*, for additional CII requirements.

21.5.9.5.17.3  
(07-29-2024)

**Carryback Claim Interest Computation Dates**

- (1) RINT adjustments require an input of the interest computation date (INTCMP-DT) and carryback received date (TCB-DT):

- INTCMP-DT provides the date overpayment interest on the overpayment begins and the credit availability date for purposes of computing underpayment interest.

**Note:** The INTCMP-DT is generally the loss year return due date (determined **without** regard to any extension of time for filing, and **without** regard to the extension for COVID-19).

**Exception:** Use the current date for the INTCMP-DT if the claim is received in processable form **prior** to the loss year return due date and the Net Operating Loss (NOL) adjustment is **input prior** to the loss year return due date.

- TCB-DT determines the expiration date of the 45-day interest-free period.

**Note:** The TCB-DT is generally the TENT received date, TENT processable date, loss year return due date (determined **without** regard to any extension of time for filing, and **without** regard to the extension for COVID-19), or loss year return processable date (whichever is later).

**Exception:** Use loss year return due date for the TCB-DT (determined **without** regard to any extension of time for filing, and **without** regard to the extension for COVID-19), if the claim is received in processable form **prior** to the loss year return due date and the Net Operating Loss (NOL) adjustment is **input prior** to the loss year return due date.

**Reminder:** You **must** manually compute overpayment interest if a systemic refund is being issued and the **loss year return was not timely filed or additional refundable credits are allowed**. See IRM 21.5.9.5.7, *Carryback Interest*, for more information.

**Caution:** Do **not** include an AMD-CLMS-DT on these adjustments.

- (2) When the 45-day interest-free period is missed, the INTCMP-DT is used by the computer when determining the start date of overpayment interest on the overpayment.

**Reminder:** The due date for a timely filed Form 1040-NR that includes wages that are **not** subject to U.S. withholding is five and a half months after the end of the taxable year. For calendar year Form 1040-NR filers the date would be June 15.

**Note:** In the table below, the loss year return due date is determined **without** regard to any extension of time of filing, and **without** regard to the extension for COVID-19.

If a Processable Amended Return/Claim (RINT) is Received	And	Then input
<p><b>Prior</b> to the loss year return due date</p>	<p>The NOL adjustment is <b>input prior</b> to the loss year return due date</p>	<ul style="list-style-type: none"> <li>• TCB-DT - Use the loss year return due date</li> <li>• INTCMP-DT - Use the current date</li> <li>• Override code "C"</li> </ul> <p><b>Caution:</b> For underpayment interest purposes, the NOL credit is not available until the loss year return due date.</p> <p><b>Note:</b> Overpayment interest is not paid in this situation. The 45-day count for issuing the interest-free refund does not begin until the loss year return due date .</p>
<p><b>Prior</b> to the loss year return due date</p>	<p>The NOL adjustment is <b>input on or after</b> the loss year return due date</p>	<ul style="list-style-type: none"> <li>• TCB-DT - Use the loss year return due date</li> <li>• INTCMP-DT - Use the loss year return due date</li> <li>• No override code</li> </ul> <p><b>Note:</b> The 45-day count for issuing an interest-free refund in this situation does not begin until the loss year return due date or processable date (the TCB date). If the refund is not issued within 45 days of the later of these dates, overpayment interest is paid beginning on the loss year due date .</p>

If a Processable Amended Return/Claim (RINT) is Received	And	Then input
<p><b>On or after</b> the loss year return due date</p>	<p>The loss year return was <b>timely filed</b> (received on or before its due date, extended due date, or the due date provided by the COVID-19 emergency declaration).</p> <p><b>Example:</b> Taxpayer files extension until 10/15/2019 for his 201812 Form 1120. The processable loss year return for 2018 is received 08/20/2019. The IRS receives a RINT from the taxpayer on 11/14/2019.</p> <p><b>Example:</b> The COVID-19 emergency declaration extended the due date for the taxpayer's 201912 Form 1040 to 07/15/2020. The processable loss year return for 2019 is received on 06/01/2020. The IRS receives a RINT/TENT from the taxpayer on 06/29/2020.</p>	<ul style="list-style-type: none"> <li>• TCB-DT - Use the RINT received date, RINT processable date or loss year return processable date (whichever is later)</li> <li>• INTCMP-DT - Use the loss year return due date</li> <li>• No override code</li> </ul> <p><b>Example:</b> In the first example, since the IRS received a processable RINT on 11/14/2019, the IRS has 45 days from 11/14/2019 (the TCB-DT) to issue a refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on the loss year due date (04/15/2019 - the INTCMP-DT) because the loss year return was timely filed.</p> <p><b>Example:</b> In the second example, since the IRS received a processable RINT on 6/29/2020, we have 45 days from 6/29/2020 (the TCB-DT) to issue a manual refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on the loss year return due date (4/15/2020 - the INTCMP-DT) because the loss year return was timely filed on or before the due date provided by COVID-19 emergency declaration (7/15/2020).</p>

If a Processable Amended Return/Claim (RINT) is Received	And	Then input
<p><b>On or after</b> the loss year return due date</p>	<p>The loss year return was <b>not timely filed</b> (received after its due date, extended due date, or the due date provided by the COVID-19 emergency declaration).</p> <p><b>Example:</b> Taxpayer filed an extension for his/her 201812 Form 1120 to 10/15/2019. The processable loss year return for 2018 is received 10/29/2019. The loss year return is late filed. The IRS receives a RINT from the taxpayer on 11/14/2019.</p> <p><b>Example:</b> The COVID-19 emergency declaration extended the due date for the taxpayer's 201912 Form 1040 to 07/15/2020. The processable return for 2019 is received on 08/10/2020. The return is late filed. The IRS receives a RINT/TENT from the taxpayer on 08/31/2020.</p>	<ul style="list-style-type: none"> <li>• TCB-DT - Use the RINT received date, RINT processable date, delinquent loss year return received date, or loss year return processable date (whichever is later)</li> <li>• INTCMP-DT - Use the loss year return due date</li> </ul> <p><b>Note:</b> The delinquent return received date is <b>not</b> input in the INTCMP-DT field because the carryback is available on the normal loss year return due date</p> <ul style="list-style-type: none"> <li>• No override code</li> </ul> <p><b>Reminder:</b> If the adjustment results in an overpayment, use TC 770 to manually address/compute overpayment interest. Use TC 770 .00 if no interest is due.</p> <p>For overpayment interest purposes, the delinquent loss year return received date (or loss year return processable date, whichever is later) is considered when determining the overpayment interest period. See IRM 20.2.9.2, <i>Determining the Overpayment Interest Period</i>, for the appropriate interest start date.</p> <p><b>Exception:</b> If issuing a manual refund, it is not necessary to input a TC 770 for zero (.00) with the adjustment. The interest will be manually computed and input as a TC 770 with the manual refund whether for zero or for a money amount.</p> <p><b>Example:</b> In the first example, since the IRS received a processable RINT on 11/14/2019, we have 45 days from 11/14/2019 (the TCB date) to issue a refund without interest. If the refund is not issued within that 45-day time-frame, interest is paid beginning on 10/29/2019 (the received date of the late-filed loss year return). You must manually compute the interest and input with TC 770. Otherwise, Master File will calculate the interest from the loss year return due date (the INTCMP-DT) generating more interest than the taxpayer is entitled to.</p>

If a Processable Amended Return/Claim (RINT) is Received	And	Then input
		<p><b>Example:</b> In the second example, since the IRS received a processable RINT on 8/31/2020, we have 45 days from 8/31/2020 (the TCB date) to issue a refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on 8/10/2020 (the received date of the late filed loss year return). Interest must be manually computed and input with TC 770.00. Otherwise, Master file will calculate the interest from the normal return due date (the INTCMP-DT of 4/15/2020), generating more interest than the taxpayer is entitled to.</p>

**Note:** The loss and gain year returns must be posted before a RINT can be processed.

- (3) See IRM 21.5.9.5.7, *Carryback Interest*, IRM 20.2.9.2, *Determining the Overpayment Interest Period*, and IRM 20.2.4.8.1, *Systemic Refunds*, for additional information and exceptions.

21.5.9.5.17.4  
(04-01-2020)  
**Carryback Claim with Examination Criteria**

- (1) Classify RINTs with CAT-A Examination criteria on the loss/gain year before allowing the claim. See *IRM Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General*.

**Note: IMF/IMF International:** To refer cases to CAT-A, select NOL Carryback/ Carryforward as primary referral reason from the drop down listing on CII. Select the appropriate secondary referral reason specific to the case and include remarks if necessary.

**BMF/BMF International:** To refer cases to CAT-A, select Carryback/ Carryforward RINT as primary referral reason from the drop down listing on CII. Select the appropriate secondary referral reason specific to the case and include remarks if necessary. For BMF cases involving Research Credits see IRM 21.5.9.5.6.2, *Combination Carrybacks (Claims) Involving Research Credits*.

**Note:** BMF ONLY - IRC 847 Insurance Companies: Suspend using CII if any of the following are indicated, “Special Estimated Tax Payments (SETP)”, “Special Estimated Tax Deposits”, “Special Estimated Tax Account”, “Special Loss

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**Reminder:** The Tax Cuts and Jobs Act of 2017, Section 13516, repealed the special estimated tax payment for insurance companies. The information in the chart above is applicable to tax years beginning prior to January 1, 2018.

- (2) Always review the RINT for freeze codes to be addressed as per IRM 21.5.9.4.6, *Carryback Freeze Conditions*. Exercise caution when working with a Department of Justice (DOJ) case. Do not process the RINT prior to reviewing the account for the following indicators:
- If an account with any module in status 72 and/or with an unreversed TC 520 with a closing code (cc) of 70, 75, 80 or 82 identified, follow the guidance in IRM 21.5.6.4.46, *-W Freeze*.
  - If an account with any module that includes a TC 550 and definer 04 (judgment) identified, follow the guidance in IRM 21.5.6.4.44 (3), *-V Freeze*.
- Caution:** Actions on cases where the DOJ is litigating or has secured a judgment, without DOJ concurrence/approval, may have negative serious impact on the ongoing litigation or secured judgment.
- (3) Forward all claims that meet CAT-A criteria to Examination, using local routing procedures **before** adjusting.
- (4) Accounts Management must retain control of these cases and monitor for timely return from Examination. See IRM 21.5.3.4.7, *Processing Claims and Amended Returns With Examination Involvement*. CII cases are suspended to CAT-A, and the IDRS control is then updated per CII to Examination.

**Note:** See IRM 21.7.7.6.16.11, *Form 990-T Employee Plan (EP) Claim Procedures*, for carryback processing of Form 990-T.

21.5.9.5.17.4.1  
(04-01-2020)

**Carryback Claim with an Open IMF/BMF Underreporter Issue (TC 922 or TC 925)**

- (1) If there is an **open** IMF (Individual Master File) or BMF Underreporter (AUR or BUR) case on any of the years (loss or gain years), contact the AUR or BUR Coordinator at the campus location (as identified by the first two digits of the TC 922 or TC 925) prior to processing the RINT. A listing of AUR and BUR Coordinators is located on SERP. See *AUR Coordinators Contact Information*, for IMF (Individual Master File) or *BUR Program*, for BMF (Business Master File).
- a. Prior to contacting the AUR or BUR Coordinator ensure a complete and processable carry back claim has been received. If incomplete, reject the application back to the taxpayer and request additional necessary information per IRM 21.5.9.4.2, *Identifying processable and Unprocessable Carryback Applications/Claims*. If complete follow directions below.
  - b. Advise the AUR or BUR Coordinator you have a restricted interest carry-back claim that involves one of the tax years with an open Underreporter issue.
  - c. The AUR or BUR Coordinator will review the case and determine if the case (or a response) is needed.

If	Then
The Underreporter issue can be resolved	<ol style="list-style-type: none"> <li>1. The AUR or BUR Coordinator will advise the Carryback Team to monitor IDRS for the posting of the Underreporter closing actions.</li> <li>2. Once the Underreporter closing actions have posted, continue processing the claim.</li> </ol>
The Underreporter issue <b>CANNOT</b> be resolved	<p><b>BMF (BUR):</b></p> <ul style="list-style-type: none"> <li>• The BMF Underreporter will notify the taxpayer that the claim cannot be processed because of outstanding BMF Underreporter issue.</li> <li>• Close the carryback control and notate CII.</li> </ul> <p><b>IMF (AUR):</b></p> <ul style="list-style-type: none"> <li>• The Carryback Team will notify the taxpayer that the claim cannot be processed because of the outstanding AUR issue.</li> </ul> <p><b>Note:</b> Include the relevant toll-free contact number when corresponding with the taxpayer.</p> <ul style="list-style-type: none"> <li>• Close the Carryback control and notate CII.</li> </ul>

**Caution:** A TC 922 (or TC 925 for BMF), by itself, does not mean there is an open AUR (BUR for BMF) case. The last Process Code associated with the TC 922 (TC 925 for BUR) shows the current status of the case. See IRM 21.3.1.6.52, *Status of Individual Master File (IMF) Underreporter Cases*, to determine if there is an open AUR case or IRM 21.3.1.7.49, *Letter 2030/2531 - Business Master File (BMF) Underreporter Program - General Information*, to determine if there is an open BUR case.

**Note:** A TC 925 may or may not be included on the account to assist with the identification of a BMF-AUR case. Therefore, until further notice, any Carryback cases that have a multiple control with IDRS number 048xxxxxxx are not to be processed until contact is made with the *BUR Program* as listed on the SERP Who/Where Tab. These cases will be one of the following IDRS Categories:

- BUR0
- BUR1
- BURS
- BURC

21.5.9.5.17.5  
(07-29-2024)  
**Carryback Claim  
Disallowance**

- (1) Fully or partially disallowed carryback claims require detailed explanations. See IRM 21.5.3.4.6, *No Consideration and Disallowance of Claims and Amended Returns*, for specific requirements. The letter must include appeal rights and the right to file suit, as well as indication of the loss and gain year.
- (2) See IRM 21.5.3.4.6.2, *Appeals and Responses to Letters 105C/106C*, for specific instructions in handling responses to fully and partially disallowed carryback claims.
- (3) Use blocking series 00/blocking series 15 for BMF and 91/blocking series 92 for IMF (Individual Master File) partially disallowed claims. Send Letter 106C.
- (4) Use blocking series 98/blocking series 99 for IMF and BMF (Business Master File) fully disallowed claims. Send Letter 105C.
- (5) The refund statute of limitations on a carryback is determined by the loss year. See IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, and IRM 25.6.1.10.3.4.2, *Business Credit Carryback*.

21.5.9.5.17.6  
(04-01-2020)  
**Reassessing Carryback  
Claims**

- (1) RINTs, unlike TENTs, cannot be processed prior to the loss year return posting to Master File. Therefore, the reassessment procedures used for TENTs (see IRM 21.5.9.5.16.5, *Reassessing Carryback Applications*), when the loss year return posts with different figures than the return copies provided by the taxpayer, or because the loss year return was not filed, do not apply to RINTs. See the paragraphs below for situations where the RINT may need to be addressed after processing.
- (2) If the IRS makes an error in processing a RINT, such as a TC 299 input for an incorrect amount (claim is for \$500, but input is for \$5,000), or the adjustment is made to an incorrect tax period (adjustment is input to 201312 instead of 201412), and a refund is issued, erroneous refund procedures must be followed. See IRM 21.4.5, *Erroneous Refunds*.
- (3) If the IRS makes an error in processing a RINT, such as a TC 299 input for an incorrect amount (claim is for \$500, but input is for \$5,000) or the adjustment is made to an incorrect tax period (adjustment is input to 201312 instead of 201412), but no refund is issued and the statute for assessment is open [based on the loss year Assessment Statute Date (ASED)], this is considered a “clerical error” and the IRS may simply reverse the adjustment without using deficiency procedures. Whether a notice was issued when the incorrect adjustment was made is not a factor. If a notice was issued based on the incorrect adjustment, send the taxpayer a letter when the correction is made, apologizing for the error, and advise the taxpayer that a corrected notice will be issued.
- (4) If the taxpayer files a corrected Form 1040-X or Form 1120-X, input TC 298 to assess tax previously allowed. Enter the loss year return due date as the interest computation date (INTCMP-DT) for TC 298 unless the statute is imminent/expired. If the statute is imminent/expired, see IRM 20.2.9.4, *Carryback Recaptures*, for interest computation rules and use of blocking series 95.

**Caution:** Master File cannot accurately compute underpayment interest on the recovery of a prior TC 299 adjustment carrying an INTCMP-DT dated earlier than the loss year return due date. While the TC 298 input to Master File must carry that same INTCMP-DT, underpayment interest must be manually computed. Anytime underpayment interest is manually

computed, it is necessary to recompute the entire tax module to ensure an accurate computation is made. See IRM 20.2.5.6.2, *Manual Computations*.

21.5.9.5.18  
(10-01-2020)  
**Business (BMF)  
Carrybacks Filed by  
Consolidated  
Corporations**

- (1) In general, the status of the corporation(s) i.e., status as a standalone corporation, a subsidiary member of a consolidated group, or an agent for the consolidated group (which could be either the common parent or a designee, a substitute agent for the group) for the carryback year determines the corporation which is responsible for filing the Form 1139.
- (2) Specifically, with regard to a consolidated group filing an application for a tentative carryback adjustment, the appropriate agent to act for the consolidated carryback year is responsible for filing the tentative carryback application for any consolidated net operating loss carryback, any consolidated capital loss carryback, or any carryback of an unused consolidated business credit, per IRC 6411 and Treas. Reg. 1.1502-78.
- (3) If a net operating loss, capital loss, or business credit carryback arises in a consolidated return year, and the loss or credit is being carried back to:
  - a. A consolidated return year of the same consolidated group - then the common parent of the group for the carryback year is responsible for filing the application (Form 1139) for a tentative carryback refund or
  - b. A separate return year (i.e., not a consolidated return year) of the corporation to which such loss is attributable - then the corporation to which such loss is attributable is responsible for filing the application (Form 1139) with regard to that corporation's apportioned part of the loss.
- (4) For a consolidated return year of another consolidated group for the carryback year (i.e., not the consolidated group that generated the loss carryback), then the common parent (or agent) of the consolidated group for the carryback year is responsible for filing the Form 1139. However, the amount of such refund, via the carryback, may be limited under Treas. Reg. 1.1502-21(c). Further, such carryback may be waived by the consolidated group that generated the loss under Treas. Reg. 1.1502-21(b)(3)(ii)(B).
- (5) When the NOL arises in a separate return year (i.e., not a consolidated return year) and the loss is being carried back to a consolidated return year, the common parent of the group for the carryback year is responsible for filing the Form 1139.
- (6) When a corporation files a final short-period return because it becomes a member of an affiliated group, the due date of the final short-period return is the **earlier** of the due date of the consolidated return of the parent, or the normal due date of the corporation's return had it not be acquired.

If	And	Then
The subsidiary is required to file a short year return because it became a member of a consolidated group before the end of its taxable year.	The tax period ending date for the consolidated return of the parent is <b>before</b> the normal tax period ending date for the taxpayer filing the short period return (if its year had not ended early).	The short period return is due on the due date of the consolidated parent return.
The subsidiary is required to file a short period return because it became a member of a consolidated group before the end of its taxable year.	The tax period ending date for the consolidated return of the parent is <b>on or after</b> the normal tax period ending date for the return of the taxpayer filing the short period return (if its year had not ended early).	The short period return is due on the normal due date (if the taxable year had covered its usual 12-month period).

Items of income, gain, deduction, loss, and credit for any portion of the year the corporation **was not** a member of the affiliated group are reported on the final short-year return. Conversely, items of income, gain, deduction, loss, and credit for any portion of the year the corporation **was** a member of the affiliated group are reported on the consolidated return of the parent.

These rules, as they pertain to carryback adjustments, are illustrated in the example statements below and are all derived from the following scenario.

**Scenario:** Company “X”, a standalone C corporation, is a fiscal year filer that begins its taxable year April 1 and ends it on March 31. Company “P,” another C corporation whose taxable year begins January 1 and ends December 31 (calendar year filer), acquires “X” on June 30, 2019. “P” and “X” elect to file a consolidated return together for taxable years following the acquisition.

**Example:** The first example is a short taxable year for “X” that began on April 1, 2019 and ended on June 30, 2019. For this period, “X” must file its final return as a standalone corporation. Since the return due date of April 15, 2020 for the consolidated group whose taxable year ends December 31, 2019 is *after* the normal due date of October 15, 2019 for corporation “X” whose taxable year ended March 31, 2019, “X’s” short period return is due October 15, 2019. Any NOL arising in this short period can be carried back to an earlier year if “X” is qualified to do so. The INTCMP-DT for an NOL arising from “X’s” short taxable year ending June 30, 2019 is its return due date of October 15, 2019 (the 15th day of the fourth month after the end of the tax year). The TCB-DT is the **later** of the:

- a) Due date of the short loss year return

- b) Date the short loss year return was received if delinquent
- c) Date the short loss year return is filed in processable form
- d) Carryback application or claim received date or
- e) Carryback application or claim processable date.

**Example:** The second example includes the same facts as example 1 above, except the taxable year for corporation “X” begins February 1 and ends January 1. Since the return due date of April 15, 2020 for the consolidated group whose taxable year ends December 31, 2019 is before the normal due date of May 15, 2020 for corporation “X” whose taxable year ended January 31, 2020, “X’s” short period return is due April 15, 2020. Any NOL arising in this short period can be carried back to an earlier year if “X” is qualified to do so. The INTCMP-DT for an NOL arising from “X’s” short taxable year ending June 30, 2019 is April 15, 2020 (the 15th day of the fourth month after the end of the tax year of the parent corporation “P”). The TCB-DT is the **later** of the:

- a) Due date of the short loss year return
- b) Date the short loss year return was received if delinquent
- c) Date the short loss year return is filed in processable form
- d) Carryback application or claim received date or
- e) Carryback application or claim processable date.

**Example:** In this third example a short taxable year begins on July 1, 2019 and ends on December 31, 2019, and the facts are the same as example 1 above. “X’s” income and deductions for this period will be reported, along with “P’s” income and deductions for the 12 months of 2019, on the first consolidated return. For “X”, this short period counts the same as one full taxable year. The INTCMP-DT for an NOL arising from the consolidated return is its return due date of April 15, 2019 (15th day of the fourth month after the end of the tax year). The TCB-DT is the **later** of the:

- a) Due date of the short loss year return
- b) Date the short loss year return was received if delinquent
- c) Date the short loss year return is filed in processable form
- d) Carryback application or claim received date or
- e) Carryback application or claim processable date.

**Caution:** When the 45-day interest-free period has been missed (i.e., refund not dated within 45 days of the TCB-DT), overpayment interest may be computed from other than the INTCMP-DTs in the examples above. See IRM 20.2.9.2, *Determining the Overpayment Interest Period*, which describes the date interest on the overpayment will begin.

**Note:** See IRM 21.5.9.5.16.3, *Carryback Application Interest Computation Dates*, or IRM 21.5.9.5.17.3, *Carryback Claim Interest Computation Dates*, whichever applies, for the appropriate INTCMP-DT and TCB-DT to use when the adjustment resulting from a carryback application/claim is input prior to the due date of the consolidated return.

21.5.9.5.18.1  
(12-10-2019)

**Corporation Entitled to Receive Refunds**

- (1) When a corporation files a short period return because it becomes a member of an affiliated group, the corporation filing the short period return acquires the due date of the consolidated return of the parent corporation.

**Example:** Corporation “X” becomes a member of an affiliated group. Corporation “X” must file a short period return as a standalone corporation for the shortened taxable year that begins on April 1 and ends on June 30, 2019. Any Net operating loss arising in this short period can be carried back to an earlier year if corporation “X” is qualified to do so. The INTCMP-DT for an NOL arising from the short taxable year ending June 30, 2019 is its return due date of October 15, 2019 (15th day of the fourth month after the end of the tax year). The TCB-DT is the **later** of the:

- 1) Due date of the short loss year return,
- 2) Date the short loss year return was received if delinquent,
- 3) Date the short loss year return is filed in processable form,
- 4) Carryback application or claim received date, or
- 5) Carryback application or claim processable date

**Caution:** When the 45-day interest-free period has been missed (i.e., refund not dated within 45 days of the TCB-DT), overpayment interest may be computed from other than the INTCMP-DT. See IRM 20.2.9.2, *Determining the Overpayment Interest Period*, which describes the date interest on the overpayment will begin.

**Example:** Corporation “X” becomes a member of an affiliated group but in this instance the short taxable year begins on July 1, 2019 and ends on December 31, 2019. Corporation “X” has income and deductions for this period that will be reported, along with the parent corporation’s income and deductions for the full twelve months of 2019. The INTCMP-DT for an NOL arising from the consolidated return is its return due date of April 15, 2019 (15th date of the fourth month after the end of the tax year). The TCB-DT is the **later** of the:

- 1) Due date of the consolidated loss year return,
- 2) Date the consolidated loss year return was received if delinquent,
- 3) Date the consolidated loss year return is filed in processable form,
- 4) Carryback application or claim received date, or
- 5) Carryback application or claim processable date

**Caution:** When the 45-day interest-free period has been missed (i.e., refund not dated within 45 days of the TCB-DT), overpayment interest may be computed from other than the INTCMP-DT. See IRM 20.2.9.2, *Determining the Overpayment Interest Period*, which describes the date interest on the overpayment will begin.

**Note:** See IRM 21.5.9.5.16.3, *Carryback Application Interest Computation Dates*, or IRM 21.5.9.5.17.3, *Carryback Claim Interest Computation Dates*, whichever applies, for the appropriate INTCMP-DT and TCB-DT to use when the adjustment resulting from a carryback claim/application is input prior to the due date of the consolidated return.

- (2) In general, the corporation’s status for the tax year of the overpayment determines the corporation which is entitled to receive the refund, i.e., its status as

a standalone corporation, a subsidiary member of a consolidated group, or an agent for the consolidated group (which could be either the common parent or another entity as provided in the appropriate regulations).

- (3) The payment of the refund resulting from an application for a tentative carryback adjustment will be made to, and in the name of, the appropriate entity to act for the carryback year.
- (4) If the net operating loss, capital loss or business credit to be carried back arises in a consolidated return year, the refund resulting from a tentative carryback adjustment will be made directly to, and in the name of:
  - a. The common parent for the carryback year, if the carryback year was a consolidated return year for the same consolidated group that generated the loss or credit.
  - b. The corporation to which the loss or credit is attributable, in a case where that corporation filed a separate corporate tax return for the carryback year.
  - c. The common parent for the carryback year, in a case where the corporation to which the loss or credit is attributable was a member of another consolidated group in the carryback years. (i.e., not the same consolidated group that generated the carryback) and the loss is actually deducted from consolidated taxable income in the carryback year or the credit is actually allowed in computing the consolidated tax liability in the carryback year.
  - d. The common parent of the consolidated group (or agent) for the carryback year, where the loss or credit arises in a separate return year (i.e., not a consolidated return year) and is being carried back to a consolidated return year.
- (5) Refer to IRM 21.4.4, *Manual Refunds*, when further clarification is required. Verify the receiving entity to receive the refund, document the actions taken to obtain such clarifying information, and if the information was not provided, contact the taxpayer to obtain name(s) and EIN(s).
- (6) For further rules with regard to consolidated groups that include insolvent financial institutions, refer to Treas. Reg. 301.6402-7.

21.5.9.5.19  
(10-01-2019)  
**Business (BMF)  
Carrybacks Filed by  
Personal Service  
Corporation (PSC)**

- (1) A Personal Service Corporation (PSC) with an IRC 444 election, allowing it to have a tax year other than the required calendar year, is not allowed a Net Operating Loss (NOL) carryback. A PSC that does not have Section 444 elections in effect may carry back their NOL, but not to a taxable year for which a Section 444 election is in effect.

**Note:** Although IRC 280H(e) states that a PSC that has a Section 444 election in effect cannot carry back an NOL, they can carry back unused general business credits and/or capital losses. For additional information see (4) below.

- (2) IRC 444 PSC filers are identified on ENMOD with TC 054/TC 055, Filing Requirement Code 1120 -19. Contact the taxpayer if necessary, to confirm the corporation is not a PSC Section 444 filer, before allowing adjustments.
- (3) If taxpayer is not a PSC Section 444 filer:

- a. Document the conversation with the name and title of the corporate officer providing the information.
  - b. Route the information and Form 3465 to Entity, requesting a TC 052 be input to CC ENMOD to change filing requirements.
  - c. Delay the TC 295 or TC 299 one cycle.
- (4) A PSC may carry back a Net Capital Loss (NCL) or unused general business credits. However, the Section 444 election must first be temporarily reversed prior to inputting the carryback adjustment. Take the following actions if a PSC with a valid request for an NCL or carryback of unused business credits is received:
- a. Prepare Form 3465 for Entity to change the filing requirements until the adjustment posts and then reestablish the Section 444 Election.
  - b. Delay the TC 295 or TC 299 one cycle.

**Caution:** Only those PSCs eligible for a carryback of an NCL or unused general business credit are to be forwarded to Entity for the temporary reversal of the Section 444 election. Accounts Management is responsible for making this determination.

21.5.9.5.20  
(11-12-2020)

**Carryback Applications and Claims with Taxpayer Identification Number (TIN) Issues**

- (1) Carryback applications and claims may include issues involving the following:
- Identity Theft (IDT)
  - Scrambled Social Security Number (SSN)
  - Mixed Entity
  - Return Integrity Verification Operations (RIVO) Involvement
  - BMF RICS filters
  - IMF RICS filters
  - Taxpayer Protection Program (TPP)
- (2) Review IRM 21.5.9.5.20.1, IRM 21.5.9.5.20.2, IRM 21.5.9.5.20.3, or IRM 21.5.9.5.20.4, for guidance for carryback applications and claims involving the issues identified above.

21.5.9.5.20.1  
(10-01-2024)

**Processing Carryback Applications and Claims (TENTs and RINTs) with Scrambled SSN (Social Security Number) or Mixed Entity Issues**

- (1) If a **tentative application** (TENT) is received with Scrambled SSN or Mixed Entity issues on the **loss** year:
- Verify the application as per the instructions in IRM 21.5.9.4 *Carryback Verification*.
  - Process the carryback on the gain year(s).
  - If there is no open control on the loss year and the account has not been corrected, call or write the taxpayer for a complete signed copy of the loss year return, per the procedures in IRM 21.5.9.5.16.5 *Reassessing Carryback Applications*.

**Caution:** If a manual refund is issued, make every effort to ensure that the refund is being issued to the correct taxpayer at the correct address. This also applies to any correspondence requesting additional information for processing the application.

**Reminder:** For additional information on Scrambled SSN procedures see IRM 21.6.2.4.3, *Scrambled SSN Case Procedures*.

- (2) If a **carryback claim** (RINT) was processed in error on a Scrambled SSN or Mixed Entity issue, see IRM 21.5.9.5.17.6, *Reassessing Carryback Claims*, for processing instructions.
- (3) If a carryback application or claim involves a scrambled SSN or mixed entity issue on the gain year(s), resolve the issue prior to processing the carryback request. See IRM 21.6.2.4.3, *Scrambled SSN Case Procedures*, IRM 21.6.2.4.2, *Mixed Entity Procedures*, IRM 21.6.2.2, *What Are TIN-Related Problems?* or IRM 21.7.9.4.1.1, *Transcript (TRNS) 193 Involving Reprocessing Returns*, for additional information.

21.5.9.5.20.2

(10-01-2024)

**Processing Carryback Applications and Claims (TENTs and RINTs) with Identify Theft (IDT) or Return Integrity Verification Operations (RIVO) Involvement**

- (1) Complete a review of the account when processing carryback applications and claims to identify any issues involving potential identity theft. Refer to the following IRMs for Information about Identity Theft (IDT) or Return Integrity Verification Operations (RIVO) involvement indicators:
  - a. IRM 25.23.9.6, *Business Master File (BMF) Identify Theft Tracking Indicators*.
  - b. IRM 25.23.2.4.1, *Tracking and Reporting Identity Theft Cases - Identity Theft Indicators*
  - c. IRM 3.14.1.6.9.5, *RIVO (Return Integrity and Verification Operation)*
- (2) If a **tentative application** (TENT/ITCB) is received with an Identity Theft (IDT) or RIVO issue, follow the guidance in the chart below.

If	And	Then
<p>IDT or RIVO issues are on the <b>loss</b> year</p>	<p>the case involves an <b>IMF</b> TENT/ITCB issue</p>	<ul style="list-style-type: none"> <li>• Verify the application as per the instructions in IRM 21.5.9.4 <i>Carryback Verification</i>.</li> <li>• Process the carryback on the gain year(s).</li> <li>• If there is an open control on the loss year and the account has not been corrected, contact the IDT Carryback Liaison at the site with the open IDT control and provide a copy of pages one and two of the loss year. A listing of IMF IDT Carryback Liaisons can be found on SERP under the Who/Where tab at <i>Identity Theft - Carryback Liaisons</i>.</li> <li>• If there is no open control on the loss year and the account has not been corrected, call or write the taxpayer for a complete signed copy of the loss year return, per the procedures in IRM 21.5.9.5.16.5 <i>Re-assessing Carryback Applications</i>.</li> <li>• If there are issues not discussed above, contact the IMF <i>IDT Carryback Liaison</i> at the site with the open IDT control for assistance.</li> </ul> <p><b>Caution:</b> If a manual refund is issued, make every effort to ensure that the refund is being issued to the correct taxpayer at the correct address. This also applies to any correspondence requesting additional information for processing the application.</p> <p><b>Reminder:</b> For additional information on Scrambled SSN procedures, see IRM 21.6.2.4.3, <i>Scrambled SSN Case Procedures</i>, IRM 21.6.2.4.2, <i>Mixed Entity Procedures</i>, or for general procedures for Identify Theft see IRM 25.23.4.6.1, <i>Required Research</i>.</p>

If	And	Then
IDT or RIVO issues are on the <b>loss</b> year	the case involves a <b>BMF</b> TENT/ITCB issue	<ul style="list-style-type: none"> <li>• Verify the application as per the instructions in IRM 21.5.9.4 <i>Carryback Verification</i>.</li> <li>• Process the carryback on the gain year(s).</li> <li>• If there is an <b>open</b> IDT control on the loss year and the account has not been corrected, contact the appropriate BMF ID Theft Liaison located on the <i>BMF ID Theft Liaisons</i> for an update on the account.</li> <li>• If there is <b>no open</b> IDT control on the loss year and the account has not been corrected, call or write the taxpayer for a complete signed copy of the loss year return, per the procedures in IRM 21.5.9.5. 16.5 <i>Reassessing Carryback Applications</i>. Send email to *TS AM BMF IDT mailbox along with Form 14566. Include “TENT/ RINT Expedite” in the subject line. See IRM 25.23.11.6 , <i>Business Master File (BMF) Identity Theft Inquiries</i>.</li> <li>• If there are issues not discussed above, see IRM 25.23.9.8, <i>Business Master File (BMF) ID Theft Referrals</i>, for additional information. <b>Caution:</b> If a manual refund is issued, make every effort to ensure that the refund is being issued to the correct taxpayer at the correct address. This also applies to any correspondence requesting additional information for processing the application.</li> </ul>
IDT or RIVO issues are on the <b>gain</b> year	the case involves an <b>IMF</b> TENT/ITCB issue	Contact the appropriate IMF <i>IDT Carryback Liaison</i> prior to processing the TENT.
IDT or RIVO issues are on the <b>gain</b> year	the case involves a <b>BMF</b> TENT/ITCB issue	<ul style="list-style-type: none"> <li>• If there is an <b>open</b> IDT control, contact the appropriate <i>BMF ID Theft Liaison</i>.</li> <li>• If <b>no open</b> IDT control, follow the procedures in IRM 25.23.11.6, <i>Business Master File (BMF) Identity Theft Inquiries</i>, for case preparation and forwarding to the appropriate BMF Identity Theft Liaison. Send email to *TS AM BMF IDT mailbox along with Form 14566. Include “TENT/ RINT Expedite” in the subject line.</li> </ul>

(3) If a **carryback claim** (RINT/ IRNT) is received with an Identity Theft (IDT) or RIVO issue, follow the guidance in the chart below.

If	And	Then
IDT or RIVO issues	on an IMF RINT/IRNT	Contact one of the IMF <i>IDT Carryback Liaisons</i> prior to processing the carryback claim.
IDT or RIVO issues	on a BMF RINT/IRNT	<ul style="list-style-type: none"> <li>• If there is an open IDT control, contact the appropriate <i>BMF ID Theft Liaison</i>.</li> <li>• If no open control in IDT, follow the procedures in IRM 25.23.11.6, <i>Business Master File (BMF) Identity Theft Inquiries</i>, for case preparation and forwarding to the appropriate BMF Identity Theft Liaison. Send email to * <i>TS AM BMF IDT</i> mailbox along with Form 14566. Include "TENT/RINT Expedite" in the subject line.</li> </ul>

- (4) If a carryback application or claim is resubmitted by a taxpayer stating the IDT issue has been resolved, review the initial CII case to determine if the resubmitted application or claim is processable. If not, request the missing information per IRM 21.5.9.4.3 *Rejecting Unprocessable Carryback Applications/Claims*. Resubmitted applications and claims deemed processable utilize the initial CII case information, provided the initial CII case was processable.

21.5.9.5.20.3  
(07-29-2024)  
**Carryback RINTs and  
TENTs Involving BMF  
RICS Filters Processing**

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*BMF Returns Selected for RICS Review*, for additional information.

- (2) These returns can be identified by the following:

- a. No TC 150 posted
- b. At least one TC 971 AC 711
- c. TC 973 which suspends the return in question

**Note:** A TC 973 may not be present on accounts where Submission Processing deemed the return is unprocessable.

- d. Issuance of Letter 6042C or 5263C

**Note:** Only RICS employees have the authority to determine if the return in question is RICS BMF IDT or not.

- (3) Review the RICS RIVO IDRS control activity to determine if information requested in Letters 6042C or 5263C have been received. The IDRS control will include:
- FXMMDDYYYY for faxed response received
  - CRMMDDYYYY for paper response received
- Note:** The date included in the IDRS control activity is the date the response was received. See IRM 25.25.1.3.1, *Establishing Case*, for additional information.
- (4) If the RICS RIVO IDRS control activity indicates a response has been received but has not been processed, fax a Form 4442, *Inquiry Referral*, to RICS at 844-201-5531. Indicate in Section B this is a request for processing of the response to Letter 6042C or 5263C on a carryback case.
- (5) Carryback Applications - If a review of RICS RIVO IDRS control activity indicates a response has not been received for a carryback application, reject the case. IRM 21.5.9.4.2, *Identifying Processing and Unprocessable Carryback Applications/Claims*, states a carryback tentative application can be processed prior to the posting of the loss year return. However, if either the loss year or gain year includes a tax period with RICS BMF IDT indicators discussed above, **do not** process the carryback tentative application. Reject the case using carryback Letter 216C and include the following paragraphs:

***Our records show Letter (choose 5263C or 6042C, whichever is applicable) dated (enter date the letter was issued per ENMOD +7 calendar days - Example: ENMOD shows Letter 6042C generated on 12042018, the printed letter date you enter here would be 12/11/2018) was issued to you. Before the IRS can process your carryback request you must respond to that letter using the address or fax number provided on that letter to avoid additional delays in the processing of your tax return. For additional information, visit our website at [www.irs.gov/Understanding Your Letter 5263C, 6042C, or 6217C](http://www.irs.gov/Understanding Your Letter 5263C, 6042C, or 6217C). Once your (enter tax period of return(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can resubmit your carryback application to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return. If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.***

**Note:** If any of the indicators in paragraph 2 above post to the account **after** a carryback application (TENT) has been processed and more than 20 weeks have passed since the loss year return was sent for original processing, follow paragraph 10 below.

- (6) Carryback Claims - If a review of RICS RIVO IDRS control activity indicates a response has not been received for a carryback claim, reject the case. Use carryback Letter 4734C and include the following paragraphs:

***Our records show Letter (choose 5263C or 6042C, whichever is applicable) dated (enter date the letter was issued per ENMOD + 7 calendar days - Example: ENMOD shows Letter 6042C generated on 12042018, the printed letter date you enter here would be 12/11/2018) was issued to you. Before the IRS can process your carryback request you must respond to that letter using the address or fax number provided on that letter to avoid additional delays in***

***the processing of your tax return. For additional information, visit our website at [www.irs.gov/Understanding Your Letter 5263C, 6042C, or 6217C](http://www.irs.gov/Understanding Your Letter 5263C, 6042C, or 6217C).***

***Once your (enter tax period of return(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can resubmit your carryback claim to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return.***

- (7) If the taxpayer responded to Letter 5263C or 6042C and the return in question has been determined not to be BMF ID theft, RICS will input a TC 971 AC 712, TC 971 AC 713, or TC 972 AC 711 on the tax period to reverse the TC 971 AC 711 and the return will be processed. Take the following actions:
- a. If a T 971 AC 712 or TC 972 AC 711 posted resulting in a posted TC 150 without any freeze conditions, process the carryback tentative application or claim.
  - b. If a TC 971 AC 713 posted resulting in a posted TC 150 but there is an unreversed TC 570 present on the account, contact Frivolous Return Program (FRP) before proceeding with processing the case. Refer to IRM 25.25.10.19.5 *FRP Point of Contact Information*, to locate the appropriate FRP POC under the FRP Campus Contacts link. See IRM 25.25.10.3, *Referrals to Frivolous Return Program*, for more information.
- (8) If ENMOD does not indicate that either a Letter 5263C or 6042C was issued to the taxpayer but the account has an unreversed TC 971 AC 712 or TC 971 AC 713 posted, send a Form 4442, *Inquiry Referral*, to RICS requesting the letter be reissued. See IRM 25.23.11.6.3, *BMF Returns Selected for RICS Review*, (10) and (11) for additional information.
- a. Reject the carryback tentative application or claim back to the taxpayer with the appropriate carryback letter (Letter 216C for TENT/ITCB or Letter 4734C for RINT/IRNT). Include the following paragraphs:  
For TENT/ITCB Cases:  
***A review of your account indicates there is an issue with processing your tax return. You will receive Letter 6042C requesting information you need to provide to avoid additional delays in processing your Form (enter form number) for tax period(s) (include tax periods with RICS Indicators on account).  
Once your (enter tax period(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can resubmit your request for a carryback to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return. If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.***  
For RINT/IRNT Cases:  
***A review of your account indicates there is an issue with processing your tax return. You will receive Letter 6042C requesting information you need to provide to avoid additional delays in processing your Form (enter form number) for tax period(s) (include tax periods with RICS indicators on account - ex. Dec. 31, 2017).  
Once your tax return(s) have been processed you may resubmit your amended return requesting a carryback to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return.***

- (9) If a carryback claim or application is resubmitted after notifying the taxpayer of the RICS filters issue, includes the response to Letter 6042C or 5263C and there is no indication on the affected account the response has been received or processed by RICS RIVO, fax a Form 4442, *Inquiry Referral*, to RICS at 844-201-5531 with the Letter 6042C or 5263C response attached. Indicate in Section B of the Form 4442 that Letter 6042C or 5263C response was received with a carryback application/claim. Monitor the account, pending actions taken by RICS based on their case determination or a response from the Form 4442 from RICS with guidance for next actions on the carryback case.
- (10) If any of the indicators in paragraph 2 above post to the account **after** a carryback application (TENT) has been processed and 20 weeks or more have passed since the loss year return was sent for original processing, review ENMOD to determine if a Letter 6042C or 5263C was issued to the taxpayer and take the following actions:

If	And	Then
Letter 6042C or 5263C was issued to the taxpayer	A review of RICS RIVO IDRS control activity indicates a response has not been received	<ol style="list-style-type: none"> <li>1. Reassess the tentative refund adjustment following IRM 21.5.9.5.16.5(3), <i>Reassessing Carryback Applications</i>. Explain the change to the taxpayer.</li> <li>2. Issue carryback Letter 216C and include the following paragraphs:  <b><i>Our records show Letter (choose 5263C or 6042C, whichever is applicable) dated (enter date the letter was issued per ENMOD +7 calendar days - Example: ENMOD shows Letter 6042C generated on 12042018, the printed letter date you enter here would be 12/11/2018) was issued to you. You must respond to that letter using the address or fax number provided on that letter to avoid additional delays in the processing of your tax return. For additional information, visit our website at <a href="http://www.irs.gov/UnderstandingYourLetter5263C,6042C,or6217C">www.irs.gov/UnderstandingYourLetter5263C,6042C,or6217C</a>.</i></b>  <b><i>Once your (enter tax period of return(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can resubmit an amended return for (list each affected gain year) to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return. If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.</i></b> </li> </ol>

If	And	Then
<p>ENMOD <b>does not</b> indicate Letter 6042C or 5263C was issued to the taxpayer</p>	<p>The tax period contains an unreversed TC 973, TC 971 AC 711, and/or TC 971 AC 713</p>	<ol style="list-style-type: none"> <li>1. Fax a Form 4442, <i>Inquiry Referral</i>, to RICS at 844-201-5531 requesting the letter be reissued.</li> <li>2. Reassess the tentative refund adjustment following IRM 21.5.9.5.16.5(3), <i>Reassessing Carryback Applications</i>. Explain the change to the taxpayer.</li> <li>3. Issue carryback Letter 216C and include the following paragraphs:  <b><i>A review of your account indicates there is an issue with processing your tax return. You will receive Letter 6042C requesting information you need to provide to avoid additional delays in processing your Form (enter form number) for tax period(s) (include tax periods with RICS Indicators on account). Once your (enter tax period of return(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can resubmit an amended return for (list each affected gain year) to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return. If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.</i></b> </li> </ol>

21.5.9.5.20.4  
(07-29-2024)  
**Carryback Applications  
and Claims Involving  
IMF Taxpayer Protection  
Program (TPP)  
Involvement and Return  
Integrity and  
Compliance Service  
(RICS) Filters  
Processing**

- (1) When processing a carryback application or claim, you must review the account when IMF Return Integrity and Compliance Services (RICS) filters select a return as potential identity theft under the Taxpayer Protection Program (TPP). Review the following IRM guidance for assistance identifying carryback applications or claims with RICS filters:
  - IRM 21.5.1.4.4.1, *Unresolved Taxpayer Protection Program (TPP) Issues for Correspondence and Loose Forms*
  - IRM 25.23.2.3, *Identity Theft Claims - General Guidelines*
  - IRM 25.23.2.4.1, *Tracking and Reporting Identity Theft Cases - Identity Theft Indicators*
  - IRM 25.23.2.4.2, *Tracking IMF Tax-Related Identity Theft Inventory*
  - IRM 25.25.6.3, *Taxpayer Protection Program (TPP) Basic Authentication and Research*
- (2) Accounts with returns selected for TPP/RICS are identified by the posting of a TC 971 AC 12X and the issuance of correspondex Letter 4883C, Letter 5071C, Letter 5447C, Letter 5747C. See IRM 25.25.6.1.7, *Taxpayer Protection Program Overview*, for additional information.
- (3) Review IRM 25.25.6.1.7, *Taxpayer Protection Program Overview*, (2) for specific information utilized to identify returns selected for the TPP/RICS program.

**Note:** Only RICS employees have the authority to determine if the return in question is IMF RICS IDT or not.

- (4) If the taxpayer provided a response to the TPP/RICS correspondence, TPP inputs a TC 972 AC 12X when the issue is resolved. See IRM 25.25.6-6, *Transaction Code TC 972 Action Code AC 121, Action Code AC 124, or Action Code AC 129 Input Screen*, for additional information.
- (5) Follow guidance in IRM 25.25.6.2, *Written/Faxed Responses to Letter 4883C, Letter 5071C, Letter 5447C, Letter 5747C, Letter 6167C, or Letter 5216*, (1-3) when a carryback application or claim is submitted after the taxpayer has been notified of the TPP/RICS issues, includes a response to the TPP/RICS letter, and there is no indication on the affected account the response has been received or processed. Monitor the account, pending actions taken by TPP/RICS based on their case determination.
- (6) If a TPP/RICS letter was issued but there is no record from the taxpayer, reject the RINT or TENT utilizing the appropriate Carryback letter (Letter 216C for TENT/ITCB or Letter 4734C for RINT/IRNT) and include the following paragraph:

***Our records show Letter (4883C, 5447C, 5747C, 5071C, or 6167C whichever is applicable) dated (enter date the letter was issued + seven days) was issued to you. Before the IRS can process your carryback (application or claim, whichever is applicable), you must respond to that letter using the address or fax number provided on that letter to avoid additional delays in the processing of your tax return or you may call 800-830-5084 to authenticate your identity over the phone.***

Include the following paragraph if the taxpayer filed a carryback application (TENT):

**If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.**

**Note:** Review command code (CC) TXMOD/IMFOLT for the TC 971 AC 123 MISC field to determine if and when a Letter 4883C, Letter 5071C, Letter 5447C, or Letter 5216 has been issued. Review CC ENMOD to determine if and when Letter 6167C has been issued. When determining the letter date, enter the date the letter was issued + seven days.

**Example 1:** ENMOD shows Letter 6167C generated on 1/15/2020; the printed letter date you enter here would be 1/22/2020.

**Example 2:** TXMOD/IMFOLT shows a TC 971 AC 123 indicating a 4883C was issued on 1/15/2020; the printed letter date you enter here would be 1/22/2020.

21.5.9.5.21  
(11-03-2015)  
**U.S. Virgin Island  
Carryback/Carryforward  
Applications/Claims**

- (1) A taxpayer who resided or currently resides in the U.S. Virgin Islands may file a RINT or TENT to request the carryback/carryforward of a Net Operating Loss (NOL), Net Capital Loss (NCL), Unused Credits, or a Claim-of-Right adjustment. Verification as per IRM 21.5.9.4, *Carryback Verification*, requires an additional step since the loss or gain years were/are filed in the U.S. Virgin Islands.

**Note:** For additional information on IMF International Adjustments see IRM 21.8.1, *IMF International Adjustments*, and for BMF International Adjustments, see IRM 21.8.2, *BMF International Adjustments*.

21.5.9.5.21.1  
(11-03-2015)  
**Application/Claim  
Received from the U.S.  
Virgin Islands - Loss  
Year filed with the  
U.S./Gain Year Filed with  
the U.S. Virgin Islands**

- (1) Upon receipt of a loss year return filed in the U.S., verify that the RINT/TENT is processable as per IRM 21.5.9.4.2, *Identifying processable and Unprocessable Carryback Applications/Claims*.
- (2) If a determination is made that pertinent supporting information is missing from either the RINT or TENT, with the exception of the filing of the gain year returns since these were/are filed with the U.S. Virgin Islands, reject the carryback/carryforward request as per IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Application/Claims*.

- (3) Once the RINT/TENT has been verified per the guidance in (1) and (2) above, notify the taxpayer via Letter 216C (for TENTs) or 4734C (for RINTs) to explain the IRS is unable to process their request. To accommodate the character limitations for open paragraph(s) in the letters, include the following **two** open paragraphs in the letter:

**Paragraph 1:** *The IRS verified your 20XX (loss year) Federal Income Tax Return, including the carryback information. However, the adjustment on the gain year tax return(s) cannot be processed by the IRS. Since you filed your gain year tax returns(s) with the U.S. Virgin Island Bureau of Internal Revenue, that tax agency must process your carryback request.*

**Paragraph 2:** *A referral will be made to the U.S. Virgin Islands Bureau of Internal Revenue. However, you may also need to prepare and submit an amended return to the U.S. Virgin Islands Bureau of Internal Revenue for processing. Include all documentation supporting the net operating loss with your amended return and send it to:*

U.S. Virgin Islands Bureau of Internal Revenue

Disclosure Officer  
6115 Estate Smith Bay, Suite 255  
St. Thomas, VI 00802

**Note:** Attach a copy of the letter to the CII case.

- (4) Efax the taxpayer's carryback/carryforward request to the U.S. Competent #  
that the carryback/carryforward has been forwarded to the U.S. Territory  
Program Manager for processing.

**Note:** Include the number of days remaining in the 45-day interest free period on  
the fax cover sheet.

21.5.9.5.21.2  
(11-03-2015)

**Application/Claim  
Received from the U.S.  
Virgin Islands - Gain  
Year Filed with the  
U.S./Loss Year Filed with  
the U.S. Virgin Islands**

- (1) The IRS will process the carryback/carryforward RINT/TENT received from the U.S. Virgin Islands when the gain year is posted on IDRS/CFOL. As per IRM 21.5.9.4, *Carryback Verification*, verify the RINT/TENT includes all the required attachments to support the carryback/carryforward RINT/TENT and the gain years have posted to Master File.
- (2) The loss year is filed with the U.S. Virgin Islands Bureau of Internal Revenue and will require contact through Competent Authority to obtain necessary information for verification of the loss year return. Follow the steps included in the *Obtaining Assistance from a U.S. Territory Tax Agency* document. When preparing the Form 8796, *Request for Return Information*, ensure that a return fax number is included on the request.

**Note:** When requesting verification of an election to forgo the carryback period, on Form 8796, Section B, Item 2 check the radio button next to the "other" and notate a request to verify that the election to forgo the carryback period has been timely filed.

**Reminder:** Notate CII that the U.S. Virgin Island Bureau of Internal Revenue has been contacted to request the loss year information.

- (3) Once the loss year information has been received from the U.S. Virgin Island Bureau of Internal Revenue, process the RINT/TENT using normal carryback/carryforward procedures.

**Exhibit 21.5.9-1 (07-29-2024)**

**General Business Credits, Foreign Tax Credit, and Other Non-Refundable Credits - Availability for Carryback/Carryforward**

In general, the carryback period for general business credits is one year, and the carryforward period is 20 years. For a complete listing of general business credits, and additional information, see Form 3800, *General Business Credit*, and *Instructions for Form 3800*. For additional information about specific non-refundable credits see IRM 21.5.9.5.12.7 , *Carryback of Excess Foreign Tax Credit (FTC)*, IRM 21.6.3.4.1, *Non-Refundable Credits Procedures*, (Individual Master File), and IRM 21.7.4.4.8.3, *Information on Specific Non-Refundable Credits*.

The table below lists the availability of non-refundable credits, other than general business credits, for carryback/carryforward. Non-carryback trained employees will reassign the issues worked by the carryback team using *AM Site Specialization Temporary Holding Numbers*.

Other Credits	Carry Back	Carry Forward	Reassign to Carryback Team
Child and Dependent Care Credit Form 2441	No	No	No
Credit for the Elderly or Permanently and Totally Disabled Schedule R	No	No	No
Child Tax Credit	No	No	No
Education Credits Form 8863	No	No	No
Mortgage Interest Form 8396	No	three years	No
Adoption Credit Form 8839	No	five years	No
District of Columbia First-Time Homebuyer Credit (DC Residents Only) Form 8859	No	Unlimited (until used)	No
Residential Clean Energy Credit Form 5695 Part I	No	Unlimited (until used)	No
FOREIGN TAX CREDIT - Individuals, Estates, and Trusts Form 1116 Carryback of excess taxes arising in tax years beginning prior to October 23, 2004; carryover of excess taxes carried to tax years ending prior to October 23, 2004 <b>Note:</b> Excess Foreign Tax Credits can only be carried to a year in which there was foreign income subject to U.S. tax.	one year	10 years	Yes

**Exhibit 21.5.9-1 (Cont. 1) (07-29-2024)****General Business Credits, Foreign Tax Credit, and Other Non-Refundable Credits - Availability for Carryback/Carryforward**

Other Credits	Carry Back	Carry Forward	Reassign to Carryback Team
FOREIGN TAX CREDIT - Individuals, Estates, and Trusts Form 1116 Carryback of excess taxes arising in tax years beginning after October 22, 2004; carryover of excess taxes carried to tax years ending after October 22, 2004 <b>Note:</b> Excess Foreign Tax Credits can only be carried to a year in which there was foreign income subject to U.S. tax.	one year	10 years	Yes
FOREIGN TAX CREDIT - Corporations Form 1118 Carryback of excess taxes arising in tax years beginning prior to October 23, 2004; carryover of excess taxes carried to tax years ending prior to October 23, 2004 <b>Note:</b> Excess Foreign Tax Credits can only be carried to a year in which there was foreign income subject to U.S. tax.	one year	10 years	Yes
FOREIGN TAX CREDIT - Corporations Form 1118 Carryback of excess taxes arising in tax years beginning after October 22, 2004; carryover of excess taxes carried to tax years ending after October 22, 2004 <b>Note:</b> Excess Foreign Tax Credits can only be carried to a year in which there was foreign income subject to U.S. tax. Taxpayers may not carryover or carryback excess foreign taxes that they are deemed to pay or accrue under IRC 960(d).	one year	10 years	Yes
IRC 6417(b) Credits See IRM 21.5.9.5.3, <i>Special Carryback/Carryforward Periods</i> , for a list of specific credits.	three years	20 years	Yes

**Exhibit 21.5.9-2 (10-01-2020)****Allocation Requirements for Non-Community Property States**

<b>If</b>	<b>And</b>	<b>Then</b>
The filing status for the loss year is single	The filing status for the gain year is separate	There are no allocation requirements
The filing status for the loss year is single	The filing status for the gain year is single	There are no allocation requirements
The filing status for the loss year is single (Single Spouse)	The filing status for the gain year is joint (deceased Spouse)	There are allocation requirements for the gain year
The filing status for the loss year is single	The filing status for the gain year is joint	There are allocation requirements for the gain year
The filing status for the loss year is joint	The filing status for the gain year is joint with the same spouse	There are no allocation requirements
The filing status for the loss year is joint (year of death)	The filing status for the gain year is joint (surviving spouse)	There are no allocation requirements
The filing status for the loss year is joint (new spouse)	The filing status for the gain year is joint (deceased spouse)	There are allocation requirements for both the loss and gain years
The filing status for the loss year is joint (new spouse)	The filing status for the gain year is joint (ex spouse)	There are allocation requirements for both the loss and gain years
The filing status for the loss year is joint	The filing status for the gain year is single	There are allocation requirements for the loss year
The filing status for the loss year is joint	The filing status for the gain year is separate	There are allocation requirements for the loss year
The filing status for the loss year is joint (new spouse)	The filing status for the gain year is head of household	There are allocation requirements for the loss year
The filing status for the loss year is separate	The filing status for the gain year is single	There are no allocation requirements
The filing status for the loss year is separate	The filing status for the gain year is separate	There are no allocation requirements
The filing status for the loss year is separate	The filing status for the gain year is joint (and both spouses have signed for a joint refund)	There are no allocation requirements

**Exhibit 21.5.9-2 (Cont. 1) (10-01-2020)****Allocation Requirements for Non-Community Property States**

<b>If</b>	<b>And</b>	<b>Then</b>
The filing status for the loss year is separate	The filing status for the gain year is joint (but only spouse with the Net Operating Loss (NOL) has signed the carryback)	There are allocation requirements for the gain year
The filing status for the loss year is head of household (surviving spouse)	The filing status for the gain year is joint (deceased spouse)	There are allocation requirements for the gain year
The filing status for the loss year is head of household	The filing status for the gain year is joint (ex-spouse)	There are allocation requirements for the gain year
The filing status for the loss year is qualifying widower(er)	The filing status for the gain year is joint	There are allocation requirements for the gain year