



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

21.6.6

AUGUST 21, 2023

EFFECTIVE DATE

(10-02-2023)

PURPOSE

- (1) This transmits a revised IRM 21.6.6, Specific Claims and Other Issues.

MATERIAL CHANGES

- (1) IRM 21.6.6.1 (IPU 23U0223 issued 02-03-2023) Updated program owner name.
- (2) IRM 21.6.6.1.5 (IPU 22U1043 issued 10-25-2022) Updated definition for CIS to CII, Correspondence Imaging Inventory updated throughout the IRM.
- (3) IRM 21.6.6.2.3 (IPU 22U1102 issued 11-22-2022) Clarified adjustment information for cases that do not include the recipient's TIN.
- (4) IRM 21.6.6.2.3 Added disallowance instructions to the If/Then Chart.
- (5) IRM 21.6.6.2.10.2 (IPU 23U0223 issued 02-03-2023) Moved CAT-A requirement to first paragraph.
- (6) IRM 21.6.6.2.10.2 (IPU 23U0602 issued 05-08-2023) Updated to specify the claim CAT-A Criteria is "Specific Unallowable issues".
- (7) IRM 21.6.6.2.16.1 Deleted section as part of 21.6.6.2.16 and recreated as it own section 21.6.6.2.17. Renumbered all sections thereafter.
- (8) IRM 21.6.6.2.19 (IPU 23U0602 issued 05-08-2023) Corrected tax period in paragraph 9, first example to 2019.
- (9) IRM 21.6.6.2.21.1 (IPU 22U0977 issued 10-03-2022) Removed reference to IRM 3.11.3.10.3, to avoid confusion on what is a complete Form 1310.
- (10) IRM 21.6.6.2.21.1 (IPU 23U0602 issued 05-08-2023) Removed last sentence regarding IT action and added that the NAP generated TC 540 must be systemically removed.
- (11) IRM 21.6.6.2.21.2 (IPU 22U1102 issued 11-22-2022) Added instruction regarding changing the address of the decedent's account.
- (12) IRM 21.6.6.2.21.2 (IPU 22U1233 issued 12-20-2022) Added NOTE to paragraph 3 regarding update of primary name line and system refund in subsequent year.
- (13) IRM 21.6.6.2.21.2 (IPU 23U0223 issued 02-03-2023) Changed Note regarding hold code to **use applicable hold code**.
- (14) IRM 21.6.6.2.21.2 (IPU 23U0602 issued 05-08-2023) Added NOTE regarding TRNS46 cases.
- (15) IRM 21.6.6.2.21.2 (IPU 23U0742 issued 06-16-2023) Added email information to Note for routing Form 1310 on open TRNS46 cases.
- (16) IRM 21.6.6.2.21.2 Added instruction to the TRNS46 note to close the CII case as a route out and change the category code to MISC.
- (17) IRM 21.6.6.2.22 (IPU 23U0742 issued 06-16-2023) Updated the IDRS reassignment number.

- (18) IRM 21.6.6.2.22 (IPU 23U0802 issued 07-05-2023) Updated the IDRS reassignment number to 0933578782.
- (19) IRM 21.6.6.2.22.1 (IPU 23U0742 issued 06-16-2023) Updated the IDRS reassignment number.
- (20) IRM 21.6.6.2.22.1 (IPU 23U0802 issued 07-05-2023) Updated the IDRS reassignment number to 0933578782.
- (21) IRM 21.6.6.2.22.2 (IPU 22U0977 issued 10-03-2022) Moved paragraphs 18-22 to the top of the section after paragraph 2 and added e-fax number.
- (22) IRM 21.6.6.2.22.2 (IPU 23U0742 issued 06-16-2023) Updated the IDRS reassignment number.
- (23) IRM 21.6.6.2.22.2 (IPU 23U0802 issued 07-05-2023) Updated the IDRS reassignment number to 0933578782.
- (24) IRM 21.6.6.2.22.2 Reorganized the section to flow better.
- (25) IRM 21.6.6.2.29 (IPU 22U0977 issued 10-03-2022) Updated tax year information.
- (26) IRM 21.6.6.2.31 (IPU 23U0742 issued 06-16-2023) Updated the IDRS reassignment number.
- (27) IRM 21.6.6.2.31 (IPU 23U0802 issued 07-05-2023) Updated the IDRS reassignment number to 0933578782.
- (28) IRM 21.6.6.2.34 Deleted this section regarding Form 8873 because the information is obsolete, renumbered sections that follow.
- (29) 21.6.6.2.34 Renumbered section is now CCF, added information IRC 7518 and eligible vessels.
- (30) IRM 21.6.6.2.35 (IPU 23U0602 issued 05-08-2023) Added Reason Code information to paragraph 3 based on SERP feedback.
- (31) IRM 21.6.6.2.40 Combined IRM 21.6.6.2.40 thru 21.6.6.2.45 into one section pertaining to FICA claims. Renumbered remaining sections.
- (32) IRM 21.6.6.2.43.3 (IPU 22U0977 issued 10-03-2022) Updated fax number to e-fax number.
- (33) IRM 21.6.6.2.44 (IPU 22U1043 issued 10-25-2022) Corrected the title and subject matter to Goodwill.
- (34) IRM 21.6.6.2.48 (IPU 22U0977 issued 10-03-2022) Clarified referral procedures and added IRM references for adjusting refundable credits.
- (35) IRM 21.6.6.2.48 (IPU 22U1102 issued 11-22-2022) Added instructions to suspend case for 30 days for UCE Team response. Also revised section to include information pertaining to the end of the systemic and manual recovery as of Nov. 19, 2022.
- (36) IRM 21.6.6.2.48 (IPU 23U0223 issued 02-03-2023) Clarified that the TC 972 must have posted prior to November 19, 2022 in paragraph 5.
- (37) IRM 21.6.6.2.48 (IPU 23U0602 issued 05-08-2023) Added scenario regarding no UCE adjustment with a TC 972 AC 123 posted prior to November 19, 2022 to the IF/Then Chart in paragraph 7.
- (38) IRM 21.6.6.2.48.1 (IPU 22U1102 issued 11-22-2022) Removed paragraph 3, adjustments now require an amended return.
- (39) Editorial changes have been made throughout the IRM. This includes grammatical, spelling, updated links, and punctuation changes.

EFFECT ON OTHER DOCUMENTS

IRM 21.6.6, Specific Claims and Other Issues, dated September 01, 2022 (effective 10-03-2022) is superseded. The following IRM Procedure Updates (IPU) are incorporated: IPU 22U0977 issued 10-03-2022, IPU 22U1043 issued 10-25-2022, IPU 22U1102 issued 11-22-2022, IPU 22U1233 issued 12-20-2022, IPU 23U0223 issued 02-03-2023, IPU 23U0602 issued 05-08-2023, IPU 23U0742 issued 06-16-2023, and IPU 23U0802 issued 07-05-2023.

AUDIENCE

All employees performing account work.

Joseph Dianto
Director, Accounts Management
Wage and Investment Division

21.6.6

Specific Claims and Other Issues

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21.6.6.1
(02-03-2023)
Program Scope and Objectives

- (1) **Purpose:** This IRM covers information on Specific Claims filed by taxpayers based on tax law changes.
- (2) **Audience:** The primary users of the IRM are all IRS employees in Business Operating Divisions (BODs) who are in contact with taxpayers by telephone, correspondence, or in person.
- (3) **Policy Owner:** The Director of Accounts Management.
- (4) **Programmer Owner:** Policy and Procedures IMF (PPI), Accounts Management, Wage and Investment (WI).
- (5) **Primary Stakeholders:** The primary stakeholders are organizations that Accounts Management collaborates with; for example: Return Integrity and Compliance Systems (RICS), Compliance and Submission Processing.
- (6) **Program Goals:** Program goals for this type of work are included in the Accounts Management Program Letter as well as IRM 1.4.16, Accounts Management Guide for Managers.

21.6.6.1.1
(10-01-2017)
Background

- (1) Employees in the Accounts Management (AM) organization respond to the taxpayer inquiries and phone calls as well as process claims and other internal requests.

21.6.6.1.2
(09-16-2020)
Authority

- (1) Refer to *IRM 1.2.1.13*, Policy Statements for Customer Account Services Activities, for information.
- (2) Per Policy Statement 5-2: We actively assist taxpayers who try to comply with the law, and work to continually improve the quality of our systems and service to meet the needs of our customers. All taxpayers whether delinquent or fully compliant are entitled to prompt and professional service whenever they deal with Service employees. The public as a whole is our customer, not just delinquent taxpayers. Our customers expect us to promote voluntary compliance by ensuring that all promptly pay their fair share. This information can be found in IRM 1.2.1.6.2, Policy Statement 5-2, Collecting Principles.

21.6.6.1.3
(10-01-2017)
Responsibilities

- (1) The Wage and Investment Commissioner has overall responsibility for the policy related to this IRM which is published on a yearly basis.
- (2) Additional information is found in IRM 1.1.13.7.3, Accounts Management, and IRM 21.1.1, Accounts Management and Compliance Services Overview.

21.6.6.1.4
(10-01-2017)
Program Controls

- (1) **Program Reports:** The program reports provided in this IRM are for identification purposes for the Accounts Management Customer Service Representatives (CSRs) and Tax Examiners (TEs). For reports concerning quality, inventory, aged listing, refer to IRM 1.4.16, Accounts Management Guide for Managers. Aged listings can also be viewed by accessing the Control-D/Web Access server, which has a login program control.
- (2) **Program Effectiveness:** Program Effectiveness is determined by Accounts Management's employees successfully using IRM guidance to perform necessary account actions and duties.
- (3) **Program Controls:** Goals, measures and operating guidelines are listed in the yearly Program Letter. Quality data and guidelines for measurement are refer-

enced in IRM 21.10.1, Embedded Quality (EQ) Program for Accounts Management, Campus Compliance, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS), and Electronic Products and Services Support.

21.6.6.1.5
(10-25-2022)

Acronyms

- (1) The information below is a list of commonly used acronyms used throughout this IRM:
 - AC -Action Code
 - AMS - Account Management Services
 - BMF - Business Master File
 - CC - Command Code
 - CII - Correspondence Imaging Inventory
 - CP - Computer Paragraph
 - DLN - Document Locator Number
 - IAT - Integrated Automated Technologies
 - IDRS - Integrated Data Retrieval System
 - IMF - Individual Master File
 - MFT - Master File Tax
 - NSD - No Source Document
 - RC - Reason Code
 - TC - Transaction Code

21.6.6.1.6
(10-01-2019)

Related Resources

- (1) Refer to IRM 1.4.2.1.8, Related Resources, for information on related resources that impact internal controls.
- (2) The Taxpayer Bill of Rights (TBOR) lists rights that already existed in the tax code, putting them in simple language and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accordance with Taxpayer Rights. For additional information, see *Taxpayer Bill of Rights*.

21.6.6.2
(10-01-2021)

Specific Claims Procedures

- (1) This section contains procedures for specific claims and other issues. Some are valid; some are not allowable. The claims may include any unusual or non-standard deduction and are often filed based on tax law changes or issues where no precedents have been established.
- (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. Refer to IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria. 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 these cases to TAS unless they meet TAS criteria and the taxpayer asks to be transferred to TAS. Refer to IRM 13.1.7.5, Same-Day Resolution by Operations. When you refer cases to TAS, prepare Form e-911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), via AMS or *Form 911*, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), if AMS is not available.

- (3) Refer to IRM 3.10.72.17, Referrals to Return Integrity & Verification Operation (RIVO) or Frivolous Filer Program (FRP) and Routing of Questionable Payments, for established procedures for referrals.
- (4) Refer to IRM 21.5.3-6, Fraud Referral Claims, for processing IMF fraudulent claims that do not have an existing treatment stream.

21.6.6.2.1
(10-01-2019)
**Group or Class-Based
Reparation Claims**

- (1) As described in Rev. Rul. 2004-33 and Rev. Rul. 2006-20, taxpayers may make frivolous arguments, seeking reparation tax credits against the U.S. government for past injustices resulting from slavery and economic oppression, or from other historical mistreatment. They usually indicate “Black Investment Taxes”, “Reparation for African Americans”, “Reparations for Native Americans”, or a similar statement. The amount claimed per person, is often, #
- (2) Taxpayers claim entitlement to a tax credit because of these hardships and try to claim the credit:
 - On an amended return
 - By the filing of a “bogus” Form 2439, Notice to Shareholder of Undistributed Long-Term Capital Gains
 - On an original return, usually in the payment area
- (3) **DO NOT ALLOW** the claim. Refer to IRM 21.5.3.4.16.7, Identifying Frivolous Returns/Correspondence and Responding to Frivolous Arguments. If the taxpayer erroneously received a refund based on this credit, they should file an amended return to correct their account. Refer to IRM 21.4.5, Erroneous Refunds, for additional instructions.
- (4) If the taxpayer has questions regarding the legitimacy of the claim, advise as follows:
 - a. These claims are to be denied.
 - b. Unless the taxpayer withdraws the claim within 30 days from the date of inquiry, a penalty is to be assessed.
 - c. The IRS may impose the IRC 6702 penalty even if only one submission making frivolous arguments is made.
 - d. The IRS is aware that some fraudsters hold seminars, providing misleading information to taxpayers.

21.6.6.2.2
(09-16-2020)
**Age Discrimination
Claims**

- (1) Generally, for damages to be excluded from gross income under IRC 104(a)(2), the damages must be received because of personal physical injuries or physical sickness. **Disallow** Form 1040-X, Amended U.S. Individual Income Tax Return, claiming income payments as excludable under IRC 104(a)(2) if based on age discrimination, refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures. Include in the Letter 105C, *Claim Disallowed*, the following disallowance language: “Amounts received because of personal physical injuries or physical sickness may be excluded from gross income under IRC 104(a)(2). However, amounts received because of age discrimination are not considered as received for physical injuries or physical sickness and are not otherwise excluded from income.”

21.6.6.2.3
(10-02-2023)

Alimony Deductions

- (1) The Tax Cuts and Jobs Act (TCJA) enacted on Dec. 22, 2017, eliminates the deduction for certain alimony and separate maintenance payments and the requirement that those payments be reported as taxable income.
 - TCJA rules apply to divorce or separate maintenance agreements that are executed after Dec. 31, 2018, and the agreements executed before January 1 2019, that are modified after December 31, 2018 so long as the modification changes the terms of the alimony or separate maintenance payments and states that the alimony or separate maintenance payments are not deductible by the payer spouse or includable in the income of the receiving spouse.
 - Alimony or separate maintenance payments are deductible from the income of the payer spouse and includable in the income of the receiving spouse, if made under a divorce or separate maintenance agreement executed before January 1, 2019, even if modified after December 31, 2018, so long as the modification is not the one described in the preceding paragraph.
- (2) Taxpayers who claim deductions for alimony paid under divorce or separate maintenance agreements executed before 2019 but do not provide the Taxpayer Identification Number (TIN) of the recipient are not contacted during pipeline processing for this information; however, a penalty is charged for not providing the TIN. If a Form 1040-X, Amended U.S. Individual Income Tax Return, is received, the taxpayer must include the TIN of the recipient of the alimony. If not included, contact the taxpayer for the TIN; if unable to obtain the TIN, adjust the account to allow the alimony deduction and assess a penalty based on IRC 6723, Failure to Comply with Information Reporting Requirements, by inputting a TC 200 for \$50.00.
- (3) When correspondence is received requesting abatement of the penalty, use the following table to help you decide if the IRC 6723 Penalty may be abated.

If taxpayer	And	Then
Provides the missing information	It is before the Return Due Date (RDD)	1. Abate the penalty. 2. Use Blocking Series 05.
Provides the TIN after the RDD	Reasonable Cause is established refer to IRM 20.1.1.3.2, Reasonable Cause	1. Abate the penalty. 2. Use Blocking Series 05. 3. Include the appropriate Penalty Reason Code (PRC); refer to IRM 20.1.1.5.1, Master File Penalty Reason Codes.
If the taxpayer does not provide the missing information	Reasonable Cause is not established	Do not abate the penalty. Refer to IRM 21.5.3.4.6.1 , Disallowance and Partial Disallowance Procedures.

21.6.6.2.4
(09-16-2020)

Changes in Accounting Methods

- (1) IRC 446(e) requires a taxpayer to receive the consent of the Commissioner before changing a method of accounting. Unless specifically authorized by the Commissioner, a taxpayer may not request, or otherwise make, a retroactive change in method of accounting, regardless of whether the change is from a permissible or an impermissible method. See Rev. Rul. 90-38. Amended returns may be received referencing the "*Albertson's, Inc.*" court case, to claim:

- Nonqualifying deferred compensation as an interest deduction
- A change in accounting method

(2) Disallow the following:

- Claims, amended returns, or Form 3115, Application for Change in Accounting Method, received indicating or requesting a retroactive change in accounting method (**except** for Form 3115 filed under provisions that specifically permit a retroactive change in accounting method such as section 6.07 of Rev. Proc. 2022-14. Follow procedures in IRM 21.7.4.4.15.1.1, Forms 3115 Filed Under Automatic Change Procedures)
- Claims or amended returns referencing “Albertson’s, Inc.” or requesting a change to the “Albertson’s, Inc. accounting method”

If	Then
This is the only issue	<ol style="list-style-type: none"> 1. Input transaction code (TC) 290 with blocking series 98 or 99. Note: Use blocking series 99 with the Command Code (CC) TRPRT, CC IMFOLR, or CC BMFOLR print attached if the original return was filed electronically. 2. Send the appropriate Letter 105C or Letter 106C using the disallowance language in (3) below. For additional information, refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures.
Other issues are involved	Follow normal adjustment procedures.

(3) The disallowance language is as follows: “Unless specifically permitted, you cannot make or request a retroactive change in accounting method. In order to change your accounting method, you must submit Form 3115, Application for Change in Accounting Method, and receive consent from the Commissioner (IRC 446(e)).”

21.6.6.2.5
(09-16-2020)
**Employer Provided
Education Assistance
(IRC 127)**

- (1) IRC 127 allows employers to exclude educational expenses from the employee’s taxable income. The maximum annual exclusion is \$5,250.
- Note:** Loan payments made by an employer on or after March 27, 2020 and before January 1, 2026, on the principal and interest of certain education loans for the education of employees are excludable from the employee’s gross income under IRC 127 if the payments otherwise satisfy the requirements of IRC 127 .
- (2) These claims are changing income from taxable to nontaxable. Prior to adjusting the account, refer to Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General.
- (3) For additional information on educational assistance, refer to Publication 15-B, Employer’s Tax Guide to Fringe Benefits.

21.6.6.2.6
(05-10-2016)

**Exclusion for Amounts
Received Under the
Work Colleges Program**

- (1) IRC 117(c)(2)(C) excludes from gross income any payments from certain work-learning-service programs that are operated by a work college as defined in Section 448(e) of the Higher Education Act of 1965. This provision is effective for amounts received in tax years beginning after December 18, 2015, the date of enactment of Section 301 of The Protecting Americans From Tax Hikes (PATH) Act of 2015.
- (2) This provision supports the educational costs for qualified students through self-help payments or credits provided under the work-learning-service program of the institution. It provides students the opportunity to contribute to their education and to the welfare of the community.
- (3) These claims are changing income from taxable to nontaxable. Prior to adjusting the account, refer to Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General.

21.6.6.2.7
(09-16-2020)

Police Meal Expense

- (1) State trooper expenses for meals eaten while on duty are nondeductible, except for the following exceptions:
 - Taxpayer lives in a state within the jurisdiction of the U.S. Court of Appeals for the Eighth Circuit (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota or South Dakota), and
 - Taxpayer provides proof of duty-related meal restriction requirements from his employer and
 - Taxpayer deducts no more than 50 percent of the meal expenses

Note: For tax years 2018-2025, the Tax Cuts and Jobs Act (TCJA) eliminated miscellaneous itemized deductions under IRC 67. Therefore, these deductions are not allowed for any taxpayer for tax years 2018-2025.

- (2) You may receive claims, from taxpayers outside the jurisdiction of the U.S. Court of Appeals for the Eighth Circuit, citing a Georgia State patrolman's article asserting that the IRS had changed its position in 1993 to allow such deductions. This is not correct. Disallow such claims using the language in paragraph (1) above. For disallowance procedures, refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures.

If	Then
Claim does not provide evidence of the exception (as stated in (1) above).	<ol style="list-style-type: none"> 1. Disallow the claim. 2. Send the Letter 105C, Claim Disallowed, or Letter 106C, Claim Partially Disallowed, include (1) above as the disallowance language.
Taxpayer resides in the states listed above but does not provide the proof required.	Follow No Consideration Procedures , refer to IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns, for additional information.

21.6.6.2.8
(10-01-2008)

**Exclusion of Meals for
Certain Employees**

- (1) IRC 119(b)(4) , states that all employee meals provided on an employer's business premises are excludable if more than half of the employees who receive the meals on the premises receive them for the "convenience of the employer".

- (2) For additional information, refer to Publication 15-B, Employer's Tax Guide to Fringe Benefits.

21.6.6.2.8.1
(10-01-2019)
**Exclusion of Meals for
Firefighters**

- (1) Because of the long shifts and the requirement to remain in the station unless called away on official business, firefighters generally participate in a "common meal fund". A "common meal fund" is an arrangement within the fire station for the firefighters to contribute to the fund for the purchase of food for their meals.
- (2) Where a fire department requires its firefighter employees to make payments into a common meal fund as a condition of employment, such expenses are ordinary and necessary within the meaning of IRC 162(a). However, if a firefighter's payments into a "common meal fund" are **not a condition of employment**, then such expenses constitute personal expenses and are not deductible pursuant to IRC 262.
- (3) The "common meal fund" contribution/payments **must be required as a condition of employment**. Firefighter's contribution into a "common meal fund" that are **voluntary** (not a condition of employment), are considered personal expenses and are **not deductible**.
- (4) For tax years 2018 through 2025, due to the Tax Cuts and Jobs Act of 2017, this deduction is no longer allowed. Refer IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns.
- (5) For tax years 2017 and prior, if the contribution to the fund is required and is a condition of employment, then it is deductible as an "employee business expense". Report on Form 2106, Employee Business Expenses, and carry over to *Schedule A , Itemized Deductions*, as a "miscellaneous" deduction subject to the 2 percent of the Adjusted Gross Income (AGI) exclusion. If the contributions are voluntary, they are not deductible.

21.6.6.2.9
(10-01-2019)
**The Mortgage
Forgiveness Debt Relief
Act**

- (1) The Mortgage Forgiveness Debt Relief Act of 2007, Public Law 110-142, Section 2, enacting IRC 108(a)(1)(E) and IRC 108(h), generally allows a taxpayer to exclude income from the discharge of debt on the taxpayer's principal residence. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.
- (2) This provision applies to debts forgiven in calendar years 2007 through 2025, as extended by the Taxpayer Certainty and Disaster Relief Act of 2020. Up to \$2 million of forgiven debt is eligible for this exclusion (\$1 million if married filing separately). The exclusion does not apply if the discharge is due to services performed for the lender or any other reason not directly related to a decline in the home's value or the taxpayer's financial condition.
- (3) Normally, debt that is forgiven or cancelled by a lender must be reported and included as income and is taxable, but the Mortgage Forgiveness Debt Relief Act allows taxpayers to exclude certain cancelled debt on their principal residence from their income. Debt reduced through mortgage restructuring, as well as mortgage debt forgiven in connection with a foreclosure, qualifies for the relief.
- (4) This provision applies only to forgiven or cancelled debt used to buy, build or substantially improve the taxpayer's principal residence, or to refinance debt incurred for those purposes. In addition, the debt must be secured by the tax-

payer's main home. This is known as qualified principal residence indebtedness. Refer to Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments (for Individuals).

- (5) Debt forgiven on second homes, rental property, business property, credit cards or car loans does not qualify for the tax-relief provision. If proceeds of refinanced debt are used for other purposes (for example, to pay off credit card debt), the discharge of the refinanced debt does not qualify for the exclusion.
- (6) The amount of debt forgiven that is excluded from gross income must be reported on Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment), which **must** be attached to the tax return. Taxpayers are instructed to mark the appropriate box under line 1 on Form 982 to indicate the type of discharge of indebtedness and enter the amount of the discharged debt excluded from gross income on line 2. Any remaining cancelled debt must be included as "Other Income". Process the claim following normal adjustment procedures. Normal statute of limitations procedures apply; refer to IRM 25.6.1, Statute of Limitations Processes and Procedures. If Form 982 is filed separately or loose, refer to IRM 21.5.1.4.4, *Processing of Loose Forms or Schedules*. If Form 1040-X, Amended U.S. Individual Income Tax Return, is filed claiming forgiven or cancelled debt and the Form 982 is not attached, research CC TRDBV. If there is no indication the Form 982 was received, refer to IRM 21.5.3.4.2, Tax Decrease or Credit Increase Processing.

Reminder: These claims are changing income from taxable to nontaxable. Prior to adjusting the account, refer to Exhibit 21.5.3-2, Examination Criteria (CAT-A) - General.

- (7) There are two elections under IRC 108 as explained in the instructions for the Form 982. "The election to reduce the basis of depreciable property under IRC 108(b)(5) and the election made on line 1d of Part I regarding the discharge of qualified real property business indebtedness must be made on a timely filed return (including extensions) and can be revoked only with the consent of the IRS."
- (8) If the original tax return was filed without making either of the elections described in (7) above and the taxpayer wishes to make the election, the taxpayer **must** file an amended return within 6 months of the due date of the original return (excluding extensions). Disallow claims filed after the due date of the original return (excluding extensions). For disallowance procedures, refer to IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns. Taxpayers are instructed to write "Filed pursuant to Section 301.9100-2" on the amended return.
- (9) There is **NO** election necessary to exclude indebtedness from Mortgage Forgiveness on a principal personal residence from income; therefore, the 6 month rule does **NOT** apply to claims filed for discharge of indebtedness on a principal residence.
- (10) Lenders are required to send Form 1099-C, Cancellation of Debt, when they cancel any debt of \$600 or more. The amount cancelled is shown in box 2 of the form. When the taxpayer receives a copy of the Form 1099-C, the "Instructions for Debtor" accompanying the form instructs the taxpayer to notify the lender immediately if the amount in box 2 is incorrect.

21.6.6.2.10
(11-16-2020)
**Claim of Right - IRC
1341, Repayment of
Income Previously
Reported**

- (1) If taxpayer repays money that was included in gross income in a previous tax year because at the time it appeared that the taxpayer had an unrestricted right to the income (Claim of Right, IRC 1341), and the repayment is deductible (for example as a business expense or an IRC 165 loss), then the taxpayer may (1) deduct all or part of the amount for the year in which it is repaid, or (2) take a refundable credit against tax for that year. This repayment may also be referred to as a “Clawback Payment or Deduction”. If the repayment is not deductible, then IRC 1341 is not available. The manner in which the deduction is taken depends upon the:

- Type of income included in the previous year
- Amount of repayment
- Accounting method

Note: The change in income is to be reported on the same form that was initially used, such as a Form 1099-C, Cancellation of Debt.

- (2) Generally, if a debt is canceled or forgiven, other than as a gift or bequest (inheritance), the canceled amount must be included in income. Refer to Publication 17, Your Federal Income Tax, Chapter 12, and Publication 525, Taxable and Nontaxable Income, “Repayments” for details and exceptions. One exception, not outlined in Publication 17, involves the issuance of Form 1099-C, and a subsequent repayment of the debt by the taxpayer.
- (3) The regulations under IRC 6050P generally require that Form 1099-C be issued to a debtor if one of seven events outlined in Publication 17 and Publication 525 occurs. In some cases, the taxpayer includes the amount reported on the Form 1099-C as income on their income tax return, not understanding the fact that the creditor may still pursue collection activity.
- If the creditor resumes collection activity (e.g., garnishment of the taxpayer’s earnings), and the debt is paid, the taxpayer may be entitled to file an amended return to exclude the income for the year it was reported. If an amended return is filed, the amount of debt discharged reported as income should be treated as a reduction to the income reported for the year for which the Form 1099-C is received and not as a Claim of Right adjustment for the year when the debt is repaid.
 - If, as of the time of the repayment, the year for which the cancellation of debt income is reported is closed for assessment, taxpayers may claim deductions if otherwise allowable for the tax years. A taxpayer using the cash accounting method may claim a deduction for the repayment only for the tax year in which it was made.
- (4) For all types of repayment, the following applies:

If	Then
Cash accounting method is used	A taxpayer may claim a deduction only for the tax year in which the repayment was made.
Any other accounting method is used	The repayment may be deducted only for the tax year in which it is a proper deduction, under the particular accounting method employed. Example: Taxpayer using the accrual method takes the deduction in the tax year in which the repayment obligation accrues.

21.6.6.2.10.1

(10-09-2003)

Claim of Right - IRC 1341, Repayment of \$3,000 or Less

- (1) If the amount repaid was \$3,000 or less, Claim of Right under IRC 1341 does not apply. Thus, the amount repaid is deducted in the year of repayment. The repayment is deducted, in general, on the same form or schedule on which it was previously included. If it had been included as self-employment income on *Schedule C*, Profit or Loss from Business, it is deducted on Schedule C. If it had been included as capital gain on *Schedule D*, Capital Gains and Losses, it is deducted on Schedule D. If it was reported as wages, taxable unemployment compensation, or other non-business ordinary income, it is deducted on *Schedule A*, Itemized Deductions.

21.6.6.2.10.2

(05-08-2023)

Claim of Right - IRC 1341, Repayment of More Than \$3,000

- (1) Claims meeting CAT-A Criteria, under “Specific Unallowable issues”, are routed to Exam for CAT-A consideration per IRM Exhibit 21.5.3-2, Examination Criteria (CAT A). Do not adjust claims meeting CAT-A Criteria without CAT A acceptance.
- (2) If the amount repaid was more than \$3,000, it is either deducted (Method 1) or used to figure a credit (Method 2), whichever method results in less tax.
- (3) Method 1 - Figure the tax with a deduction for the amount repaid.
- (4) Method 2 - Follow these steps:
 - a. Figure the tax *without* deducting the amount repaid.
 - b. Refigure the tax for the earlier year of inclusion without including the amount repaid.
 - c. Subtract the refigured tax under step (2) from the actual tax for the earlier year. The difference is the credit.
 - d. Subtract the credit under step (3) from the tax under step (1).
- (5) If the tax under Method 1 is less, the repayment is deducted, in general, on the same form or schedule on which it was previously included. If taken as an itemized deduction, use line 28 of Schedule A, Itemized Deductions.
- (6) If the tax under Method 2 is less, the credit figured under that method should be entered on the credit line in the payment section of Form 1040, U.S. Individual Income Tax Return, with the annotation “IRC 1341” in the column to the right of the line.

Caution: IRC 1341 does not apply to deductions from bad debts, deductions from sales to customers (e.g., returns and allowances), or deductions for legal and other expenses of contesting the repayment.

21.6.6.2.10.3
(01-08-2019)
Adjusting the Account

- (1) Adjust the account according to the reporting method chosen by the taxpayer, detailed in IRM 21.6.6.2.10.2, Claim of Right - IRC 1341, Repayment of More Than \$3,000:
 - Method 1 - Input Transaction Code (TC) 291, blocking series (BS) 05, for the lesser of the Claim of Right adjustment or total tax liability. Input TC 766, reason code (RC) 061, to refund the remaining overpayment if the Claim of Right adjustment exceeds the total tax liability. Refer to IRM 21.5.3.4, General Claims Procedures.
 - Method 2 - Input TC 290 .00, BS 05, with a TC 766, RC 061, for the amount of the credit.

21.6.6.2.11
(10-01-2008)
**Department of Army
(DA) Form 5174-R**

- (1) The Department of Army or taxpayer may submit DA Form 5174-R, Refund for Prior Year Salary Overpayment. No adjustment activity is necessary.
- (2) Associate the form with the return for the year of overpayment.

If	Then
No TC 150 is posted	Input a TC 930 to Push Code to file the information.
The Push Code is returned due to no fact of filing	<ol style="list-style-type: none"> 1. Research for posting under another TIN. 2. Associate with the TC 150.
No record of another Taxpayer Identification Number (TIN)	<ol style="list-style-type: none"> 1. Return the DA Form 5174-R, to the taxpayer. 2. Advise taxpayer to retain it with their tax records since IRS has no record of a return.

21.6.6.2.12
(10-01-2006)
**Savings, Retirement, or
Investment Plan
Distribution Claims**

- (1) All claims for refund of prior year income taxes paid on periodic partial distributions from employee savings, retirement, and investment plan distributions are worked using normal adjustment procedures.
- (2) Taxpayer must show the aggregate amount contributed and withdrawn before the claim can be worked. Do not send to Examination as Category A.

21.6.6.2.13
(06-11-2015)
Seller Paid Points

- (1) Taxpayers may claim seller paid points when **purchasing** a principal residence. The deduction is claimed on Schedule A, Itemized Deductions. Points are generally reported on Form 1098, Mortgage Interest Statement, issued by the financial institution. The term "points" is used to describe certain charges paid, or treated as paid, by a borrower to obtain a home mortgage. Points may also be called loan origination fees, maximum loan charges, loan discount, or discount points. Appraisal, inspection, title, and attorney fees are **NOT** deductible. Property taxes paid are **NOT** deductible as points even if designated as points. Refer to Publication 936, Home Mortgage Interest Deduction. See also Rev. Proc. 94-27.
- (2) Points paid by the seller: The term "points" includes loan placement fees that the seller pays to the lender to arrange financing for the buyer. The seller cannot deduct these fees as interest, but they are a selling expense that reduces the amount realized by the seller. Refer to Publication 523, Selling Your Home.

- (3) These claims are a change to Income and may need to be referred to Exam for review. Refer to IRM 21.5.3, General Claims Procedures.

21.6.6.2.14
(10-01-2006)
Spousal Letters

- (1) Whenever Integrated Data Retrieval System (IDRS) Command Code (CC) LETER is input on a joint account, the system determines if the spouse is the same for the current year.

If	Then
The spouse has changed, or the taxpayer is now filing single, unmarried head of household, or married filing separate.	The system searches for a current address of the spouse listed on the joint account.

21.6.6.2.14.1
(10-01-2002)
**Spousal Letters
Adjustment Procedures**

- (1) Research the spouse's address, using CC SPARQ, (refer to IRM 2.3.47.6, Command Code SPARQ), when the response to CC LETER states "Latest Spouse address questionable", or a system other than Integrated Data Retrieval System (IDRS) is used to generate a letter on a joint account. If the spouse requests information on more than one year, research each year to ensure the spouse is the same. Issues not involving the same spouse must be addressed in a separate letter to the taxpayer. Inform the taxpayer why they are receiving two letters. The taxpayer requesting the information may be listed as the spouse on a joint return.
- (2) In some instances, it is not necessary, nor is it appropriate, to send a spousal letter. Use the override key or suppress the spousal letter by not entering the Master File Tax (MFT) or year when:
- replying to the taxpayer's request for a copy of the tax return, or copies of Form W-2, Wage and Tax Statement, or,
 - a reply to the taxpayer does not show the tax liability, refund, or balance due on a joint account.

Note: You must enter the taxpayer's full name and address if the MFT and Year are not entered.

21.6.6.2.15
(10-01-2013)
**Transportation Expense
Deduction**

- (1) Taxpayers may file amended returns to claim a deduction for daily transportation expenses between a taxpayer's residence and a temporary work location.

If	And	Then
Basis of the claim is the <i>Walker 101 T C 537 (1993)</i> and/or <i>Burleson T.C. Memo 1993-625</i> Tax Court decision	It is the only issue	<ol style="list-style-type: none"> 1. Disallow the claim, refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures. 2. Send the Letter 105C or Letter 106C with a complete explanation of why the claim was disallowed, including appeal rights.
Basis of the claim is the <i>Walker</i> and/or <i>Burleson</i> Tax Court decision	Other issues are involved	Follow normal adjustment procedures. If correspondence is issued, include appeal rights.
Claim cites Rev. Rul. 90-23, Rev. Rul. 94-47, and/or Rev. Rul. 99-7	Taxpayer did not mention <i>Walker</i> and/or <i>Burleson</i>	Follow procedures in IRM 21.5.3, General Claims Procedures.

21.6.6.2.16
(10-01-2013)

**Unemployment Benefits
Revenue Ruling 57-383**

- (1) In Rev. Rul. 57-383, the IRS considered the Federal Income Tax treatment of certain unemployment benefits received by union members while separated from their jobs.
- (2) Rev. Rul. 57-383 provides that:
 - The amounts paid by members into the fund are not deductible
 - The amounts received as benefits under the plan are includible in the recipient's gross income to the extent those benefits **exceed** the recipients payments made into the fund
- (3) The unemployment benefits received may be offset by the amount of payments into the fund. The benefits received in excess of the payments are includible in the taxpayer's income.
- (4) IRC 85 also provides that gross income includes unemployment compensation received under a law of the United States or of a State which is in the nature of unemployment compensation . Unemployment benefits derived from a union established fund that are not unemployment compensation for purposes of IRC 85 are generally included as gross income as described in Revenue Ruling 57-383.

21.6.6.2.17
(10-02-2023)

**United Mine Workers of
America (UMWA) Strike
Fund Benefits Claim for
Refund**

- (1) Taxpayers must submit a Selective Strike Assessment Schedule showing the annual wages earned and payments made into the plan according to their records, based on a yearly percentage. Unions do not maintain records of members' individual contributions. A dollar figure representing the entire year's payment made to the Fund is not sufficient; correspond if the schedule is not provided. The following is an example of a **UMWA SELECTIVE STRIKE FUND ASSESSMENT SCHEDULE:**

YEAR	ANNUAL WEIGHTED BASE
AVERAGE	1.59 percent

BEGIN	END	RATE
10/08/95	PRESENT	1.5 percent

- (2) Verify the treatment of the strike fund benefits in prior years. Accept a taxpayer statement declaring no deduction was taken in prior years. Further research is necessary, if the taxpayer did not provide documentation or substantiation showing no prior income deduction was taken for any payments made into the selective strike fund.

If research indicates the taxpayer	Then
Claimed the standard deduction for the year of the amended return and the prior year.	Allow the claim.
Itemized deductions for the year of the amended return or the prior year.	<ol style="list-style-type: none"> 1. Request the return(s) to verify no deduction was taken for the payments into the selective strike fund. 2. Allow the claim if no deduction was taken.
Took a deduction for the payments made into the selective strike fund in prior years.	Disallow the claim to the extent the taxpayer took a deduction for the payments made into the selective strike fund. Refer to IRM 21.5.3.4.6.1, <i>Disallowance and Partial Disallowance Procedures</i> .

21.6.6.2.18
(10-01-2008)
**Refunds Claimed for
Premiums Paid to the
UMWA Combined
Benefit Fund**

- (1) Coal companies may file a claim for refund of premiums paid to the UMWA Combined Benefit Fund (the Combined Fund). Even though the amounts paid are premiums and were not paid to the IRS, the companies are seeking a refund pursuant to the decision of the United States Court of Appeals for the Fourth Circuit in *Pittston Co. v. United States*, 199 F.3d 694 (4th Cir. 1999). In that decision, the Fourth Circuit held that the premiums are taxes and that it was appropriate for a coal company to bring a tax refund action to seek a refund of premiums that it contests were wrongly assessed.
- (2) Check the taxpayer's address, if address did not originate in the Fourth Circuit (that is, did not originate in Maryland, North Carolina, South Carolina, Virginia, or West Virginia) research to determine if taxpayer may have moved and may be eligible. Complete additional research (e.g., CC IRPTR) prior to disallowing the claim. If the claim did not originate in the Fourth Circuit, disallow the claim, refer to IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures*. Send Letter 105C, *Claim Disallowed*, include the following information: "We disallowed your claim for refund of premiums paid pursuant to IRC 9704 of the Internal Revenue Code to the United Mine Workers of America Combined Benefit Fund. The IRS is not following the decision of the Fourth Circuit in *Pittston Co.* outside the Fourth Circuit." Route the claim to Files to be filed in the Alpha File. If case is on Correspondence Imaging Inventory (CII), the CII image is the source document and it remains on CII for further recall if needed. Since the image remains available on CII, Alpha File association is not necessary. For additional information pertaining to CII, refer to IRM 21.5.1.5, *Correspondence Imaging Inventory (CII) procedures*.
- (3) If the claim originates in the Fourth Circuit, refer to Examination as Category A.

- (4) If the claim does not have merit, they are to disallow it. When the disallowed claim is returned by Examination, send Letter 105C, include the following information: "We disallowed your claim for refund of premiums paid pursuant to IRC 9704 of the Internal Revenue Code to the United Mine Workers of America Combined Benefit Fund. You have not alleged a ground for which a refund can be granted." Route the claim to Files to be filed in the Alpha File. If case is on CII, the image is the source document and it remains on CII for further recall if needed. Since the image remains available on CII, Alpha File association is not necessary. For additional information pertaining to CII refer to IRM 21.5.1.5, Correspondence Imaging Inventory (CII) procedures.
- (5) If the claim appears to have some merit, Examination suspends the claim until a final determination is made. Because coordination with the Combined Fund and the Social Security Administration may be necessary, there may be some delay in making a final determination.

21.6.6.2.19
(05-08-2023)
**Veteran's Disability
Compensation**

- (1) These claims are expeditiously processed in Identity Theft Victims Assistance (IDTVA). Reassign **ALL** "veteran disability claims" to IDRS number **1185402670**, Doc type 1040-X - Veteran Claim, category code **VRET**, and program code 40051. Update the case note with "veteran disability claim".
- (2) A disabled veteran is a veteran who applied for disability benefits from the Department of Veterans Affairs (VA) and their application was approved. The veteran's disability compensation is a tax-free compensation paid by the VA to veterans who have become disabled or chronically ill during their military service. This monetary benefit is based on an injury or disease incurred or aggravated during active military service. These disabilities are considered to be "service-connected" or "service related". The veteran must have been terminated through separation or discharged from the military under conditions that were other than "dishonorable". The disability compensation varies with the degree of the disability and the number of dependents, and is paid monthly by the VA.
- (3) The VA determination process for the eligibility of VA benefits can take several months, and sometimes years. VA benefits are retroactively excluded from gross income from the date of the application for VA disability. The VA disability benefits are expressed in percentages, intended to represent the degree of impairment in the veteran's earning capacity. A veteran who receives retirement benefits and is later retroactively determined by the VA to be eligible for "service-connected" disability benefits, may exclude from their gross income the amount of their disability benefits from their military retirement pay. The effective date applies to any additional award for retroactive benefits. In general, military retirement benefits are based on length of service and included as income, whereas veteran's benefits on a "service-connected" disability are excluded from income. Veterans may file claims for refund of taxes paid on the retroactive amounts of VA benefits for prior years covered by a waiver, back to the earliest year not barred by the Statute of Limitations, for additional information, refer to IRM 21.6.6.2.19.1, Extension of the Statute of Limitations to File Claims for Refunds Relating to Disability Determinations by the Department of Veterans Affairs.
- (4) To file a claim, the veteran **must** submit a Form 1040-X, Amended U.S. Individual Income Tax Return, for each year they wish to reduce the taxable pay, and a VA Determination letter covering those years. Refer to Publication 525, Taxable and Nontaxable Income.

- (5) These claims are changing income from taxable to nontaxable. Except as specified in the following instructions, **normal procedures** must be followed. Prior to adjusting the account refer to Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General.
- (6) Review claims for completeness following the guidelines in IRM 21.5.3, General Claims Procedures.

If	Then
The statute is barred.	<ol style="list-style-type: none"> 1. Disallow the claim. 2. Refer to IRM 25.6.1, Statute of Limitations Processes and Procedures.
The claim is not for a retroactive exclusion of VA benefits, individual unemployability or Combat Related Special Compensation (CRSC).	Disallow the claim. Refer to IRM 21.5.3.4.6.1 , Disallowance and Partial Disallowance Procedures. Send Letter 105C, and use Reason Code (RC) 016.
The VA Determination Letter and/or DFAS letter and required documentation are not attached .	<ol style="list-style-type: none"> 1. Refer to IRM 21.5.3, General Claims Procedures. 2. Disallow claim if it is based on one of the topics in (12) below. Refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures. Send Letter 105C, and use Reason Code (RC) 016. 3. No consider the claim if not based on topics in (12) below. Refer to IRM 21.5.3.4.6.3, No Consideration Procedures, and include the following in the Letter 916C “The Defense Finance Service letter (or VA Determination Letter) must be included with your claim.” Request only the letter and documentation necessary to make the claim processible. 4. Refer to IRM 21.5.1.5.6, Incomplete CII Claims, for case processing instructions.

Note: IRC 6511(h) suspends the running of the statute of limitations for filing claims for refunds if a taxpayer was financially disabled (i.e., was unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment, which can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months). The statute of limitations is suspended for the period of financial disability. However, this special rule does not apply to suspend the statute of limitations when the individual's spouse or another person is authorized to act on behalf of the individual in financial matters. Rev. Proc. 99-21, 1999-1 C. B. 960, describes the information that must be furnished as proof of financial disability.

Reminder: For a joint income tax return, the applicability of IRC 6511(h) to each spouse must be separately determined. A taxpayer is not treated as financially disabled if his/her spouse is authorized to act on his/her behalf.

- (7) A copy of an official VA Determination letter granting the retroactive benefit with the table showing amount withheld and effective date must be attached to the claim. The table listed on the VA Determination letter **must** cover the same dates for the tax year reported on the claim. If the claim is received within 180

days of the statute barred date, refer to IRM 21.6.6.2.19.1, Extension of the Statute of Limitations to File Claims for Refunds Relating to Disability Determinations by the Department of Veterans Affairs , and IRM 21.5.3.4.3, Tax Decrease and Statute Consideration.

- (8) To verify and calculate the correct tax reduction, the VA determination letter must have a table listing the “**Amount Withheld**” and either the “**Payment Start Date**” or the “**Effective Date**”. In general, the VA Determination letter includes a table containing five headings. We only use the “Amount Withheld” and the “Payment Start Date” or “Effective Date” when verifying/calculating the tax reduction.

Note: You must add one month to the dates listed under the heading of “Payment Start Date” or “Effective Date”. The payment date or effective date for the military is one month after the date listed.

Example of the table:

Total Award Amount	Amount Withheld	Monthly Entitlement Amount	Payment Start Date (or) Effective Date	Reason for Change
\$525.00	\$320.00	\$205.00	December 1, 2018	Retired Pay Adjustment, Cost of Living Adjustment
\$750.00	\$250.00	\$500.00	December 1, 2019	Retired Pay Adjustment, Compensation Rating Adjustment, Cost of Living Adjustment
\$950.00	\$300.00	\$650.00	June 1, 2020	Retired Pay Adjustment, Compensation Rating Adjustment
\$970.00	\$270.00	\$700.00	December 1, 2021	Retired Pay Adjustment, Compensation Rating adjustment. Cost of Living Adjustment

- (9) Below are two examples on how to verify and calculate the correct amount for the tax reduction using the example of the table listed above:

- Form 1040-X filed for tax year 2019. The amount withheld for tax year 2019 is \$3,840.00. To calculate and verify the amount, multiply the 2019 Effective Months by the Amount Withheld. In this case, Jan. - Dec. (2019) is 12 months X \$320.00 (Amount Withheld) = \$3,840.00, this amount should be the amount claimed as a reduction on Line 1 Adjusted Gross Income (AGI), Column B of the 2019 Form 1040-X.
- Form 1040-X filed for tax year 2020. The compensation was increased on June 1, 2020; therefore, two calculations are needed to verify and

calculate the 2020 total. The Amount Withheld for tax year 2020 is \$3,300.00 (\$250.00 for 6 months (Jan. - June) and \$300.00 for 6 months (July- Dec.)). Multiply the 2020 Effective Months Jan. - June $250 \times 6 \text{ months} = \$1,500.00$ and July - Dec. $300.00 \times 6 \text{ months} = \$1,800.00$. Add the two totals together $\$1,500.00$ and $\$1,800.00 = \$3,300.00$, this amount should be the amount claimed as a reduction on Line 1 (AGI), Column B of the 2020 Form 1040-X.

- (10) If other tax changes unrelated to the VA benefits are claimed then the amounts reported on Line 1 Adjusted Gross Income (AGI), Column B of Form 1040-X, may not match the amounts shown on the VA Determination letter. Before inputting the adjustment, review the account for any previous adjustment(s). The amounts reported on the VA Determination letter **MUST** be math verified before adjusting the account. Refer to procedures in IRM 21.5.3.4.5, Math and Master File Verification of Claims and Amended Returns.
- (11) **After math verifying** the VA benefits claimed amount and it is different than the VA Determination letter calculated amount, you **MUST** set the initial math error and send the Letter 474C, Math Error Explained (IMF), or another letter that provides the taxpayer a detailed explanation of the math error. Refer to procedures in IRM 21.5.4.5.1, Setting the Initial Math Error Action.
- (12) Disallow claims based solely on the following:
- IRC 1.122-1;
 - Pursuant to 26 CFR;
 - The veteran's disability percentage, or
 - Publication 525, Taxable and Nontaxable Income.

Refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures.

Exception: If the VA Determination letter is included with the claim, has a table as shown above in (8), and covers the same dates for the tax year reported on the claim, verify/calculate the correct amount for the tax reduction following procedures in (8) and (9) above. The adjustment would be based on the Determination letter, not the topics listed prior to this exception.

Note: IRC 1.122-1 or "Pursuant to 26 CFR" are provisions of the Family Protection Act of 1966 and are **not** applicable to VA Claims.

- (13) **Summary of Benefits Letter:**
- Issued by the VA, it is for information only
 - All veterans who receive VA Benefits get it yearly
 - **IS NOT** acceptable documentation for claim processing
 - **IS NOT** the VA Determination letter
 - If no other documentation is attached, see the 3rd row of IF/Then Chart in 6 above.
- (14) **Individual Unemployability Claim** must include the following:
- Form 1040-X for each applicable year;
 - The Determination Letter, issued by VA, awarding Individual Unemployability (IU). It gives the effective date of the award; and,

- Documentation from the VA verifying or substantiating the amount of the claimed tax reduction on the Form 1040-X.

Reminder: The VA Determination Letter for these claims does **NOT** have a table for the Amount Withheld.

(15) **Combat Related Special Compensation (CRSC) and Concurrent Receipt of Disability Pay (CRDP) :**

- managed by the Army, Navy, Air Force or Marines for retired veterans;
- CRSC payments are non-taxable;
- CRDP payments are taxable
- DFAS Letter must be attached to claim a refund of taxes paid on the excludable amount, before adjusting the military retirement pay from taxable to non-taxable.

Note: The taxpayer could be eligible for both payments, so they must elect which payment they want since payment of both benefits is prohibited by law.

- (16) Effective October 2009 the Department of Veteran Affairs added three medical diagnoses that would be considered Agent Orange presumptive in Vietnam veterans (Parkinson's disease, a type of ischemic heart disease, and certain leukemias). When a military member has a disability that is combat-related (e.g., one that is Agent Orange presumptive), they may qualify for Combat Related Special Compensation (CRSC). According to Defense Finance and Accounting Services (DFAS), many Vietnam veterans have been issued retroactive CRSC awards based on the Veteran Affairs determination. Each Branch of the military makes its own determination as to whether a veteran qualifies for CRSC and issues the veteran an award letter. The veteran also has documentation from Veteran Affairs regarding their disability. There is a special statute of limitation applicable to these situations; refer to IRM 21.6.6.2.19.1, Extension of the Statute of Limitations to File Claims for Refunds Relating to Disability Determinations by the Department of Veterans Affairs (Section 106 of Public Law 110-245 and Section 6511(d) of the Code). The retroactive CRSC award could have the effect of reducing previously reported taxable military retirement income, creating a situation where the veteran may be eligible for a refund from prior year's tax return (or multiple year's tax returns). The veteran should include copies of their DFAS letter, CRSC award letter, the CRSC/CRDP Payment Audit Report, and any correspondence received explaining the awards and adjustments. Resources are available for veteran's seeking assistance regarding how to file his/her amended returns at www.irs.gov, key words "disabled veteran".

21.6.6.2.19.1
(10-01-2013)
Extension of the Statute of Limitations to File Claims for Refunds Relating to Disability Determinations by the Department of Veterans Affairs

- (1) There are special statutes of limitation for retroactive disability determinations made by the Department of Veterans Affairs (VA). In general, a taxpayer must file a claim for credit or refund within three years of the filing of the tax return or within two years of the payment of the tax, whichever expires later (if no tax return is filed, the two-year limit applies). A claim for credit or refund that is not filed within these time periods is rejected as untimely.
- (2) Generally, military retirement benefits based on length of service are included in income, whereas veterans' benefits based on a service-connected disability are excluded from income. If an individual receives includible retirement benefits and is later retroactively determined to be eligible for service-

connected disability benefits, the portion of the retirement benefits attributable to the disability is retroactively excluded from income. In that case, the individual may claim a refund of the tax paid on the retroactively excluded benefits, subject to the statute of limitations on filing a refund claim.

- (3) This provision extends the time period for filing claims for credits or refunds for retired military personnel who receive disability determinations from the VA (e.g., determinations after the tax return is filed). Specifically, in the case of a determination after the date of enactment (June 17, 2008), the provision extends the period for filing such a refund claim until one year after the date of the disability determination (if later than the time periods allowed under present law). The one year extended period applies to claims for credit or refund filed after June 17, 2008, and does not apply to any tax year that began more than five years before the date of determination.

Example: Taxpayer retired in 2016 and received a pension based on years of service. On 8/3/2022, they received a determination of service-connected disability retroactive to 2016 from the VA. Generally, they could claim a refund for the taxes paid on their pension for 2019, 2020 and 2021. However, under the special limitation period, they can also file a claim for 2018 as long as they file a claim by 8/3/2023. They could not file a claim for 2016 and 2017 because those tax years began more than five years before the determination by VA.

Note: The provision is effective for claims for credit or refund filed after June 17, 2008. In the case of a determination which is made by the Secretary of Veterans Affairs after December 31, 2000, and before June 17, 2008, the period for filing a claim for credit or refund is extended until 1 year after the Date of Enactment June 17, 2008. The provision shall not apply with respect to any taxable year which began before January 1, 2001. Refer to IRM 25.6.1.10.2.11.1, Retroactive Law and Congressionally-Provided Waiver of the Period of Limitations for Filing Claims for Credit or Refund, for procedures on how to override the Refund Statute Expiration Date (RSED).

21.6.6.2.19.2
(09-01-2022)

The Combat-Injured Veterans Tax Fairness Act of 2016 - Veteran's Disability Compensation for Veterans Separated due to Medical/Disability

- (1) These claims are expeditiously processed by the Identity Theft Victims Assistance (IDTVA) CSRs in Kansas City. Reassign **ALL Veteran Disability Severance, St. Clair Claim, Strickland, or Combat Injured Veteran** claims to IDRS number **1185402670**, with category code **VRET**. If received at any other site, reassign and update the case note with either **Veteran Disability Severance, St. Clair Claim, Strickland, or Combat Injured Veteran**.
- (2) Veterans who are separated from military service due to medical or disability reasons generally receive severance pay. These veterans are not military retired. Once the veteran receives a determination letter from the Department of Veterans Affairs (VA) awarding a retroactive disability rating, the disability severance payment (DSP) received upon discharge becomes non-taxable.
- (3) The Combat-Injured Veterans Tax Fairness Act of 2016 gives certain veterans who received disability severance payments after January 17, 1991, and before December 17, 2017, additional time to file claims for credit or refund relating to overpayments attributable to these payments. The ending year for this act was extended to include payments reported through December 31, 2020. IRS has mailed 3 sets of letters as follows:

1. In July 2018, the IRS mailed Letter 6060-A, Department of Defense - Veterans, or Letter 6060-D, Department of Defense - Deceased Veterans, on behalf of the Department of Defense (DoD), to eligible veterans to inform them that the severance payment reported on their prior Form W-2, Wage and Tax Statement, became non-taxable and that they have at least one year to file a claim for credit or refund.
 2. In June 2019, IRS mailed additional Letters 6060-A and Letters 6060-D and Letter 6061-A, Department of Defense - Misstated Amounts to Veterans and Letter 6061-D, Department of Defense - Misstated Amounts to Deceased Veterans, these were mailed to veterans not included in the first mail-out, and to those veterans that received misstated amounts on the original letters. All criteria pertaining to the original mail-out applies to the new letters. TC 972 AC 804 and TC 971 AC 804 were added to the accounts to reflect the mailing and new statute date.
 3. In September 2022, IRS mailed another round of Letter 6060-A and Letter 6060-D to an additional group veterans, identified by DFAS, and extended the year of eligibility to include DSPs issued from 2017-2020. All criteria pertaining to the original mail-out applies to the new letters.
- (4) If calls are received concerning the “The Combat-Injured Veterans Tax Fairness Act of 2016” or Letter 6060-A or Letter 6060-D, and you are answering calls on an application other than APP 49 or 50, transfer the call per the Telephone Transfer Guide to Extension 1049 (1050 for Spanish), *The Combat-Injured Veterans Tax Fairness Act of 2016/ Department of Defense Letter 6060-A or 6060-D*. Telephone assistants staffing APP 49 or 50 explain to the caller the Form 1040-X, Amended U.S. Individual Income Tax Return, is required to file a claim for refund. If an original return was not filed, assistants should tell the taxpayer to file the return. If the taxpayer received the Letter 6060-A or Letter 6060-D (CC ENMOD shows a TC 971 with AC 804 and MISC field LT 6060) and wants to claim the actual amount reported on the letter, they **MUST** include the Letter 6060-A or 6060-D they received with the claim or the documentation in (6) below. Taxpayers have the option of filing a claim based on the actual amount of the lump sum DSP reported on the letter or filing a claim using the standard amount for the tax year the lump sum DSP was reported/claimed as taxable income. Refer to (12) below for the standard amounts for specific tax years. If the taxpayer calls requesting a copy of their original tax return filed, refer to procedures in IRM 21.2.3.2.2, Tax Account Transcript.
- (5) If CC ENMOD is showing a TC 971 with AC 804 and MISC field LT 6060, research the account to determine if the Letter 6060 was returned as an undeliverable; look for a TC 972 AC 804 with the MISC field LT 6060. A TC 971 AC 661 on CC TXMOD also indicates that the letter was undelivered. Explain to the taxpayer the letter was returned as an undeliverable and we can re-mail it to them. Prepare a Form e-4442, Electronic Inquiry Referral, when a Letter 6060 should be mailed as a replacement for undelivered or misplaced letters, or if the taxpayer says they never received the letter, but CC ENMOD shows a TC 971 AC 804 with MISC LT 6060. Notate the current mailing address on the e-4442; however, **DO NOT** update the address. Also, notate the reason for the letter (e.g., undelivered, destroyed/misplaced, never received, etc.). Tell the taxpayer to allow 3 weeks to receive the letter. The e-4442 **MUST** be faxed to #
- needed.” IDTVA researches and mails the appropriate letter and updates CII as needed. A new TC 971 AC 804 with a current date is added to CC ENMOD by the headquarters analyst.

Note: DO NOT send an e-4442 if a TC 971 AC 804 MISC LT 6060 has never posted to CC ENMOD. IRS has no information regarding eligibility or DSP amounts if the veteran was not included on the DFAS listing. The veteran needs to contact DoD for eligibility information.

Note: If the TC 972 AC 804 has posted to reverse the initial 6060 letter, review CC ENMOD to determine if a second TC 971 AC 804 has posted that indicates another Letter 6060 was mailed. If this is the case, tell the taxpayer when it was mailed.

- (6) If taxpayer did **NOT** receive the Letter 6060-A or Letter 6060-D but states they received a lump sum DSP when they separated from the military and that the DoD reported the payment as taxable income, they can also file a claim. These claims can be based on the actual amount of the lump sum DSP they previously reported as taxable income or they can claim the standard amount for the tax year the lump sum DSP was reported/claimed as taxable income. These claims **MUST** have documentation attached to verify the lump sum DSP:
- They can contact Defense DFAS to determine eligibility and request a Letter 6060 by sending an e-mail to dfas.cleveland-oh.jjf.mbx.dfas-irs-combat-injured-veterans-tax-f@mail.mil, calling the DFAS Call Center at 888-332-7411, or by going to the DFAS website <https://www.dfas.mil/AskDFAS.html> to obtain payment information,
 - They can attach a copy of documentation showing the exact amount and reason for their DSP, such as a letter from the DFAS or a DD214, and/or
 - They can attach a copy of either the VA determination letter confirming their disability or a determination that their injury or sickness was either incurred as a direct result of armed conflict, while in extra-hazardous service, or in simulated war exercises, or was caused by an instrumentality of war.
- (7) To expedite the processing of these claims they should notate at the top "Veteran Disability Severance" or "St. Clair Claim" and mail to the Kansas City address provided in the letter; refer to (8) below. In addition, if the veteran is now deceased, inform the caller they may also need to include the Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer. For additional information and instructions on how to file these claims, refer the caller to:
- Publication 3, Armed Forces' Tax Guide
 - *Defense Finance and Accounting Service (DFAS)*
 - *Combat-Injured Veterans Tax Fairness Act Claim Information Available*
 - *Combat Injured Veterans Frequently Asked Questions*
- (8) The Letter 6060-A, Letter 6060-D and the Publication 3, Armed Forces' Tax Guide states to mail claims to the Kansas City address:
Internal Revenue Service
333 W. Pershing Road, Stop 6503, P-5
Kansas City, MO 64108
- (9) The following procedures are **ONLY** for the IDTVA CSRs in Kansas City who are processing these claims. Except as specified in the following instructions, **normal procedures** must be followed. Since the claims can go as far back as

tax year 1991, these accounts may need to be reinstated on IDRS prior to adjusting. Retention modules can be identified by an "R" to the left of the year on CC IMFOLI. Reinstatement only the year in question using CC IMFOLB. Refer to IRM 21.2.2.5.9.1, IMF On-Line Retention Register.

- (10) If the claim includes documentation other than Letter 6060-A or Letter 6060-D, verify the payment is a disability severance payment and not another type of military severance payment referenced in IRM 21.6.6.2.19.3, Veterans Involuntarily Discharged- Nondisability Severance Pay. The letter the veteran receives from the VA concerning other types of military severance pay is different from the five column letter discussed in IRM 21.6.6.2.19, Veteran's Disability Compensation - Public Law 95-479, Section 301. These claims are expeditiously processed in IDTV and are to be assigned to IDRS number 1185402670, with category code **VRET**, program code 40051, 1040-X VA Claim and Doc Code 1040 Veteran Claim. This severance pay letter usually has two columns and the first paragraph starts with: "We made a determination on your claim for an increase in your service connected compensation received on ...date."

Caution: Veterans who are discharged with a non-disability severance payment could also receive a disability rating from the VA. In this case the non-disability severance payment would be taxable.

- (11) Veterans who were mailed a Letter 6060-A or a 6060-D **MUST** file a claim by the later of 1 year of the date showing on CC ENMOD (TC 971 AC 804 MISC field LT 6060) or the normal deadline for filing a claim for refund or credit. The normal deadline is generally the later of 3 years after filing the original return or 2 years after paying the tax. The statute of limitations is **ONLY** extended for the lump sum disability severance pay.

Note: The one year extension is determined by the date of the most recent TC 971 AC 804 MISC LT 6060. Normal disallowance procedures apply if the latest statute is expired. See IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures.

Refer to IRM 25.6.1.10.2.7, Claims for Credit or Refund - General Time Period for Submitting a Claim. Adjustments to tax and credits are allowed as "ripple effects" when they are directly related to the severance payment. However, if claims are received that request other types of change(s), such as adding a dependent, deductions, etc., the claim **MUST** have been received by the Refund Statute Expiration Date (RSED). If the Internal Revenue Service (IRS) did **NOT** mail the veteran a Letter 6060-A or a 6060-D (CC ENMOD is **NOT** showing a TC 971 with AC 804 and MISC field LT 6060), the statute of limitation remains open indefinitely for disability severance payments made after January 17, 1991, and before December 17, 2017.

- (12) Veterans may choose to file a claim using the following standard amounts (adjusted with a CRN 766 with RC 099) for the tax year they received the lump sum disability severance payment. These amounts do not include the interest:
- \$1,750 for tax years 1991-2005
 - \$2,400 for tax years 2006-2010
 - \$3,200 for tax years 2011-2020

Caution: The standard amounts are **only** allowed for Combat Injured Veterans DSP. They are **NOT** to be used on general disability payment claims. Those claimants must use the actual amount of erroneously withheld taxes.

(13) Veterans can claim the greater amount of refund using either the standard amount or the actual amount reported in Letter 6060-A or Letter 6060-D. There are two basic scenarios you may encounter:

- Example 1: The taxpayer's first claim is for the standard amount. After receiving the Letter 6060-A/D, he determines that it is a greater refund for him to claim the actual amount. Because the TP doesn't have his return data, he files a claim post-marked July 30, 2018, reporting the standard amount of \$1,750. The claim is processed using the standard amount (TC 766 with RC 099). After he has gathered his original return information, he files a second claim post-marked date of August 20, 2018 with the Letter 6060-A and a W-2 attached reporting the actual amount of DSP \$106,000 with \$26,500 withholding. To process his new claim, reverse the previous CRN 766 \$1,750 and adjust the account for the actual amount of \$26,500.
- Example 2: The taxpayer's first claim is for the actual amount of withholding for \$1,000.00 (this may be on his original return or a 1040-X). After receiving the Letter 6060-A/D, he decides the standard amount results in a greater refund. He files a Form 1040-X for the standard amount of refund of \$3,200. To process his new claim, increase the income to include the original DSP amount, which will recompute the tax to recover the withholding of \$1,000 claimed on the original return or Form 1040-X, then add a CRN 766 for \$3,200. The result is an additional refund of \$2,200.00, which is the same amount claimed on line 22 of Form 1040-X.

Note: While researching accounts, if it is determined that a previous refund associated with the DSP has been issued, this amount should be taken into consideration when processing claims. Follow-up with the taxpayer regarding any reduced amount of refund.

Caution: Before processing a 6060-A/D, research to determine a Letter 6061-A or Letter 6061-D has been sent. The corrected amount should be used when adjusting the account.

Note: If the expired ASED prevents reassessment of previously removed tax due to the DSP, net the difference of the greater amount and the amount previously refunded.

(14) Using the guidelines in (15) and (16) below, process the claim as follows:

- If research shows the severance payment was reported as taxable income, allow the claim.
- If research shows the severance payment was **never** reported as taxable income, and the withholding was never refunded, allow the claim.
- If research shows the severance payment was reported and previously removed, or the withholding was previously refunded, **DO NOT** adjust the account. Refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disal-

allowance Procedures, and issue a Letter 105C, *Claim Disallowed*, or a Letter 106C, *Claim Partially Allowed*, with the following language in the open paragraph: "Our records show the disability severance payment was previously removed from your income. Credit for withholding was also given and a refund of \$X,XXX.XX was issued on MM-DD-YYYY (enter the date of refund); therefore, we cannot allow your claim."

Note: If the taxpayer has not filed an original return for the tax period that the DSP was received in, process the Form 1040-X per IRM 21.6.7.4.2.5, TC 150 Not Located - Duplicate or Amended Return Obtained.

Exception: If the claim is for the Standard amount, which is greater than the refund associated with the Actual amount, allow the difference.

- (15) Processing the DSP as non-taxable when CC ENMOD shows a TC 971 with AC 804 and MISC field LT 6060:

If	And	Then
Claim is for the actual amount listed on the Letter 6060-A or 6060-D attached.	The severance pay amount on line 1B of the Form 1040-X matches the actual amount of severance pay from Letter 6060-A or 6060-D or documentation listed in (5) above and/or the amount of withholding is listed on line 12b.	<ul style="list-style-type: none"> A copy of the VA determination letter is not required. We know the taxpayer received a lump sum DSP because a Letter 6060-A or 6060-D was mailed to the taxpayer. <p>Note: Taxpayer may submit documentation supporting a different actual severance amount. As long as research shows this amount is still on the account proceed with claim.</p> <ul style="list-style-type: none"> Adjust the account as requested following procedures in (20) below. <p>Note: If research shows that the severance amount was reported on a different tax year, and it was not previously removed, adjust the year that it was reported on.</p>

If	And	Then
Claim is for the standard amount listed in (12) above.	The amount on line 15 of the Form 1040-X as Other matches the correct standard amount for the tax year on Form 1040-X,	<ul style="list-style-type: none"> No other tax computation or documentation is required. We know the taxpayer received the lump sum DSP because a Letter 6060-A or 6060-D was mailed to the taxpayer. Adjust the account as requested following procedures in (20) below. <p>Note: If the taxpayer notated an incorrect standard amount on line 15, process the claim for the amount that is associated with the year of the claim.</p>

Otherwise, **DO NOT** adjust the account, refer to IRM 21.5.3.4.6.3, No Consideration Procedures, and issue a Letter 916C, Claim Incomplete for Processing; No Consideration, with the following language in the 2 open paragraphs and using the * as an additional open paragraph: "We need a copy of the documentation showing the exact amount of and reason for the disability severance payment you claim on Form 1040-X. This documentation may include Letter 6060-A or 6060-D mailed by the Department of Defense in July 2018, a letter from the Defense Finance and Accounting Services (DFAS) explaining the severance payment at the time of the payment, or a Form DD214 or other notice from the Department of Defense.

You can choose instead to claim a standard refund amount of \$[***insert amount listed in (12) above***]. Write "Disability Severance Payment" on Form 1040-X, line 15, and enter the standard refund amount on line 15, column B, and on line 22, leaving the remaining lines blank. You don't need to include any additional documentation. If you do not have documentation, you may contact DFAS by calling the DFAS Call Center at 1-888-332-7411 to determine if you are eligible for a refund and request a letter."

Note: If information is missing and the claim is filed within 180 days of the RSED on CC TXMOD, or the date of the TC 971 AC 804 MISC LT 6060 on ENMOD plus one year, whichever is latest, refer to IRM 21.5.3.4.3 Tax Decrease and Statute Consideration.

- (16) Process a DSP claim as follows if CC ENMOD does **NOT** show a TC 971 with AC 804 and MISC field LT 6060:

If	And	Then
All documentation is attached as referenced in (6) above. If the Letter 6060-A or 6060-D is attached, verify the taxpayer and amount is listed on the DoD listing and the information matches.	The amount on line 1B of the Form 1040-X matches the actual amount of DSP shown in the documentation.	Adjust the account as requested following procedures in (20) below.
All documentation is attached as referenced in (6) above. If the Letter 6060-A or 6060-D is attached, verify the taxpayer is listed on the DoD listing.	The amount on line 15 of the Form 1040-X as Other matches the correct standard amount for the year of the DSP shown in the documentation.	Adjust the account as requested following procedures in (20) below.

Otherwise, **DO NOT** adjust the account, refer to IRM 21.5.3.4.6.3, No Consideration Procedures, and issue a Letter 916C, Claim Incomplete for Processing; No Consideration, with the following language in the 2 open paragraphs and using the * as an additional open paragraph: "We need documentation showing the exact amount of and reason for the disability severance payment and a copy of either the VA determination letter confirming the disability or a determination that the injury or sickness was either incurred as a direct result of armed conflict while in extra-hazardous service or was caused by an instrumentality of war or took place under conditions simulating war, including training exercises such as maneuvers.

The documentation may include a letter from the Defense Finance and Accounting Services (DFAS) explaining the severance payment at the time of the payment or a Form DD214 or other notice from the Department of Defense. You can submit a claim based on the actual amount of the disability severance payment or you can choose instead to claim a standard refund amount of \$[***insert amount listed in (12) above***]. Claim the standard refund amount by writing "Disability Severance Payment" on Form 1040-X, line 15, and entering the standard refund amount on line 15, column B, and on line 22, leaving the remaining lines blank. If you do not have documentation, you may contact DFAS by calling the DFAS Call Center at 1-888-332-7411 to determine if you are eligible for a refund and request a letter."

- (17) Both spouses must sign the claim if the adjustment relates to a joint return, refer to IRM 21.5.3.4.4, Signature Requirements for Claims. For divorced or

separated taxpayers, refer to IRM 21.5.3.4.4.1, Special Handling of Signature Requests. If veteran is claiming the standard amount in (12) above, only the veteran needs to sign the claim; issue refund in veteran's name only. Since these claims can go back to tax year 1991, research the entity for the tax year of the claim to determine if spouses are the same as showing on the claim. An allocation of the refund may be needed; refer to IRM 21.6.1.5.8, Allocating Married Filing Joint Cases. If a refund was not previously issued from the married filing joint return and the IRS can conclusively determine ownership of all income and payments claimed/allowed on the married filing joint return using internal information, the employee must prepare the allocation. To determine if a manual refund is required, refer to procedures in IRM 21.4.4, Manual Refunds. For decedent refunds, refer to IRM 21.6.6.2.21.2, Processing Decedent Account Refunds.

Example: Veteran is deceased and a claim is filed for tax year 2000; adjust the account using HC "4" and issue a manual refund in the name reported on the Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer.

- (18) These claims are changing income from taxable to nontaxable, prior to adjusting the account refer to Exhibit 21.5.3-2 Examination Criteria (CAT-A) – General.

Exception: When a Letter 6060-A or 6060-D is attached to the claim and the amounts match, do **NOT** send to CAT-A.

- (19) After verifying the lump sum DSP amount and tax year, adjust the account as applicable using the mandated xClaim IAT tool, refer to IRM 21.2.2-2, Accounts Management Mandated IAT Tools.

Exception: Since the xClaim IAT tool only goes back to tax year 1995, claims for tax years 1991-1994 are adjusted without using the xClaim IAT tool. Refer to IRM 2.4.16, Command Codes REQ54 and ADJ54.

- (20) Since these claims can go as far back as tax year 1991, to prevent the -D freeze from generating, adjust the account as follows:
- Input either a TC 291 for the actual amount or TC 766 for the standard amount.
 - Input applicable notice/hold codes.
 - Input the TXMODA posted RSED date in the "RFSCDT" field.
 - Input the Override Code "S" in the "OVERRIDE CD" field.
- (21) After adjusting the account use CC REQ77/FRM77 to input TC 971 with AC 526 on TXMODA using the received date of the claim and input "VETERANS-ACT2016" in the MISC field. This is used for tracking purposes.
- (22) Use Organization/Function/Program (OFP) - 40051 to report your time processing these Department of Defense claims.

21.6.6.2.19.3
(05-06-2011)
**Veterans Involuntarily
Discharged -
Nondisability Severance
Pay**

- (1) Nondisability severance pay is fully taxable in the year the veteran received the pay. This pay is generally a lump-sum payment specifically authorized by law to certain commissioned and warrant officers who are involuntarily discharged from active duty.

21.6.6.2.20
(10-01-2009)
**Department of Veterans
Affairs (VA)
Compensated Work
Therapy (CWT) Program
- Revenue Ruling 2007-
69**

- (1) Payments under the Department of Veterans Affairs (VA) Compensated Work Therapy (CWT) program are no longer taxable and disabled veterans who paid tax on these benefits can claim refunds, subject to the statute of limitations, by filing an amended return using the Form 1040-X, Amended U.S. Individual Income Tax Return.

21.6.6.2.21
(10-01-2002)
Decedent Accounts

- (1) Information may be received indicating a taxpayer is deceased. Verification needed prior to updating the entity includes one of the following:
- Court certificate
 - Death certificate
 - Correspondence
 - The return indicating the tax period the taxpayer died
- (2) Refer to IRM 3.11.3.10.3, Documentary Evidence on a Decedent Return, for additional information.

21.6.6.2.21.1
(05-08-2023)
**Updating the Entity on
Decedent Accounts**

- (1) For the year in which the taxpayer died, **ONLY**, make the following changes:
- Update the first name line by entering "DECD" in the name line after the:
Given name of the taxpayer on a joint account;
Or, the surname of the taxpayer on an individual account.
 - Enter the name of the surviving spouse and/or representative on the second name line.

Note: If a taxpayer died before their final return was filed and the prior year was filed with "DECD" in their name line, do **NOT** change the entity to remove "DECD". Example: Taxpayer died in February 2021, and the 2020 tax return was filed with "DECD", do **NOT** remove "DECD".

Example: Married Filing Joint (MFJ) tax return (taxpayers have the same last name) filed for tax year 2021 indicating the secondary taxpayer is deceased (died in 2021). The entity for tax year 2021 must be updated to show as follows:

First name line: John B and Jane DECD Doe
Second name line: John B Doe

Example: Married Filing Joint (MFJ) amended tax return filed in 2021 for tax year 2020 indicating the spouse is deceased (died in 2021).

- The entity for tax year 2020 should not be updated because the taxpayer died in 2021. If the ENMOD NM-LINE-YR>2020 was updated during processing with an incorrect year for the deceased taxpayer correct it to the correct year the taxpayer died.

- The entity for tax year 2020 should not be updated if the return for 2020 has not been filed for the tax period in which the taxpayer died.
- A manual refund is required for the tax year 2020 amended return to prevent a systemic refund issued with the deceased taxpayer's name.

Reminder: For additional information on updating the deceased taxpayer(s) name, refer to IRM 3.13.5.120.9, Inputting Name Changes for Deceased Taxpayers.

- (2) Update the mail file requirements (MFR) to "08" by input of a Transaction Code (TC) 540 on the tax period using Command Code (CC) REQ77 if:
- Primary taxpayer on a joint return died during the tax period shown on the return
 - Taxpayer on an individual return died during the tax period shown on the return

Note: The TC 540 on any module prevents systemic refunds. See (3) and (4) below if correction is needed.

- (3) Action Code (AC) 524 was developed for use with TC 971 to mark the entity modules on accounts on which identity theft is a factor and/or suspected and documented. The TC 971 and AC 524 are posted to IDRS on ENMOD. The TC 971 AC 524 indicator is applied systemically to the account and prevents a return from posting for a year subsequent to the year of death. For example: Date of death 3/15/2019, a return for TY 2019 is allowed to post but a return for 2020 is not. The TC 971 AC 524 prevents an original TC 150 tax return from posting. When a tax return is rejected a *CP 01H, Identity Theft Lock*, notice is mailed to the taxpayer. The Identity Protection Specialized Unit (IPSU) toll-free number 800-908-4490 is on this notice. Refer to IRM 21.6.6.2.21.3, CP 01H Notice or Letter 12C Decedent Account Responses.
- (4) Correct the address to reflect the most current information available. Correct the entity if the taxpayer is erroneously coded as deceased. If TC 540 is present, reverse with a TC 542. Reverse all TC 540s by inputting the TC 542s using the same date of death. Monitor to confirm the date of death is cleared from CC IMFOLE. Also, if present, reverse the TC 971 AC 524 with a TC 972 AC 524 when the taxpayer has been erroneously marked as an identity theft victim.

Caution: If the TC 540 was NAP-generated, and must be systemically removed, do **NOT** reverse manually because the reversal adjustment goes unpostable. The DLN for a NAP-generated TC 540 is 28277-111-11111-Y. If INOLE does not show a date of death, provide the SSN to your Planning and Analysis staff so they can forward to the author of IRM 21.5.6.

Exception: Toll-free assistors send a Form 4442/e-4442, Inquiry Referral, to the Campus AM paper function within their Directorate. Use "-X Freeze" as the referral type.

- (5) To substantiate the date of death (DOD) is incorrect, taxpayer must provide documentation. If documentation shows the taxpayer's date of death to be wrong, input CC DM1DT to change the date of death. Refer to IRM 2.3.25, *Command Codes DM1DT and DTVUE*, for command code input.

Reminder: When the documentation is provided allow the exemption and use Command Code (CC) DM1DT to add, change, or delete data to correct the DOD. CC DM1DT overrides an SSA DOD. After using CC DM1DT, the DOD field on CC INOLE is replaced with the IRS DOD. To delete a DOD, update CC DM1DT to add a DOD of all zeroes (000-00-0000).

21.6.6.2.21.2

(10-02-2023)

Processing Decedent Account Refunds

- (1) Decedent overpayment returns filed by anyone other than the surviving spouse must be filed with Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, or a certificate showing court appointment. No documentary evidence is required if the return is filed by the surviving spouse. If an amended return is filed, ensure that the spouse filing the amended return is the same spouse who signed the original return.

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If the return is filed by	Then
Personal representative appointed or certified by a court.	A copy of the court certificate or a Form 1310 stating a certificate was filed must be attached.
Other than the surviving spouse or court certified personal representative.	Form 1310 must be attached and lines 1 through 3 must be completed.

Reminder: When working Form 1040-X, Amended US Individual Tax Return, cases, see the instructions for Form 1310, Line B for specifics.

Note: If there is no frozen credit on the account, refile Form 1310 with a transaction code (TC) 290 .00 in a non-refile blocking series.

Note: If research shows an account has an open TRNS46 control assigned to an AMRH employee, not a generic holding number, and it appears the Form 1310 was sent in response to this case type, send an encrypted email to the manager of the employee. Refer to *IUUD:IDRS Unit and USR Database* for the manager's name. Include "TRNS46 - Form 1310" in the subject line of the email. In the body of the email include the following: "Form 1310 attached to CII case # (CISXXXXXX); SSN (XXX-XX-XXXX); AMRH IDRS# (XXXXXXXXXX)". See IRM 21.2.4.3.20 , Processing TRNS46 Cases, for additional information. If no other actions are needed for the CII case, close it as a route out and change the category to MISC.

- (2) When working current processing year returns, update the entity module to agree with the Form 1310 information (e.g., first and second name lines, mail file requirements, etc.), only if it is also the year of death. If working prior year returns a manual refund may be required, refer to IRM 21.4.4, Manual Refunds. Care must be taken when processing statute year claims, refer to IRM 21.4.4.4.1, Refund Statute Expiration Date, and IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures.

Note: During original processing, if there is no reply to correspondence, the refund is frozen by input of Computer Condition Code (CCC) "3", a TC 570 is generated and sets a -R Freeze. Refer to procedures in IRM 21.5.6.4.35.2,

Resolving -R Freeze. A history item, "NRF1310" may be on the module. Take caution to secure the Form 1310 or court certificate prior to releasing a frozen refund.

- (3) When a taxpayer dies, certain guidelines must be followed to ensure the refund is not issued to the deceased taxpayer. In order for a computer generated refund check to be systemically issued to the correct person, the account must have all of the following present:
- a. The entity section of the original return for the year of the claim must include first and second name lines. The second name line **must** be present for a computer generated refund, if not present a manual refund is required.

Example: For a 2020 claim, the original "L" or "W" coded return must have included first and second name lines:
First name line: John (DECD) and Mary Maple
Second name line: Mary Maple

Note: If surviving primary spouse name line has been updated due to current year filing (i.e., 2021, in the prior example), a systemic refund can be issued to the surviving primary spouse based on the current year name line.
 - b. Computer Condition Code (CCC) "L" or "W" present.

Note: A -X (Manual Refund) Freeze may also be present when a manual refund is issued (usually for expedite and/or hardship reasons) with no TC 150 posted on the account, or when a return is coded CCC **O** and the TC 150 posted without a TC 840. In these instances, refer to procedures in IRM 21.5.6.4.48, -X Freeze. A TC 540 on any module restricts systemic refunds. A TC 290 .00 with PC 8 does not release the -X freeze if a TC 540 is on the module. See IRM 21.6.6.2.21.1, Updating the Entity on Decedent Accounts, for information on correcting the TC 540 and TC 971 AC 524 if the account was incorrectly coded as deceased.
 - c. All required supporting documents. If both taxpayers on a joint return (FS 2), or a solo taxpayer (FS 1, 3, 4, or 5) is deceased, Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, or court appointment documentation must be attached to the return if the account is overpaid.

Exception: If the entity section on Form 1310 is not the same as the entity section on the original return, a manual refund is needed.
 - d. Make sure the notation "DECD" appears after the first name of the decedent on a joint (FS 2) account (i.e., John J DECD and Mary A Maple), or after the surname of the primary taxpayer for any other filing status (i.e., John J Maple DECD). When both taxpayers are deceased input "DECD" behind both names (i.e., John J DECD and Mary A DECD Maple). When taxpayers have different last names "DECD" is after the last names of the primary taxpayer and the secondary taxpayer (i.e., John J Maple DECD and Mary A Honey DECD). Only surviving spouses and representatives should appear on the second name line.

- e. Do NOT change the name line to replace the word “DECD” with “Estate of” under any circumstances and do NOT remove the word “DECD” from the entity.

Reminder: If the refund is for a tax year other than the current processing tax year, a manual refund may be required. If the refund is for the current processing year and the second name line is not present or no longer present, a manual refund is required.

- (4) A manual refund is needed if an adjustment to a decedent account results in an overpayment and ANY of the conditions listed in (3) above are not met:

- a. This prevents the issuance of a refund to a deceased person.
- b. Follow manual refund procedures in IRM 21.4.4, Manual Refunds.

Note: When issuing a manual refund on either Form 5792, Request for IDRS Generated Refund (IGR), or Form 3753, Manual Refund Posting Voucher, to a person or address other than what is exactly shown on Master File (CCs ENMOD or INOLE), input a TC 971 with AC 037, and the Social Security Number (SSN) of the person receiving the refund, unless the refund is being issued to the surviving spouse, an executor or court appointed administrator of a decedent. Do **NOT** change the address of the deceased taxpayer’s account if the recipient is **NOT** the surviving spouse, an executor, or court appointed administrator for the decedent.

- c. Use the appropriate hold code if a manual refund is issued. See IRM 21.5.2.4.15, Rules on Hold Codes (HC), and *Document 6209 Hold Codes*, for specific information.

- (5) When there is reason to believe the claimant is not entitled to the refund, or a controversy may arise concerning the proper payees, take the following actions:

- a. Send the appropriate letter requesting adequate documentation.
- b. Suspend the case for 40 days.
- c. If no reply is received, close the case using hold code 4 to create a “-K” Freeze.
- d. Notify the claimant(s) no action was taken because they did not respond to our letter.

Note: This is a “No Consideration” issue, not a claim disallowance.

21.6.6.2.21.3
(05-08-2023)
**CP 01H Notice or Letter
12C Decedent Account
Responses**

- (1) Theft of deceased individual’s personal information for the purposes of filing a fraudulent tax return results in a significant amount of lost tax revenue each year. Action Code (AC) 524 was developed for use with Transaction Code (TC) 971 to mark the entity modules of accounts on which identity theft is a factor and/or suspected and documented. The TC 971 AC 524 is posted to IDRS on Command Code (CC) ENMOD and CC IMFOLE. The TC 971 AC 524 indicator is applied systemically to the account and effective the subsequent year. The TC 971 AC 524 prevents an original TC 150 tax return from posting for tax years after the year of death.
- (2) When a tax return, for a year that is greater than the year of death, attempts to post to an account with a TC 971 AC 524, an Unpostable Code (UPC) 147 RC

4 is generated, the return auto-archives and a *CP 01H*, Identity Theft Lock, automatically is mailed to the taxpayer. The Identity Theft toll-free number is on this notice.

- (3) Any tax return which is coded with a Special Processing Code 9 (SPC 9) generates a UPC 147 RC 4 and the return auto-archives. If the date of death is equal to or less than the year of the tax return, the SPC 9 will need to be removed and the return will need to be reprocessed.
- (4) Claims filed for the year of death and prior may be allowable; however, claims filed for years after the date of death should be "No Considered".

Example: Taxpayer's date of death on CC ENMOD is 6/03/2019. Taxpayer is deceased in tax year 2019, therefore a final return would be allowed for tax year 2019. For any amended returns filed for tax years 2019 and prior, follow normal adjustment procedures for decedent claims and if applicable issue manual refund. If a claim is filed for tax years 2020 or subsequent, **do not** adjust the account. Follow the IRM 21.5.3.4.6.3 No Consideration Procedures, and include verbiage in (7) below in the Letter 916C, "No Consideration".

- (5) Taxpayer calls stating they received a *CP 01H* notice or Letter 12C, Individual Return Incomplete for Processing: Forms 1040 and 1040SR:

And	Then
Date of death is present on CC INOLES	Instruct the taxpayer to send the required documentation outlined in the <i>CP 01H</i> notice or Letter 12C to the address on the notice or letter.
Date of death is NOT present on CC INOLES	Apologize to the taxpayer and inform them we corrected their account and to resubmit their tax return. Refer to IRM 25.23.2.8.4.2, Manually Reversing TC 971 AC 524 - No Date of Death Present on Command Code INOLES. Refer to IRM 21.6.6.2.21.1, Updating the Entity on Decedent Accounts, for additional information regarding reversing erroneous TC 540.

- (6) Correspondence is received pertaining to *CP 01H* notice or Letter 12C:

And	Then
<p>Taxpayer/representative is providing the required documentation listed in IRM 3.13.5.69, UPC 147 RC 4/CP 01H Processing/Reversals of Incorrect TC 971 AC 524</p> <p>AND Date of death is present on CC INOLES.</p>	<p>Route taxpayer written responses received due to the CP 01H or Letter 12C to the Entity Control Unit (ECU) for research and/or corrections, only if there is a TC 971 AC 524 on the account.</p> <p>Reminder: The Letter 12C MUST pertain to the requested documentation as outlined in the CP 01H. If the Letter 12C pertains to anything other than the CP 01H required documentation, do NOT refer to Entity and follow normal adjustment procedures.</p> <p>Notate on the referral IRM 3.13.5.69, UPC 147 RC 4/CP 01H Processing/Reversals of Incorrect TC 971 AC 524. Fax the information to ECU, refer to IRM 3.13.5.5.1, Enterprise E-Fax (EEFAX) and FAX Numbers, or prepare Form 4442 and forward the documents provided by the taxpayer to the ECU. To determine which ECU address to use, refer to IRM 21.3.3.3.5, Submission Processing Consolidation (Rampdown), for the campus, then refer to the <i>Campus Mailing Addresses</i> listed on SERP under the Who/Where tab for the ECU address.</p> <p>ECU only processes the information related to the TC 971 AC 524. Additional action is required to ensure posting of the return; refer to IRM 21.5.1.5.5, Processing/Reprocessing CII Tax Returns, after determining what is needed to obtain the original return:</p> <ul style="list-style-type: none"> • If the documentation includes the original return, route to ECU; • If the original return is not included, but, was a paper return, CC ESTAB for the document; • If the original return is not included, but is available on MEF, print the return. • Reverse ALL TC 540s on the account. Refer to IRM 21.6.6.2.21.1, Updating the Entity on Decedent Accounts, for additional information.
<p>Taxpayer/representative is providing the required documentation listed in IRM 3.13.5.69, UPC 147 RC 4/CP 01H Processing/Reversals of Incorrect TC 971 AC 524</p> <p>AND Date of death is NOT present on CC INOLES.</p>	<p>Process the claim following normal adjustment procedures. Refer to IRM 25.23.2.8.4.2, Manually Reversing TC 971 AC 524 - No Date of Death Present on Command Code INOLES. If the documentation includes the original return, refer to IRM 21.5.1.5.5, Processing/Reprocessing CII Tax Returns. Reverse ALL TC 540s on the account. Refer to IRM 21.6.6.2.21.1, Updating the Entity on Decedent Accounts, for additional information.</p>

And	Then
The taxpayer/representative does not include the <i>CP 01H</i> or Letter 12C required documentation. AND Date of death is present on CC INOLES and the claim is for a prior tax year .	Process the claim following normal adjustment procedures.
The taxpayer/representative does not include the <i>CP 01H</i> or Letter 12C required documentation. AND Date of death is present on CC INOLES and the claim is for the current tax year (year of death) .	DO NOT adjust the account, refer to IRM 21.5.3.4.6.3, No Consideration Procedures, and issue a Letter 916C, Claim Incomplete for Processing; No Consideration, using both open paragraphs and use the language provided in paragraph (7) below. Use the verbiage in the note below for the current tax year (year of death).
The taxpayer/representative does not include the <i>CP 01H</i> or Letter 12C required documentation. AND Date of death is present on CC INOLES and the claim is for a subsequent tax year .	DO NOT adjust the account, refer to IRM 21.5.3.4.6.3, No Consideration Procedures, and issue a Letter 916C, Claim Incomplete for Processing; No Consideration, letter using both open paragraphs and use the language provided in paragraph (7) below.
The taxpayer/representative does not include the <i>CP 01H</i> or Letter 12C required documentation. AND Date of death is NOT present on CC INOLES.	Process the claim following normal adjustment procedures. Refer to IRM 25.23.2.8.4.2, Manually Reversing TC 971 AC 524 - No Date of Death Present on CC INOLES. Reverse ALL TC 540s on the account. Refer to IRM 21.6.6.2.21.1, Updating the Entity on Decedent Accounts, for additional information.

- (7) Use the Letter 916C with open paragraphs containing the following verbiage: “The IRS locked your account based on information we received from the Social Security Administration (SSA). SSA informed us that the Social Security Number of the primary or secondary taxpayer on the tax return belongs to someone who was deceased prior to the tax year shown on the tax form.”

Note: For current year (year of death) returns and claims use the following verbiage: “The IRS locked your account based on information we received from the Social Security Administration (SSA). SSA informed us that the Social Security Number of the primary or secondary taxpayer on the return belongs to someone who died during the tax year shown on the tax form.”

“If the SSA erroneously identified the taxpayer as deceased, contact SSA. Send the tax return with original signature(s) and a photocopy of one of the following: Passport, Driver’s License, Social Security Card, or other valid U.S. Federal or State Government issued identification to the IRS location where you filed your tax return.”

21.6.6.2.22
(07-05-2023)

**Federal Income Tax
Forgiveness for Certain
United States (U.S.)
Military and Civilian
Employees and Other
Individuals**

- (1) IRC 692 provides for the forgiveness of certain Federal income taxes for certain U.S. military and civilian employees who are killed or die of injuries received as a result of military or terrorist action. For additional information and instructions for completing Killed in Terrorist Action/Killed In Action (KITA/KIA) returns, refer to Publication 3, Armed Forces' Tax Guide and Publication 3920, Tax Relief for Victims of Terrorist Attacks.
- (2) Refer all claims and inquiries referring to KITA, KIA, Victims of Terrorist Attacks and the 9/11 Attack to the KITA/KIA team in Kansas City. These claims are expeditiously processed in the Kansas City KITA team. If received at any other campus, reassign the claim to the KITA team using IDRS 0933578782, and category code "KITA".
- (3) The following subsections include procedures for processing claims/returns received under IRC 692. All claims covered in the following subsections are considered KITA/KIA claims and should be routed as detailed in paragraph 2, above.

21.6.6.2.22.1
(07-05-2023)

**9/11 Rescue Worker
Claims filed under IRC
692(d)**

- (1) Rescue and recovery workers are eligible for federal tax relief only to the extent their death is the result of wounds or injury sustained during the 9/11 relief effort. Claims filed from a 9/11 injury which leads to an illness (such as cancer) which then leads to death may be eligible.
- (2) These claims are expeditiously processed in the Kansas City Killed in Terrorist Action/Killed In Action (KITA/KIA) team. If received at any other campus, reassign the claim to the KITA team using IDRS 0933578782, and category code "KITA".
- (3) Disability payments received for injuries incurred as a direct result of a terrorist attack, or for an illness or disease resulting from an injury incurred as a direct result of a terrorist attack, can be excluded from income under IRC 104(a)(5) at the time the payments are received. Taxes erroneously paid on qualifying disability payments may be refundable separate from the tax forgiveness provided in the year of death. Refer to Publication 3920, Tax Relief for Victims of Terrorist Attacks.
- (4) Claims are filed on Form 843, Claim for Refund and Request for Abatement, and/or Form 1040-X, Amended U.S. Individual Income Tax Return.
- (5) Taxpayer is instructed to notate at the top of the claim or in the remarks field, "Amended pursuant to IRC Section 104(a)(5), Publication 3920", "9/11 Terrorist Act", "Terrorist Attacks World Trade Center", or "Tax Forgiveness Victims of Terrorist Act".

21.6.6.2.22.2
(10-02-2023)

**Killed in Terrorist Action
(KITA)/Killed in Action
(KIA) and Astronauts
Killed in the Line of Duty**

- (1) IRC 692 provides for the forgiveness of certain federal income taxes for certain U.S. military and civilian employees who are killed or die of injuries received as a result of military or terrorist action and astronauts killed in the line of duty.
- (2) In general, for KITA/KIA claims, the determination of terrorist or military action directed against the U.S. or its allies is made by the Department of Treasury in consultation with the State Department, the Department of Defense (DoD), or the Department of Justice (DoJ).
- (3) Taxpayers are instructed in Publication 3, Armed Forces' Tax Guide, and Publication 3920, Tax Relief for Victims of Terrorist Attacks, to mail returns/claims to:

Internal Revenue Service
333 W. Pershing Road, Stop 6503, P5
Kansas City, MO 64108

- (4) All KITA/KIA returns, claims, and correspondence must be mailed or reasigned to the Kansas City KITA team. Refer all KITA/KIA account inquiries and correspondence, including those without the literal on the account, to the KITA team using IDRS 0933578782, and category code **KITA**.
- (5) The KITA/KIA team is responsible for taking all necessary action on these cases. The team receives all returns, original or amended, and all case files/inquiries from the decedent's administrator/surviving spouse, the territory office, other functions within the campus, or other campuses. If original or amended returns are received at any other campus, expedite the assignment to the KITA/KIA team.
- (6) The literal **KITA** may appear on CC ENMOD, CC IMFOLE, CC TXMOD and CC SUMRY as an indicator. It does not cause a freeze or prevent the issuance of enforcement related notices. .
- (7) For calls received from survivors, or a family member, etc. use Form e-4442, Electronic Inquiry Referral, or Form 4442, Inquiry Referral. Use the e-fax

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information:

- Scenario of the taxpayer's inquiry
- Contact person's name, phone number, relationship to victim, and mailing address
- Victim's name and SSN

- Reminder:** Only the Kansas City KITA/KIA team designated employees should make contact with the administrator/surviving spouse. Advise the caller they will be contacted within 5 business days.
- (8) If the return meets KITA/KIA criteria and was received from Error Resolution System (ERS), notify ERS suspense that you are keeping the return. The Kansas City KITA team performs the required KITA/KIA case action.
 - (9) Do not refer **Hostage** cases to Kansas City, if the literal **HSTG** displays on CC ENMOD, SUMRY, TXMOD or TDINQ, follow the procedures in IRM 5.19.1.5.12, Taxpayers Taken Hostage in Terrorist Action (HSTG).
 - (10) The DoD provides a DD Form 1300, Report of Casualty, or DD Form 2064, Certificate of Death Overseas, to the decedent's administrator for military and civilian Defense Department employees so that the estate may submit it with a claim under the KITA or KIA provisions.
 - (11) For civilian employees of agencies other than the DoD who are victims of terrorist or military actions overseas, relief under the KITA/KIA provisions is based upon certification in a letter signed by the Director General of the Foreign Service, Department of State, or the Director General's delegate. The certification must include the deceased individual's name and Social Security Number (SSN), the date of injury, the date of death, and a statement that the individual died as a result of a terroristic or military action outside the United States.

- (12) For civilian employees of agencies other than the DoD who are victims of a domestic terrorist or military action, relief under the KITA/KIA provisions must be accompanied by certification that includes:
- a. A copy of the death certificate stating the nature of the injury causing death or, if the cause of death is not apparent from the death certificate, a letter from the treating physician, medical examiner, or hospital stating the cause of death, or
 - b. A certification from the federal employer that includes the name and SSN of the decedent, the date of the injury, the date of death, a statement that the decedent was an employee of the United States on the date of injury and the date of death and, if the death was associated with an event that the Secretary has identified as a military action or terroristic activity in published guidance, a statement identifying the action or activity associated with the death. This certificate may be a form or a letter from the employing agency's personnel department to the decedent's representative.
- (13) A copy of the death certificate is required in lieu of certification from the State Department or DoD for the individuals listed below. The death certificate must cite the cause of death as the event qualifying for tax forgiveness. For example, accept a death certificate that states that the death was a result of wounds or injury incurred as a result of the 9/11 terrorist attacks or was a result of an illness or disease that arose from wounds or injury sustained during the 9/11 terrorist attacks or 9/11 relief efforts. If the cause of death is not apparent from the death certificate, accept a letter from the treating physician, medical examiner, or hospital stating the cause of death, or other proof such as a certification from the World Trade Center Health Program, that the victim was being treated for an illness or disease that arose from wounds or injury sustained during the 9/11 terrorist attacks or 9/11 relief efforts.
- a. Any individual who dies as a result of wounds or injury incurred due to the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or
 - b. Any individual who dies as a result of illness incurred due to a terrorist attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002, unless the individual was a perpetrator of the attacks, or
 - c. Any astronaut whose death occurs in the line of duty after December 31, 2002.
- (14) Independent contractors working on behalf of the United States government agency are not civilian employees of the United States and are not entitled to relief under the KITA/KIA provisions.
- (15) Taxpayer must be a U.S. military or civilian employee on the date of injury and on the date of death.

Exception: The Victims of Terrorism Tax Relief Act of 2001 and the Military Family Tax Relief Act of 2003 amended the Internal Revenue Code to exempt certain individuals from certain income taxes, refer to Publication 3920, Tax Relief for Victims of Terrorist Attacks.

- (16) Forgiveness of tax for KITA applies to the year of death and any prior tax year beginning with the last tax year ending before the year of the injury and only applies to the decedent's income.

- (17) Forgiveness of tax for KIA applies when a member of the U.S. Armed Forces dies while in active service, if the death occurred in a combat zone or from wounds, disease, or other injury received while serving in a combat zone. The decedent's income tax liability is forgiven for the year the taxpayer died. The prior year(s) is also forgiven only if the taxpayer had entered into a combat zone during the prior year or earlier. The taxpayer's first entry into a combat zone determines which year(s) are considered for forgiveness. In addition to tax for the tax years described in the paragraph above, all taxes and applicable penalties and interest are forgiven on accounts remaining **unpaid** as of the date of death, regardless of the tax year. These taxes should be abated if assessed, and credited or refunded if collected, after the date of death. Prepaid credits such as income tax withholding are considered paid when withheld.
- (18) Interest paid on the refund resulting from KITA/KIA returns/claims is taxable to the recipient.
- (19) Calls may be received from survivors of victims. Extra care must be taken when handling this type of call, due to the sensitivity of the issue.
- (20) If you have any questions pertaining to these claims refer to <http://serp.enterprise.irs.gov/databases/who-where.dr/kita-kia-coordinators.html> for the list of KITA/KIA coordinators. All tax law inquiries should be transferred to the applicable tax law transfer number listed on Servicewide Electronic Research Program (SERP) in the *Telephone Transfer Guide* (TTG).
- (21) Organization/Function/Program (OFP) - Program 82385 must be used to report time working on "KITA" returns.

21.6.6.2.22.2.1
(10-01-2019)

**KITA/KIA Procedures for
All Functions**

- (1) Killed in Terrorist Action/Killed In Action (KITA/KIA) processing is expedited at all times. Follow guidelines in the table below:

Issue	Guidance
Signature	The rules regarding decedent returns apply.
Income and Deductions	Exclude all income and deductions of the decedent only. If a joint return is filed, an allocation is required on joint income (e.g., interest, dividends, etc.) and deductions. Payments and deductions may be allocated differently in community property states.
Balance Due Returns	Payment is usually received with the return. If payment is not received with the return, IRC 692(a)(2) bars the IRS from collecting the portion of the unpaid tax attributable to the decedent.

Issue	Guidance
Transaction Codes (TC) 420 or 922	The Accounts Management (AM) KITA/KIA Coordinator or designated employee will contact the Compliance KITA/KIA Coordinator. For a list of KITA/KIA Coordinators, refer to http://serp.enterprise.irs.gov/databases/who-where.dr/kita_kia_coordinators.dr/kita_kia_coordinators.htm .
Due Dates	Normal filing dates apply for both the original and any amended returns. Decedent's administrator/surviving spouse may request an extension of time to file which is granted if normal conditions are met. Exception: For KIA - IRC 7508(a) may have already provided additional time to file due to the decedent's service in combat zone.
Clearing and Deposit	Follow normal procedures if a remittance return is received.
Numbering and Batching	KITA/KIA and 9/11 Rescue Worker returns are expeditiously scanned into CII and assigned to the KITA team at the Kansas City campus.
Interest and Penalties	Refer to IRM 21.6.6.2.22.2.2.1, Interest Computation on the Minimum Benefit. Reminder: Statutory exceptions (refer to IRM 20.1, Penalty Handbook) should be applied liberally when determining if penalties are to be assessed. Before assessing penalties, contact the AM KITA/KIA Coordinator.

- (2) Unpostables - The Technical Unit or designated function monitors all actions they have taken on KITA/KIA accounts and contacts Unpostables concerning the resolution of an unpostable condition. Unpostable Code 164, Reason Code 2, generates when a TC 150, TC 290, or TC 300 attempts to post to an account containing the KITA or Hostage indicator. The Unpostable function contacts the Kansas City Campus to have them check the Victim's list. If the taxpayer is not on the list, the Unpostable function processes the return. The Kansas City Campus removes the KITA indicator. If the taxpayer is on the list, the return is forwarded to the Kansas City Campus. This unpostable check is bypassed for TC 150 with Computer Condition Code "O".

21.6.6.2.22.2.2
(03-22-2021)

**Technical Unit or
Designated Function
KITA/KIA and Astronauts
Killed in the Line of Duty**

- (1) All returns (original or amended) and all case files/inquiries are expedited to the Killed in Terrorist Action/Killed In Action (KITA/KIA) Technical Unit or designated function. Except as specified in the following instructions, **normal procedures** must be followed.
- (2) If any of the years in question have a:
- TC 420 - Contact the appropriate Compliance KITA/KIA Coordinator who determines the proper case disposition in conjunction with the Area/Territory Office Examination function.
 - TC 922 - Contact the appropriate campus Compliance KITA/KIA Coordinator who secures the return and case file. The Underreporter case is closed to the function handling the KITA/KIA return(s).
 - Open Control - Contact the employee and tell them to send you what they have. Consider all information when working the KITA/KIA case.
 - Z Freeze - Refer case to the Scheme Development Center.
- (3) Examine returns for completeness. If missing items can be determined from other parts of the return or attachments, complete the missing section. "KITA/KIA" must be stamped or written across the top of the return. Returns/claims filed due to the Victims of Terrorism Tax Relief Act of 2001 should be identified as KITA anthrax, or KITA 9/11. Returns filed due to the Military Family Tax Relief Act of 2003 should be identified as KITA astronauts. Care must be taken when processing statute year claims to prevent erroneous abatements, refer to IRM 25.6.1.5, Basic Guide for Processing Cases with Statute of Limitations Issues.
- (4) Check Command Code (CC) ENMOD for the literal "KITA" next to the Name Control. If not present, use CC ENMOD CC ENREQ to input the indicator "1" in the KITA field of CC INCHG. Use "No Source Document" (NSD). Enter "KITA" or "KIA" and the event in the remarks. This action generates a TC 016 on CC ENMOD. To turn off the setting input indicator "9".
- (5) Verify the dependent TINs. If invalid and unable to find a valid TIN, contact the claimant.
- (6) All contact with the administrator/surviving spouse is made through the appropriate KITA/KIA Coordinator or designated employee. Record all activities on document history sheets. The documentation must include the date and action. Both tax years must be kept in the same file. If only one return is received, such as the 2010 original return, call or write the victim's family and/or representative to remind them of the forgiveness available on the other tax years. Do not delay the processing of the return you received.

- (7) A certification from the Department of Defense, the Department of State, or a death certificate must accompany all returns and claims for refund. Returns filed for victims due to the Victims of Terrorism Tax Relief Act of 2001 and due to the Military Family Tax Relief Act of 2003 are verified against a listing maintained by the Kansas City KITA Project Office. If the taxpayer's name is not on the list, you must request a **certified** copy of the death certificate prior to issuing a refund. Kansas City indicates the need to secure a certified death certificate on cases sent to your office.
- (8) In KIA cases, the date of entry into a combat zone is needed to process the return/claim. This date may be found on CC IMFOLE or noted on the claim/return.
- (9) Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, must accompany all returns and claims for refund. Refer to IRM 3.11.3.10.3, Documentary Evidence, for procedures on identifying a correctly completed Form 1310.

Note: A Form 1310 is not required if the surviving spouse is filing an original or amended joint return with the decedent, or the administrator is filing an original Form 1040, U.S. Individual Income Tax Return, or Form 1040NR, U.S. Nonresident Alien Income Tax Return, for the decedent and a court certificate showing their appointment is attached to the return.

- (10) Contact must be made, when possible, by telephone. If unable to reach the administrator/surviving spouse after two calls, request the information in a letter. Before disclosing any tax information, you must be sure you are speaking with the taxpayer or authorized representative; refer to IRM 21.1.3.2.3, Required Taxpayer Authentication. Before leaving a message on a taxpayer's answering machine, refer to 10.5.1.6.7.2, Answering Machine or Voicemail.
- (11) In all cases, ask the administrator/surviving spouse to provide the information in 30 days. Inform them that without the supporting information we are not be able to issue a refund. Also, we may have to increase the tax they owe or reduce the refund.
- (12) If no reply is received within 45 days, call or send a follow-up letter. Tell the administrator/surviving spouse to provide the information in 10 days, then wait 15 days for a reply.
- (13) If no reply is received after the second contact, call or send another follow-up letter. Wait an additional 15 days for a reply.
- (14) If no reply to the third request, follow normal "No Consideration" procedures in IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns.
- (15) For joint returns, if the missing/incomplete information is the allocation of income/deductions, process as a normal joint return. Verify the tax is correct

benefits the taxpayer.

Note: Do not edit the Return Processing Date (RPD) when the items in paragraph 15 apply.

- (16) Edit a CCC "U" on **all** "no reply" returns in addition to the other actions specified in the Correspondence Action Chart, **except** when any of the following apply:
- The only correspondence item was for withholding support
 - The correspondence was not required
 - All correspondence conditions were not included when the first correspondence was sent
- (17) For late "no reply" returns, honor the original received date.
- (18) Send the administrator/surviving spouse a letter informing them to file Form 1040-X, Amended U.S. Individual Income Tax Return, with the required information. Remember, if a manual refund is not issued (no "O" code), the original

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calls the KITA office they are told to post the return. Make sure all of your actions are clearly documented on the history sheet you attach to the return. The return is allowed to post when input the second time.

- (19) The CCC "O" may also be present if a taxpayer is issued a manual refund before the return posts.
- (20) The following applies to **ALL** KITA/KIA original returns:

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tax tolerance only if it benefits the taxpayer. Edit, if applicable, all items following the tax including the minimum payment/credit amount and the "refund" amount, or the "amount owed." Enter Computer Condition Code (CCC) "Y". Code the entity portion and address. Enter the appropriate CCC (F, W, L, etc.). Refer to (23) below if a joint return.

- b. Prepare a manual refund, if applicable, enter CCC "O" on the return. Follow normal procedures including research for outstanding balances. Attach a copy of the manual refund form to the return. Refer to IRM 21.6.6.2.22.2.2.1, Interest Computation on the Minimum Benefit.

Note: If outstanding balances, send the appropriate offset letter prior to satisfying the debts.

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of the following conditions are present:

- Non-filer/SFR (Substitute for Return) for two years or more
- Underreporter with balance due for two years or more
- Examination assessment over \$2,000 (per tax year) with a balance due

- c. Notate the following in the lower left hand corner of page 1 of the Form 1040:
- KITA or KIA
 - Employee name
 - Employee telephone number
- d. Hand carry the return to Batching with Form 3210, Document Transmittal. If an error code generates during processing, the ERS Function suspend the document and contacts the employee. All math errors must be resolved prior to the processing of the return. Contact the victim's family and/or representative if necessary.

- e. Contact the victim's family and/or representative, via telephone or letter, regarding the adjustment actions taken on KITA amended or original tax return. Provide the tax forgiveness amounts, the refund amount, the anticipated date the refund should be received, interest amount allowed with the refund, and the IRS employee name, identification number, telephone number, and address to contact if there are any questions.
- f. Monitor for posting and to confirm the refund, if any, is issued.
- g. Destroy copies of returns used for monitoring purposes and all duplicate information.
- h. File all other documentation, including the history sheets, by inputting a TC 290 .00 on the latest KITA/KIA year filed. In remarks put: "KITA" or "KIA" documentation.

(21) The following applies to **ALL** KITA/KIA amended returns:

- a. Math verify for completeness.

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taxpayer. Use Reason Code 99, Source Code 1, Hold Code 4, if the adjustment results in an overpayment, and use the appropriate blocking series. Enter "KITA" or "KIA" and the event in the remarks. **DO NOT ADJUST THE INCOME.** Leave the control base open and monitor until all actions have posted.

Note: Adjustments made to an electronically filed return account must use blocking series 05 (do not use blocking series 18).

- c. Prepare a manual refund if applicable. Refer to IRM 21.6.6.2.22.2.2.1, Interest Computation on the Minimum Benefit.
- d. All claim disallowances must be reviewed by the KITA Project coordinator.

(22) If the return/claim is filed due to the Victims of Terrorism Tax Relief Act of 2001 or the Military Family Tax Relief Act of 2003, the following applies:

- a. Refer to Publication 3920, Tax Relief for Victims of Terrorist Attacks, for taxes not eligible for forgiveness.
- b. Tax on income the decedent would have received if the decedent had not died; such as paycheck, dividends, etc., is forgiven.
- c. Death benefits paid by the employer, if they are paid as a result of the decedent being a victim of the terrorist attack, are excluded. If these death benefits would have been received for any cause of death, then normal rules apply.
- d. A minimum tax relief benefit of \$10,000 is provided to victims of the April 19, 1995 and September 11, 2001 terrorist attacks, any Anthrax attack occurring on or after September 11, 2001, and before January 1, 2002, and any astronaut whose death occurs in the line of duty after December 31, 2002. This minimum applies to the original and amended Form 1040 and Form 1041, Income Tax Return for Estates and Trusts, returns. Publication 3920, Tax Relief for Victims of Terrorist Attacks, suggests the taxpayer to file the amended and original returns together. To determine if the individual has been given the minimum relief, consider the total tax forgiven. Penalties and interest previously paid on the tax liability forgiven by the Act are not included in the computation of the minimum relief. Also included is the tax forgiven on the Form 1040 (a worksheet is included in Publication 3920). If necessary, check IDRS for adjustments to the years involved. If unable to determine if all returns are filed, contact the

administrator/surviving spouse. Refer to IRM 21.6.6.2.22.2.2 (6) above for correspondence procedures. Question whether a Form 1040 or other returns are going to be filed. Tell the administrator/surviving spouse to send the returns to you. If you receive a return that has not come

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tion can be added to the national database. Refer to IRM 21.7.4.4.1, Form 1041, U.S. Income Tax Return for Estates and Trusts, for additional information on Form 1041. Per normal procedures, if the taxpayer has questions you are unable to answer, write them up and refer to your work leader or manager. Apologize to the taxpayer for not being able to answer the inquiry immediately. Inform them they should receive a response as soon as possible but no later than 3 business days.

Note: Do not delay refunds while waiting to receive additional returns. If the return (amended or original) you have is processable, complete the case processing expeditiously. If additional return(s) are received, the account must be adjusted accordingly.

- e. If the minimum amount has not been forgiven, the taxpayer can claim a payment/credit up to \$10,000 on the "Other Payments" line of the last taxable year. The taxpayer has been instructed to write "Section 692(d)(2)". Normal statute procedures apply, claim for refund must be filed within 3 years from the time the previously filed income tax return or 2 years from the time the tax was paid, whichever is later. Refer to IRM 21.6.6.2.22.2.2.1, Interest Computation on the Minimum Benefit.
 - f. If a Form 1040-X, Amended U.S. Individual Income Tax Return, is filed to claim the relief, the amount can be entered on Line 15, with the same write-in, to allow the credit input TC 290.00, if no other adjustment is required. Use the Credit Reference Number (CRN) 766 to allow the credit or CRN 767 (with a minus sign) to decrease a previously posted credit. Use Reason Code (RC) 99, Source Code (SC) 1, the appropriate hold code, and blocking series.
- (23) Joint returns - Only the decedent's part of the joint income tax liability is eligible for the refund or tax forgiveness. Refer to the worksheet in Publication 3920, Tax Relief for Victims of Terrorist Attacks. To determine the part attributable to the decedent, the person filing the claim must complete the following steps:
- a. Figure the income tax for which the decedent would have been liable as if a separate return had been filed.
 - b. Figure the income tax for which the spouse would have been liable as if a separate return had been filed.
 - c. Multiply the joint tax liability by a fraction. The top number of the fraction is the amount in a) above. The bottom number of the fraction is the total of a) and b). The result is the decedent's tax liability that is eligible for the
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- the taxpayer.
- (24) If the decedent's administrator/surviving spouse is unable to complete the process in (23) above, they should attach a statement of all income and deductions indicating which belongs to each spouse. You must then make the proper division.
- (25) If the member of the Armed Forces was domiciled in a community property state and the spouse reported half the military pay on a separate return, the

spouse can get a refund of taxes paid on his or her share of the pay for the years involved. The forgiveness of unpaid tax on the military pay would also apply to the half owed by the spouse for the years involved.

21.6.6.2.22.2.2.1
(10-01-2008)

Interest Computation on the Minimum Benefit

- (1) Following is information on the date from which interest should be computed on the \$10,000 minimum benefit (make-up payment) and any actual payments a victim made with respect to tax that the Act now forgives.
- (2) Normal rules apply unless otherwise specified. The “make-up” payment is considered paid on the date of enactment of the Act, January 23, 2002. Following normal rules regarding the accrual of interest, the interest may or may not be computed on that payment from that date.
- (3) Interest does not begin to accrue prior to the filing of a return with respect to a victim who had a filing obligation prior to the enactment of the Act. Victims who did not have a filing requirement, (for example, children who had not earned sufficient income to have a filing requirement) is paid interest on the “make-up” payment from January 23, 2002, even if a return claiming the \$10,000 minimum relief is not filed until a later date, so long as the return or claim for refund is timely under IRC 6511.

Examples:

- A first responder who died in 2014 from a cancer covered under the World Trade Center Health Program had an income tax liability of \$17,500 for 2011, \$18,025 for 2012 and \$7,000 for 2013. He filed his tax returns on time each year and paid all of his tax when due. The total, \$42,525, is eligible for tax forgiveness. However, the \$17,500 refund for 2011 must be requested by April 15, 2015.
- A child wounded in the September 11 attacks dies in 2012 as a result of those wounds and never had any income tax liability. The child qualifies for the minimum relief of \$10,000. The \$10,000 is treated as a tax payment for 2012 and refunded if tax forgiveness is requested by April 15, 2016.

21.6.6.2.23
(10-02-2023)

Tax Equity and Fiscal Responsibility Act (TEFRA) Partnerships Related Claims

- (1) These amended returns are related to Tax Equity and Fiscal Responsibility Act (TEFRA) partnership adjustments which result in refunds. The partners’ periods of limitation for the flow-through adjustments may be held open at the partnership level. The Letter 3906, Letter 4505-A, or Letter 4505-E provides the date by which the partner may file an amended return to determine whether the claim was filed timely. Do NOT automatically reject any amended return filed with a Letter 3906, Letter 4505-A or Letter 4505-E. The letter **MUST** be attached to the return and must provide the date by which the amended return must be filed. The amended returns should have “Letter 4505-A/AAR” or “Letter 4505-E” written in the top center margin of the first page of the return. The partners may be filing amended returns with amended Schedules K-1. The Letters 4505-A and E instruct the partners to write Letter “4505-A/AAR” or “Letter 4505-E” in the top center margin of the form. The tax year of the adjustment to the TEFRA partnership return is for that year **ONLY** but does cover any potential carryback or carryover years. The partners/taxpayers have until the same date to file those carryback/carryover claims; therefore they must be postmarked on or before the date provided in the Letter 3906, Letter 4505-A, or Letter 4505-E.

- (2) The statute at the partnership level protects the ASER and related RSED for all the underlying partners until the date provided in the Letter 3906, Letter 4505-A, or Letter 4505-E. The ASER and RSED of the partners are likely to appear to be expired but is extended under IRC 6229(b)(1). The partners/ taxpayers have until the same date to file those carryback/carryover claims; therefore they **MUST** be postmarked on or before the date provided in the Letter 3906, Letter 4505-A, or Letter 4505-E.

Example: Jill Maple files a Form 1040-X as a partner (directly or indirectly) in TEFRA Partnership ABC and received amended Schedule K-1 for tax year 2010. The amended Schedule K-1 reflects a credit or loss. The Form 1040-X amended return for Jill has Letter “4505-A/AAR” or “Letter 4505-E” written on the top of the return and a copy of the letter attached. Jill’s amended return also includes only the adjustment reflected on the Schedule K-1. **Only** the ABC Partnership related adjustments have an open statute.

Example: Form 1040-X Carryback claim. Same facts as above, except the credit or loss creates a net operation loss (NOL) that Jill must carryback to the 2007 tax year and carryforward as appropriate. Jill files an amended return for the tax year 2007 and writes Letter “4505-A/AAR” or “Letter 4505-E” on the top of the return and a copy of the letter is attached. **Only** the ABC Partnership related adjustments being carried back have an open statute.

- (3) Similar scenarios may exist with BMF amended returns. Both taxable BMF entity as well as pass-through entity claims may be filed. Pass-through entity claims are filed with amended Schedules K-1 to report the effect of the partnership adjustments to their investors.
- (4) If the only issue on the amended return is the TEFRA partnership related loss, the claim should NOT be referred to CAT-A for review.

Reminder: When inputting the adjustment on a statute case, in order to prevent a –D freeze from generating, an override “S” **MUST** be entered on the Command Code ADJ54 screen, and the RSED date posted on CC TXMODA **MUST** be entered on the RFSCDT field, do **NOT** use the claim received date.

21.6.6.2.24
(10-01-2008)
**Virgin Islands Form 1040
and Form 1040A**

- (1) Refer claims received from taxpayers residing in the Virgin Islands to the Austin Campus for processing.

21.6.6.2.25
(11-14-2008)
**Electronic Filing System
(e-file)**

- (1) Refer to IRM 21.7.4.4.15.1, Modernized e-file Program (MeF) for Corporate and Exempt Organization Returns, for information on electronically filed Form 1120, U.S. Corporation Income Tax Return, Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations, Form 1120S, U.S. Income Tax Return for an S Corporation, and Form 990, Return of Organization Exempt From Income Tax. Utilize Command Code (CC) TRDBV, or CC RTVUE, or CC BRTVU, if CC TRDBV is unavailable, to verify return information in lieu of requesting an Electronic Filing (ELF) return (hard copy print). Only obtain a hard copy of the ELF return if it must be reprocessed or reinput.

- (2) Use CC TRPRT to request graphic prints. The CC TRPRT graphic should be available nationwide regardless of where the return was filed. The CC TRPRT print is not considered the original return. The print should be labeled "TRPRT PRINT DO NOT PROCESS". Refer to IRM 21.5.2.4.23.1, Reprocessing Electronic Returns. However, when the return must be reprocessed, the CC TRPRT print must be used. Refer to IRM 21.2.2.4.4.6, TRDB CC TRPRT (Tax Return Print) Input, for additional information on CC TRDBV and CC TRPRT.

Note: When reprocessing an E-file return, you must check the CC TRPRT print for the Personal Identification Number (PIN). If there is no PIN on the CC TRPRT print, you must request Form 8453, U.S. Individual Income Tax Transmittal for an IRS e-file Return, refer to (4) below, and attach a copy of the Form 8453 to the CC TRPRT print.

- (3) Do not use blocking series 18 for e-filed returns. Use the applicable blocking series for the type of return/situation you are adjusting. Refer to Returns Processing Adjustment Blocking Series in *Document 6209, Section 4.14, Adjustment Blocking Series*, for a listing of adjustment blocking series.

Note: Refer to IRM 21.5.4.5, Math Error Procedures Processing, and IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns.

- (4) Request Form 8453, U.S. Individual Income Tax Transmittal for an IRS e-file Return, if needed. When using CC ESTAB, enter the applicable MFT and "8453" for the form. If 8453 is not input for the form, the request should be systematically rejected. When using CC ELFRQ, use action "2".

Note: For tax year 2003 and subsequent, the DLN of the Form 8453, can be obtained through CC R8453. Input R8453, space and the taxpayer's social security number. For tax years prior to 2003, use the DLN of the original return.

- (5) DO NOT attach information (e.g., loose forms, schedules, and correspondence) to an ELF return. To identify an ELF DLN refer to *Document 6209, Section 4.3, Campus and File Location Codes*. Use the following procedures:
- File the information using TC 290 with the applicable blocking series for the type of return/situation you are adjusting using the non-refile DLN.
 - DO NOT** use an "attachment" or "association form".

Note: These procedures are not needed for documents scanned into Correspondence Imaging Inventory (CII). CII serves as the retention area for these documents.

- (6) Electronic Filing Unit (EFU) may forward Form 3465, Adjustment Request, to Accounts Management with a problem annotated. Take normal adjustment action.

21.6.6.2.26
(10-01-2008)

**Form 5330 - Return of
Excise Taxes Related to
Employee Benefit Plans**

- (1) Take the following action if the taxpayer submits a payment for excise tax and attaches a Form 5330, Return of Excise Taxes Related to Employee Benefit Plans (Voucher Update Document):
- Detach and photocopy the Form 5330. Attach Form 1725, Routing Slip, to the photocopy of Form 5330 and route to OAMC EP Accounts Ogden,

UT 84201–0027, M/S 6552 Attn.: Employee Plan (EP) Accounts Unit (this is the EP unit in Ogden responsible for all “Post Processing” EP work).

- b. Write “Photocopy Only - Do Not Process” across the front of the form.
- c. Route the original Form 5330 to Receipt and Control for processing to the Business Master File (BMF). Receipt and Control has instructions to transship the Form 5330 to Ogden for processing.
- d. Process adjustment per Form 1040, U.S. Individual Income Tax Return, or Form 1040-X, Amended U.S. Individual Income Tax Return, if necessary, using the Source Code (SC) 1, Reason Code (RC) 099, and appropriate blocking series.
- e. Use a hold code to prevent release of the excise tax payment.
- f. Annotate the Form 1725 that the original Form 5330 was sent to Ogden for processing and that the credit is posted on the IMF.
- g. Advise the EP function of the credit on Individual Master File (IMF) available for transfer to BMF MFT 76.

21.6.6.2.27
(03-04-2021)

Form 8697 - Interest Computation Under the Look-Back Method for Completed Long-Term Contracts

- (1) Form 8697 is filed by an individual, corporation, estate, or trust. These claims are worked in either Philadelphia (IMF) or Cincinnati (BMF) depending on the type of claim filed (IMF or BMF). If received at any other campus, ensure the case is notated as a Form 8697 claim and forward to the applicable IMF or BMF campus. If the claim is scanned into CII re-control BMF claims to 0244374812. Once received in Philadelphia (IMF) or Cincinnati (BMF), employees are to follow procedures in IRM 21.7.4.4.20, Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts.

21.6.6.2.27.1
(03-04-2021)

Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method, Form 8866

- (1) Form 8866, Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method, is used to figure the interest due or to be refunded under the look-back method of IRC 167(g)(2) for property placed in service after September 13, 1995, that is depreciated under the income forecast method as described in IRC 167(g).

Exception: The look-back method does not apply for any property with a cost basis of \$100,000 or less.

- (2) Form 8866 is almost identical to Part I, Regular Method, of Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts. As with Form 8697, taxpayers are instructed to file Form 8866 with the appropriate income tax return if additional interest is owed and to file separately if due a refund.
- (3) These claims are worked in either Philadelphia (IMF) or Cincinnati (BMF) depending on the type of claim filed (IMF or BMF). If received at any other campus, ensure the case is notated as a Form 8866 claim and forwarded to the applicable IMF or BMF campus. If the claim is scanned into CII re-control BMF claims to 0244374812. Once received in Philadelphia (IMF) or Cincinnati (BMF), employees should follow procedures in IRM 21.7.4.4.21, Form 8866, Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method.

21.6.6.2.28
(10-01-2019)

**Public Safety Officers
Killed in the Line of Duty**

- (1) IRC 101(h) generally excludes from income, amounts paid to a public safety officer, to the extent that the amounts are attributable to the officer's service as a law enforcement officer. To qualify for the exclusion, the payments must meet all of the following conditions:
 - a. The payments are made as survivor annuities.
 - b. The officer was killed either:
 - after December 31, 1996 (if the payments are made after Dec. 31, 1996), or
 - on or before December 31, 1996 (if the payments are made after December 31, 2001).
- (2) The survivor annuity must be provided under a governmental plan to the surviving spouse (or former spouse) of the public safety officer or to a child of the officer. Public safety officers include law enforcement officers, firefighters, rescue squads, ambulance crews, and certain Federal Emergency Management Agency (FEMA) employees and employees of agencies providing disaster-related assistance to FEMA. The provision does not apply to the death of a public safety officer if it is determined by the appropriate supervising authority that:
 - a. The death was caused by the intentional misconduct of the officer or by the officer's intention to bring about the death.
 - b. The officer was voluntarily intoxicated at the time of death.
 - c. The officer was performing his or her duties in a grossly negligent manner at the time of death.
 - d. The actions of the individual to whom payment is made were a substantial contributing factor to the death of the officer.
- (3) Similar procedures apply to exclude from gross income the survivor benefits described in IRC 104(a)(6), effective May 22, 2015. The survivor benefits described in IRC 104(a)(6) are those received under Section 1201 of the Omnibus Crime Control and Safe Streets Act of '68, or under a state law to provide monetary compensation for surviving dependents of a public safety officer who died as the direct and proximate result of a personal injury sustained in the line of duty.
- (4) If an amended return claims this exclusion, the filer must provide a copy of the death certificate and a letter from the employing agency to substantiate the claim. Follow normal claims processing procedures.

21.6.6.2.29
(10-03-2022)

**Insurance Premiums for
Retired Public Safety
Officers (PSO)**

- (1) An eligible retired public safety officer (i.e., law enforcement officer, firefighter, chaplain or member of a rescue squad or ambulance crew) can elect to exclude from income a **maximum of \$3,000** received from an eligible governmental retirement plan that was used to pay the premiums for accident, health or long-term care insurance. To be eligible for this exclusion, the individual must be separated from service, by reason of disability or attainment of normal retirement age, from the governmental employer that is the sponsor of that governmental retirement plan. An individual who separated from service prior to normal retirement age is not eligible for this exclusion unless the separation from service was by reason of disability.
- (2) An eligible retirement plan is a government plan that is:
 - A qualified trust

- An IRC 403(a) plan
- An IRC 403(b) annuity, or
- An IRC 457(b) plan

- (3) Allow the claim if the taxpayer is excluding from income \$3,000 or less and indicates “PSO” next to line 5b, Form 1040, U.S. Individual Income Tax Return, for tax years 2020-2022 (for prior tax years “PSO” is listed on the taxable amount line of disability pension) or is retired on a disability and is reporting the disability pension on line 5a of Form 1040.

Note: If it can be determined that the taxpayer is a retired public safety officer who has taken the exclusion, but the literal “PSO” is missing, allow the exclusion up to the maximum of \$3,000.

Reminder: While the dollar thresholds in the Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General, tables refer to the amount of the tax decrease or credit increase. The \$3,000 criteria used in this section for PSO exclusions relates to a change of income and not tax.

Note: When processing a claim on a Married Filing Joint account, if both taxpayers are retired officers, a maximum of \$6,000 can be excluded from income. This is limited to \$3,000 associated with each taxpayer’s income.

- (4) Disallow any claim in excess of the \$3,000 income exclusion; refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures. Include in the Letter 105C the following disallowance language: “Under IRC Section 402(l)(2) the exclusion of distributions from governmental plans for health and long term care insurance to a retired Public Safety Officer (PSO) is limited to the lesser of the amount paid for qualified health insurance or \$3,000 per year.”
- (5) Amounts used to pay qualified insurance premiums that are excluded from gross income under IRC 402(l) are not taken into account in determining the itemized deduction for medical care expenses under IRC 213.

21.6.6.2.30
(10-01-2003)

**Exclusion of Income by
Junior Reserve Officers
Training Corps (JROTC)
Instructors**

- (1) Taxpayers, retired from the military service, are citing IRC 134, claiming their compensation as JROTC instructors is tax exempt. A JROTC instructor’s salary is fully includable in gross income as compensation for services under IRC 61(a)(1).
- (2) Disallow the claim; refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures. Send the Letter 105C. Include the following information: “We disallowed your claim to exclude compensation received as a JROTC instructor from your income. The amount you received as a JROTC instructor from a school or school board for teaching is characterized as salary, rather than as an allowance. IRC Section 134 does not apply because the salary at issue does not meet the statutory definition of a qualified military benefit. Rev. Rul. 71-307 concluded that the compensation received by JROTC instructors is fully includable in gross income.”

21.6.6.2.31
(07-05-2023)

**Tax Treatment of
Compensation for
Exonerated Prisoners**

- (1) Compensatory damages for physical injuries and physical sickness (including damages received for economic losses stemming from the physical injury or physical sickness) that an individual receives from a state for wrongful conviction and incarceration are excluded from gross income under IRC 104(a)(2). The compensatory damages that the individual receives are excluded from

gross income whether the individual receives the compensation in a lump sum, periodic payments, or a factoring transaction. IRC 139F excludes any civil damages, restitution, or other monetary award relating to wrongful incarceration of an individual for taxable years beginning on or after December 18, 2015 (date of enactment of Sec. 304 of the 2015 PATH Act). Under this special provision, if a wrongfully incarcerated individual would have an overpayment for a period before the date of the enactment, the individual must file a claim for credit or refund by December 17, 2018, as extended by the Bipartisan Budget Act of 2018.

- (2) Claims are generally filed on Form 1040-X, Amended U.S. Individual Income Tax Return. The claim **must** include two different types of documentation. The first type of documentation must establish that the award was previously reported in income, when it was reported, and the amount. Examples of such documentation include copies of federal income tax returns, Form 1099-MISC, Miscellaneous Income, and any other retained records relating to the reported income. This can be verified by researching the account. The second type of documentation must establish that the award was made on account of the wrongful incarceration. Examples of such documentation include copies of federal or state court orders awarding the compensation, signed settlement agreements accepting the amount of the award, and letters by governmental agencies or private payment sources that may have accompanied the payment of the award that include an explanation of the reason for the payment.
- (3) These claims are expeditiously processed in Kansas City. Reassign **ALL** exonerated prisoner claims to IDRS 0933578782, with category code "XRET". Update the case note with "exonerated prisoner claim".
- (4) Only "exonerated prisoner" claims are centralized in Kansas City, do **NOT** refer "prisoner" or "incarcerated" claims to Kansas City, refer to IRM 3.11.6.7.20, Prisoner Returns.
- (5) Kansas City forwards claims that meet Examination CAT-A criteria when the amount of the claim exceeds the criteria amount as outlined in Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General.

Reminder: To prevent a -D freeze from generating when adjusting a statute barred claim filed between December 18, 2015 and December 17, 2018, an override "S" **MUST** be entered on the CC ADJ54 screen, and the RSED date posted on CC TXMODA **MUST** be entered on the RFSCDT field. Do **NOT** use the claim received date.

- (6) For additional information, refer to the IRS.gov for news release *IR 2016 - 88 IRS Provides Guidelines on How to Claim New Wrongful-Incarceration Exclusion; Use Special Address for All Back-Year Refund Claims; Dec. 19 Deadline for Older Claims and Wrongful Incarceration FAQs*.

21.6.6.2.32
(10-01-2019)

Meal Expense Deduction

- (1) A deduction for meal expenses may be available for meals (other than amounts which are lavish and extravagant under the circumstances) consumed while traveling away from home in pursuit of a trade or business. Away from home pursuant to IRC 162(a)(2) means traveling away from home in the pursuit of a trade or business that requires sleep or rest to properly perform duties. A deduction for a meal expense also may be available in other limited circumstances.

- (2) Generally, for expenses paid or incurred on or before December 31, 2017, IRC 274(n) subjects business-related meal and entertainment expenses to a 50 percent deduction limit. Generally, entertainment expenses are not deductible if paid or incurred after December 31, 2017, but business-related meal expenses remain 50 percent deductible. In addition, a temporary exception to the 50 percent deduction limit allows a 100 percent deduction for food or beverages provided by a restaurant and paid or incurred after December 31, 2020, and before January 1, 2023. See Notices 2021-25 and 2021-63. A higher percentage may be deducted if meals are consumed while a taxpayer is traveling away from home and is required to remain away from home overnight during, or incident to, any period of service subject to the Department of Transportation's (DOT) hours of service limits. The deductible percentage for tax year 2008 and subsequent years is 80 percent.

Note: Refer to Publication 17, Your Federal Income Tax Return, for complete information and requirements on meal expense deduction and for individuals subject to DOT's "Other Income" and "hours of service" limits. Refer to Publication 463, Travel, Entertainment, Gift and Car Expenses, for more information on when meal expense deductions are allowed, and for more information on this and other exceptions to the 50 percent deduction limit.

- (3) Review claim for completeness. If all requirements are met, input the necessary adjustment. If all requirements are not met, refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for claim disallowance. If unable to determine that all requirements are met refer to IRM 21.5.3.4.7.2.1, Examination Technical Assistance Request.

21.6.6.2.33
(04-01-2009)
Lottery Winnings

- (1) Many lottery winners receive their lottery prizes in yearly installments over a 20 to 26 year period. The winners are sometimes allowed to sell their rights to the future payments, to third parties in exchange for a lump sum payment. These lump sum payments can range from several thousand to several million dollars.
- (2) The lump sum payments should be reported as "Other Income" on Form 1040, U.S. Individual Income Tax Return. Taxpayers are filing amended returns to change the income to capital gains. This allows them to benefit from the preferential capital gains tax rates versus the ordinary income tax rates. Disallow the claim; refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures. Include in the letter 105C the following disallowance language: "Proceeds from the sale of rights to receive lottery winnings are ordinary income and may not be treated as a capital gain."

21.6.6.2.34
(10-02-2023)
Capital Construction Fund (CCF)

- (1) The Capital Construction Fund (CCF) was created under a Merchant Marine Act to assist fisherman to acquire fishing vessels or improve a current vessel. The CCF program allows taxpayers to defer taxable income by making contributions to a National Marine Fisheries Service (NMFS) approved depository and eventually use the accumulated funds for purchasing or improving fishing vessels. Refer to T.D. 7398, 41 FR 5812.
- (2) Under IRC 7518, the owner or lessee may deposit into the CCF certain amounts representing taxable income from the eligible vessel, depreciation on the eligible vessel, net proceeds from the disposition of the eligible vessel, and earnings on amounts held in the CCF. Under IRC 7518, taxation is deferred on amounts deposited into the CCF. Also, taxation is deferred on amounts

withdrawn from the CCF to the extent they are used to purchase, construct, or retire indebtedness on a qualified vessel.

- (3) Before a taxpayer can open a CCF account, they must enter into an agreement with the Secretary of Commerce through the NMFS. The taxpayer can request an application kit or get additional information from NMFS at the following address:
NOAA/NMFS, Financial Services Division, F/MB5
Capital Construction Fund Program
1315 East-West Highway
Silver Spring, MD 20910-3282
- (4) CCF Eligibility Requirements:
 - Must be a U.S. citizen (individually), a corporation (the president and majority of the board must also be U.S. citizens), or a partnership 75 percent owned by U.S. citizens
 - Must own or lease a vessel
 - The vessel must be built or rebuilt in the U.S.
 - The vessel must operate in the U.S. fisheries or in U.S. foreign trade, non-contiguous domestic trade (for example, Alaska to Seattle), or the Great Lakes.
 - The vessel must weigh between 2 and 5 net tons.
- (5) For additional information refer to Publication 595, Capital Construction Fund for Commercial Fishermen, and the Department of Commerce's regulations at 46 C.F.R Section 390 as prescribed by 41 FR 4265 (1/29/1976).
- (6) To take the deduction, taxpayers are instructed to report earnings from the operation of agreement vessels on their *Form 1040 Schedule C*, Profit or Loss from Business (Sole Proprietorship), or *Form 1040 Schedule C-EZ*, Net Profit from Business (Sole Proprietorship), even if they deposit part of the earnings into their CCF account. The taxpayers should subtract the CCF deposit from the amount that would normally be entered on Line 8 of Form 1040, U.S. Individual Income Tax Return. The taxpayer should also write "CCF" and the total amount of these deposits next to Line 8. The CCF deposits should not be deducted on Schedule C, or Schedule C-EZ. These claims may also be filed on Form 1040-X, Amended U.S. Individual Income Tax Return. These claims are changing income from taxable to nontaxable. Prior to adjusting the account; refer to Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General.

21.6.6.2.35
(05-08-2023)
**Qualified Medicaid
Waiver
Payments/Difficulty of
Care Payments**

- (1) On February 23, 2015, the IRS posted a Questions-and-Answers page, *Certain Medicaid Waiver Payments May Be Excludable From Income*, addressing the income tax treatment of certain payments to an individual care provider under a state Home and Community-Based Services Waiver (Medicaid waiver) program. This post reflects formal guidance published in January 2014 (Notice 2014-7). The notice provides that the IRS should treat "Qualified Medicaid Waiver Payments" as difficulty of care payments, including payments identified as In Home Support Services (IHSS), excludable from gross income under IRC 131(c). This treatment applies whether the care provider is related or unrelated to the eligible individual. Taxpayer is **NOT** required to submit a Form W2-C, Corrected Wage and Tax Statement, or a corrected Form 1099-MISC, Miscellaneous Income.

- (2) Taxpayer may file a Form 1040-X, Amended U.S. Individual Income Tax Return, if they received payments described in the Notice 2014-7 in an earlier tax year, providing that these payments were received on or after January 3, 2014. Normal statute of limitations procedures apply; refer to IRM 25.6.1, Statute of Limitations Processes and Procedures. The taxpayer can generally file a claim for refund within three years from the date the return was filed or two years from the date the tax was paid, whichever is later. In Part III of Form 1040-X, the taxpayer should explain that the payments are excludable under Notice 2014-7. Excluding payments described in the notice in an earlier tax year may affect deductions or credits that the taxpayer claimed for the earlier tax year, as well as other tax items for the earlier year. To help expedite the processing of the amended return, the taxpayer must include the following to substantiate their claim:
- The full name of the individual receiving care (and the care recipient's social security number or other taxpayer identifying number, if available)
 - Copies of documents from third parties to show that the taxpayer and the individual receiving care resided in the same home in the year to which the claim relates (such as a driver's license or other government-issued document, social agency document, bank statement, medical bill, or utility bill)
 - Evidence that the individual is receiving care under a state Medicaid waiver program

Reminder: Route Form 843, Claim for Refund and Request for Abatement received for excess social security, to a BMF campus for processing.

- (3) Accounts Management (AM) and Submission Processing (SP) should process these amended returns following normal adjustment procedures. Use the reason code based on the type of income being adjusted, for instance, RC 007 is based on Form W-2; RC 021 is Form 1099-MISC, etc. Refer to IRM 21.5.3.4, General Claims Procedures, IRM 21.6.3, Credits, and for CAT-A criteria for Difficulty of Care Qualified Medicaid Waiver Payments (DOC) refer to Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General.
- (4) For additional information, refer to the [irs.gov](https://www.irs.gov) website: *Certain Medicaid Waiver Payments May Be Excludable From Income*.

21.6.6.2.36
(10-01-2013)
**Economic Growth and
Tax Relief Reconciliation
Act of 2001 (Public Law
No. 107-16), Section 803
— Victims of the Nazi
Regime**

- (1) Section 803 of the Economic Growth and Tax Relief Reconciliation Act of 2001 provides that there should be no federal income tax on excludable restitution payments received by eligible individuals (or their heirs or estates) who were victims of the Nazi regime. Eligible individuals are persons who were persecuted on the basis of race, religion, physical or mental disability, or sexual orientation by Nazi Germany, any other Axis regime, or any other Nazi-controlled or Nazi-allied country. Excludable restitution payments (or distributions) include those payments made payable to an individual (or the individual's heirs or estate) which is payable by reason of the individual's status as an eligible individual, and which constitutes the direct or indirect return of, or compensation or reparation for, assets stolen or hidden from, or otherwise lost, to the individual before, during, or immediately after World War II by reason of the individual's status as an eligible individual. Any proceeds of insurance under policies issued by European insurance companies immedi-

ately before or during World War II also qualify for exclusion. Finally, interest payable on the payments described in the previous two sentences qualify for exclusion.

- (2) Such restitution payments shall not be included in gross income and shall not be taken into account for purposes of applying any code section that takes into account excludable income in computing adjusted gross income, including IRC 86 (relating to the taxation of social security benefits). The basis of any property received is its fair market value at time of receipt. Section 803 of the Economic Growth and Tax Relief Reconciliation Act of 2011 applies to payments or property received after December 31, 1999. Any interest earned by escrow accounts or settlement funds established pursuant to the settlement of the action entitled "In re: Holocaust Victim Assets Litigation," funds to benefit eligible individuals or their heirs estates created by the International Commission on Holocaust Insurance Claims, or similar funds subject to the administration of U.S. courts to benefit eligible individuals is not taxable. Review claim for completeness. If all requirements are met, input the necessary adjustment. If all requirements are not met, refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for claim disallowance. If unable to determine that all requirements are met, refer to IRM 21.5.3.4.7.2.1, Examination Technical Assistance Request.

21.6.6.2.37
(10-01-2009)
Maritime Claims

- (1) Maritime personnel are filing claims for the following:
 - Expenses associated with traveling to and from union halls to seek employment (job search)
 - Refund claims based on deducting meals and incidental expenses (M and IE) at the per diem rate
- (2) Refer claims for expenses associated with traveling to and from union halls, to Examination as CAT-A criteria if the amount of the claim exceeds the criteria amount as outlined in Exhibit 21.5.3-2, Examination Criteria (CAT-A)-General.
- (3) Refer claims for deductions of meals and incidental expenses while temporarily traveling away from home to Examination as CAT-A criteria if the amount of the claim exceeds the criteria amount as outlined in Exhibit 21.5.3-2, Examination Criteria (CAT-A) - General.

Exception: If claim does not have a breakdown of the days, localities, and rates, refer to IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns, for additional information. Send the Letter 916C to include the following information: **First open paragraph** - "Claims for deductions of incidental expenses at a daily (per diem) rate where meals and lodging are furnished by the employer must identify the number of days, the locality in which the expenses were incurred, and the applicable rate for incidental expenses only for that locality, as provided for in the Federal Travel Regulations." **Second open paragraph** - "Establishment of the time, place and business purpose requirement may be met with a copy of the ships schedule. Per Rev. Proc. 2011-47, rules are given to permit a per diem rate to substantiate the amount of expenses paid or incurred while traveling away from home."

21.6.6.2.38
(06-26-2017)

**Exclusion of Indian
General Welfare Benefits**

- (1) Generally, Indian general welfare benefits are excluded from gross income per provisions of the Tribal General Welfare Exclusion Act of 2014 (IRC 139E) and Rev. Proc. 2014-35. Notice 2015-34 clarifies that IRC 139E does not make the general welfare exclusion for certain benefits addressed in Rev. Proc. 2014-35 inapplicable.
- (2) Related IMF claims may be received on Form 843, Claim for Refund and Request for Abatement, or Form 1040-X, Amended U.S. Individual Income Tax Return. These claims can be identified by the presence of one or more of the following key words in the explanation section of the claim or written across the top margin of the form:
 - Tribal General Welfare Exclusion Act of 2014
 - H.R. 3043
 - Notice 2012-75
 - Rev. Proc. 2014-35
 - General Welfare
 - Notice 2015-34
 - Section 139E
- (3) Do **NOT** process these claims. Route all claims to:
Internal Revenue Service
M/S 7700 Attn: GECS
1973 N. Rulon White Blvd.
Ogden, Utah 84404

21.6.6.2.39
(11-26-2013)

**Federal Insurance
Compensation Act
(FICA) and Railroad
Retirement Tax Act
(RRTA) Claims Citing
CSX**

- (1) Taxpayer claiming a refund of FICA or RRTA tax citing CSX Corporation v. United States or Quality Stores Inc. v. United States, refer to IRM 21.7.2.5.16, Claims Related to CSX Corp. and/or Quality Stores, Inc. Litigation.

21.6.6.2.40
(10-02-2023)

**Federal Insurance
Compensation Act
(FICA) Claims**

- (1) Taxpayers may file a claim for refund of FICA taxes due to the following reasons:
 - a. **Medical Resident Status** - Route to either Ogden or Cincinnati. If received at any other campus, ensure the case is notated as a FICA claim from medical residents and forward to a BMF campus. If the case is on CII, use the re-route capability. Once received in either Ogden or Cincinnati, they follow procedures in IRM 21.7.2.5.10.2, Employee Claims (Medical/Dental Residents).
 - b. **Major League Baseball Player** - Route to either Ogden or Cincinnati. If received at any other campus, ensure the case is notated as a FICA claim from major league baseball player and forward to a BMF campus. If the case is on CII, use the re-route capability. Once received in either Ogden or Cincinnati, they follow procedures in IRM 21.7.2.5.18, Refund Claims/Major League Baseball.
 - c. **Airline employees and Retirees (IRC 3121(v))** - Route to either Ogden or Cincinnati. If received at any other campus, ensure the case is notated as a FICA claim from airline employee or retiree whose non-qualified deferred pension benefit plans were terminated during the airlines' bankruptcy proceedings. If the case is on CII, use the re-route capability.

Once received in either Ogden or Cincinnati, they follow procedures in IRM 21.7.2.5.13.2, IRC Section 3121(v) - FICA Claims from Airline Employees and Retirees.

- d. **Indian fishing claim (IRC 7873)** may or may not be cited) - Route to the Ogden campus. **Only** refer FICA claims. If received at any other campus, ensure the case is a FICA claim, notated as a fishing claim and forward expeditiously to the Ogden Service Center. If the case is on CII, use the re-route capability. Once received in Ogden, they follow procedures in IRM 21.7.2.4.6.4.2, Excess FICA Tax Withheld – Employee Claims for Refund. Do **NOT** refer to Ogden if not a FICA claim; process using normal adjustment criteria in IMF, following CAT-A procedures in Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General.
- e. **Automotive Industry Employees** - Route to either Ogden or Cincinnati. If received at any other campus, ensure the case is notated as a FICA claim from an automotive industry employee for a buyout and forward to a BMF campus;. If the case is on CII, use the re-route capability. Once received in either Ogden or Cincinnati, they follow procedures in IRM 21.7.2.5.17, FICA Claims from Automotive Industry Employees.
- f. **State and Local Government Employees (IRC 218)** - Route to either Ogden or Cincinnati. If received at any other campus, ensure the case is notated as a Section 218 FICA claim for state and government employee and forward to a BMF campus. If the case is on CII, use the re-route capability. Once received in either Ogden or Cincinnati, they follow procedures in IRM 21.7.2.5.15, State and Local Government FICA Under IRC 218

21.6.6.2.41
(10-01-2019)

**Case/Transcript for U.S.
Departing Alien Income
Tax Return Form 1040-C**

- (1) Some aliens must obtain a Certificate of Compliance (also known as an exit or sailing permit) before permanently departing the U.S. or any U.S. Possession. This is obtained by filing Form 2063, U.S. Departing Alien Income Tax Statement or Form 1040-C, U.S. Departing Alien Income Tax Return. A Certificate of Compliance is made when the Director or delegate signs the certificate; refer to IRM 21.3.4.18, Alien Tax Clearances.

21.6.6.2.42
(04-01-2009)

**Abusive Tax Avoidance
Transactions (ATAT)**

- (1) Abusive Tax Avoidance Transactions (ATAT) - Individuals are filing claims and attaching Form 8594, Asset Acquisition Statement Under Section 1060, for the purpose of re-characterizing termination payments from insurance companies as capital gains, even though the payments should be reported as ordinary income.
- (2) *Baker v. Commissioner*, 338 F.3d 789 (7th Cir 2003), has already addressed this issue ("Good cannot be transferred apart from the business with which it is connected."). The promoter is aware that the IRS was affirmed; however, he continues to erroneously advise his clients, who are typically retired or terminated insurance agents, that their termination payments should be treated as capital gain instead of ordinary income. Termination payments, to which the agent is issued a 1099, are payments that an insurance agent receives for a pre-determined number of years after he stops selling policies for the insurer. This period can vary but is typically from 3 to 5 years. Individuals are filing claims in order to reclassify their termination payments as capital gain, to obtain refunds for taxes paid in previous years.
- (3) Any claims submitted meeting the issue as described should be disallowed; refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures. Send a disallowance Letter 105C including the following information "The ter-

mination payments from insurance companies are considered ordinary income and cannot be treated as capital gains.”

21.6.6.2.43
(09-16-2020)
**IRC 165 - Theft Loss
Conversions**

- (1) Taxpayers are filing claims for “theft losses deductions” due to corporate misconduct and Ponzi schemes.
- (2) Claims are generally filed on Form 1040-X, Amended U.S. Individual Income Tax Return, and include comments indicating “theft loss deduction under IRC Section 165”, “Rev. Proc. 2009-20”, or “investment theft loss.” The claims may include an opinion letter explaining the theft loss and why it qualifies under IRC 165(c)(2) or Revenue Procedure 2009-20, as modified by Rev. Proc. 2011-58.
- (3) The theft loss is reported on page 2, Part B of Form 4684, Casualties and Thefts, and flows to the “Other Miscellaneous Deductions” section of Schedule A, Itemized Deductions. The taxpayer may indicate on the miscellaneous deduction line:
 - Form 4684, Casualties and Thefts, income producing property
 - IRC 165
 - Investment theft loss
 - Revenue Procedure 2009-20 as modified by Rev. Proc. 2011-58 (addressing the safe harbor of Rev. Proc. 2009-20 where the lead person involved in a fraudulent scheme has died as discussed below.)
 - Revenue Procedure 2009-20 Appendix A
 - Rev. Rul. 2009-9
- (4) The following subsections provide instructions for processing the different types of IRC 165 theft loss conversions.

21.6.6.2.43.1
(10-01-2013)
**Claims Due to Corporate
Misconduct**

- (1) Notice 2004-27 advised taxpayers that the IRS shall disallow theft losses claimed with respect to decreases in the market value of stock purchased on the open market, even if the loss in value of the stock may be attributable to illegal misconduct of the officers or directors of the corporation that issued the stock.
- (2) The claims should indicate a “theft loss deduction” or “IRC Section 165 loss deduction” shown on Schedule A, Itemized Deductions, but should not mention a specific Ponzi scheme.

Note: Rev. Rul. 2009-9, which describes the tax treatment of losses from Ponzi schemes, and Rev. Proc. 2009-20 as modified by Rev. Proc. 2011-58, which describes the optional “safe harbor” for those losses, do not apply to losses resulting from stock purchased on the open market.

- (3) Taxpayers also may attempt to claim theft losses from stock purchased on the open market that result in net operating loss claims (RINTs and TENTs). Coordinate the processing of the net operating loss claim(s) with the amended return claiming the loss. Whenever possible, one employee should be assigned the amended return and the carryback claim(s). The net operating loss claim should be disallowed in conjunction with the amended return.
- (4) These claims should be disallowed with appeal rights. The disallowance language is as follows:

"To qualify for a theft loss, you must verify 1) you had a direct relationship with the "defrauder" or an associate who acted as broker or agent of the "defrauder", 2) the loss you claim resulted from a taking of property that is illegal under the law of the state where it occurred, 3) the "defrauder" had a specific intent to deprive you of your money or property and 4) all claims for recovery have been closed and completed (for example through litigation, settlement or abandonment)."

"Additionally, you must verify 5) when it is reasonably certain whether recovery on all reimbursement claims should be received and 6) the amount of the loss is the actual amount of money stolen. There is no evidence that you meet these qualifications; therefore, the deduction has been disallowed. Be advised that there is no theft loss allowed with respect to decreases in the market value of stock purchased on the open market, even if the loss in value of the stock may be attributable to illegal misconduct of the officers or directors of the corporation that issued the stock."

- (5) Refer to IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for additional information on disallowance procedures.

21.6.6.2.43.2
(10-01-2013)

Claims Due to Ponzi Schemes

- (1) Generally, IRC 165(a) allows a deduction for losses sustained during the taxable year and not compensated by insurance or otherwise. For individuals, IRC 165(c)(2) allows a deduction for losses incurred in a transaction entered into for profit though not connected with a trade or business. Refer to *Rev. Rul. 2009-9*. A taxpayer claiming a theft loss must prove that the loss resulted from a taking of property that was illegal under the law of the jurisdiction in which it occurred and was done with criminal intent.

Under IRC 165(e), a theft loss is sustained in the taxable year the taxpayer discovers the loss. The regulations explain that a theft loss is not sustained if, in the year of discovery, there exists a claim for reimbursement with respect to which there is a reasonable prospect of recovery. Refer to Treasury Regulations Section 1.165-1(d), and 1.165-8(a)(2). No portion of the loss with respect to which reimbursement may be received is sustained until the taxable year in which it can be ascertained with reasonable certainty whether or not such reimbursement should be received. Thus, if there is a claim for reimbursement, the taxpayer must wait until it is reasonably certain whether recovery on that claim for reimbursement should be received (for example, if the bankruptcy proceeding closes or the taxpayer abandons the claim for reimbursement).

Note: These claims may also create a net operating loss, which generally can be carried back to the 3 preceding years. However, for the 2008 and 2009 tax years, the taxpayer may elect a 3, 4, or 5 year carryback period for the applicable 2008 and 2009 net operating losses. For additional information on net operating loss claims, refer to IRM 21.5.9, Carrybacks.

Note: If a theft loss occurred in another entity, such as an IRA or qualified retirement plan, the theft loss is from that IRA or plan, rather than the individual IRA owner or plan participant.

- (2) Amount of the loss: *Rev. Rul. 2009-9* provides guidance on determining the amount of the theft loss and has no effective date. Overall, the amount of a theft loss resulting from a fraudulent investment arrangement is generally the initial amount invested in the arrangement, plus any additional investments, less amounts withdrawn, if any, reduced by reimbursements or other recover-

ies and reduced by claims as to which there is a reasonable prospect of recovery. If an amount was reported to the investor as income in years prior to the discovery of the theft, the investor included the amount in gross income, and the investor reinvested the amount in the arrangement, this amount increases the deductible theft loss.

- (3) Safe Harbor Revenue Procedure: Rev. Proc. 2009-20, 2009-14 I.R.B. 749, provides an optional safe harbor under which qualified investors that experienced losses from a specified fraudulent arrangement may treat a qualified loss as a theft loss deduction. The safe harbor requires that taxpayers treat the entire loss as a theft loss deduction (i.e., the taxpayer cannot amend prior returns to eliminate phantom income) and deduct the loss in the year a criminal charge is filed against the lead figure. The amount of the deduction is as follows: multiply the qualified investment by either 95 percent (if the qualified investor is not pursuing any potential third-party recovery) or 75 percent (for a qualified investor that is pursuing or intends to pursue potential third-party recovery), and subtract the sum of any actual recovery and any potential insurance/Securities Investor Protection Corporation (SIPC) recovery. Only a qualified investor may use the safe harbor procedures of Rev. Proc. 2009-20. A qualified investor is a United States person (as defined in IRC 7701(a)(30)) that:

- a. Generally qualifies to deduct theft losses under IRC 165 and Treasury Regulation Section 1.165-8.
- b. Did not have actual knowledge of the fraudulent nature of the investment arrangement prior to it becoming known to the general public.
- c. Is not a tax shelter, as defined in IRC 6662(d)(2)(C)(ii), with respect to which the specified fraudulent arrangement.
- d. Transferred cash or property to a specified fraudulent arrangement.

A qualified investor does not include a person that invested solely in a fund or other entity (separate from the investor for federal income tax purposes) that invested in the specified fraudulent arrangement.

A qualified investor that is a pass-through entity (such as a partnership or LLC) may flow through proportionate shares of the theft loss to its investors. A specified fraudulent arrangement is an arrangement in which a party (the lead figure) receives cash or property from investors; purports (appears) to earn income for the investors; reports income amounts to the investors that are partially or wholly fictitious; makes payments, if any, of purported income or principal to some investors from amounts that other investors invested in the fraudulent arrangement; and appropriates some or all of the investors' cash or property.

The *Rev. Proc. 2009-20* applies to discovery years beginning after the taxable year ending on December 31, 2007.

Rev. Proc. 2009-20 allows a deduction in the year in which the requirements of a qualified loss are satisfied. The requirements of a qualified loss are:

- The lead figure (or one of the lead figures, if more than one) was charged by indictment or information (not withdrawn or dismissed) under state or federal law with the commission of fraud, embezzlement or a similar crime that, if proven, would meet the definition of theft for purposes of IRC 165 and Section 1.165-8 (d) of the Income Tax Regulations, under the law of the jurisdiction in which the theft occurred; or
- The lead figure was the subject of a state or federal criminal complaint (not withdrawn or dismissed) alleging the commission of a crime described in Section 4.02 (1) of Rev. Proc. 2009-20, and either the com-

plaint alleged an admission by the lead figure, or the execution of an affidavit by that person admitting the crime; or a receiver or trustee was appointed with respect to the arrangement or assets of the arrangement were frozen.

Rev. Proc. 2011-58 also added a third category of qualified loss for situations where the lead figure died before criminal charges are brought. The modification requires that a lead figure or associated entity is the subject of a civil complaint or similar documents filed by a government entity that allege substantially all the elements of a specified fraudulent arrangement. In addition, Rev. Proc. 2011-58 clarifies the terms “indictment”, “information”, and “criminal complaint” used to define qualified loss in Rev. Proc. 2009-20. The ruling and procedures are available on <http://www.irs.gov/>.

Note: Rev. Rul. 2009-9 and the optional “safe harbor” described in the Rev. Proc. 2009-20 do not apply to losses that result from a decrease in the market value of stock purchased on the open market, even if the decrease in value of the stock is attributable to corporate misconduct on the part of an officer or employee of the corporation. Procedures for processing claims for a theft loss resulting from a decrease in the market value of stock due to corporate misconduct are described in IRM 21.6.6.2.43.1, Claims due to Corporate Misconduct.

- (4) Procedure to claim a theft loss deduction without using the safe harbor: For Ponzi scheme theft loss deduction claims under the general rules of IRC 165 and Rev. Rul. 2009-9, the taxpayer must file Schedule A, Itemized Deductions, along with the Form 4684, Casualties and Thefts. The claims may reference “investment theft loss deduction” or “IRC Section 165 loss deduction” on Schedule A, or a specific Ponzi scheme. Additionally, some claims are filed based on an original or amended Schedule K-1 from a Ponzi theft loss incurred by partnership or trust, refer to IRM 21.6.6.2.43.3, Schedule K-1 and claims due to Ponzi Schemes.

Note: A taxpayer may file amended returns to eliminate income amounts that were reported as income from the scheme (so called “phantom income”). The taxpayer must prove that the amounts sought to be excluded in fact were not income that was actually or constructively received by the taxpayer. Input a transaction code (TC) 971 with action code (AC) 651 to identify a Ponzi scheme and forward the claim as CAT-A as outlined in Exhibit 21.5.3-2, Examination Criteria (CAT-A) – General.

Note: Prior to forwarding CAT-A, review tax year 2008 and subsequent years for indication of a previous “safe harbor” election. If the “safe harbor” election has previously been made with respect to the same Ponzi scheme, disallow the taxpayer’s claim. Inform the taxpayer the claim cannot be allowed since the “safe harbor” method was previously utilized as outlined in Rev. Proc 2009-20.

Note: An investment theft loss is not subject to the \$100 and 10 percent of AGI limitations applicable to casualty and theft losses of personal-use property under IRC 165(h).

- (5) If the taxpayer claims a Ponzi loss utilizing the “safe harbor” method, ensure the claim is complete and valid.

Claims based on a Schedule K-1 may reference the Ponzi scheme in the remarks but may also have no identifying characteristic to identify the claim as a Ponzi loss; refer to IRM 21.6.6.2.43.3, Schedule K-1 and claims due to Ponzi Schemes.

- (6) In addition to the requirements for all investment theft loss claims, a complete claim for a theft loss deduction using the safe harbor must include the Form 4684. The form must have **Revenue Procedure 2009-20** marked at the top of the form, with the amount from Form 4684, Section C Line 51, **deductible theft loss** entered on the Form 4684 Part I, Section B. If any of these elements is missing, reject the claim as outlined in IRM 21.5.3.4.2, Tax Decrease or Credit Increase Processing.

If the “safe harbor” claim is complete, process as indicated below:

- a. Input a transaction code (TC) 971 with action code (AC) 651.
- b. Ensure the claim is filed on a tax year ending after 12/31/2007 - disallow any “safe harbor” claim on tax year 200712 and earlier as outlined in IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures.
- c. Verify that no other adjustments related to Ponzi losses have been allowed on any years – if prior adjustments are identified, forward to Examination as CAT-A.
- d. Verify that no other claims for Ponzi losses are currently in the system – if any are located, consolidate the cases to ensure consistent processing.
- e. Forward the claim to Examination as CAT-A criteria if the amount of the claim exceeds the criteria amount as outlined in IRM 21.5.3-2, Examination Criteria (CAT-A) - General.

21.6.6.2.43.3
(10-03-2022)

**Schedule K-1 and claims
due to Ponzi Schemes**

- (1) As mentioned in IRM 21.6.6.2.43.2, Claims Due to Ponzi Schemes, a taxpayer may have a loss from a flow-through entity that invested with a Ponzi scheme. The loss is taken at the entity level and passed-through to the individual investors. When the taxpayer files a claim due to an amended Schedule K-1 and information with the claim indicates the Schedule K-1 is due to a Ponzi loss, the loss is allowable on the taxpayer’s claim. Any audit related to the Ponzi loss should be conducted on the applicable Partnership, S Corporation or Trust return. Process the claim as follows:

- a. Research IDRS under the Employer Identification Number (EIN) listed on the Schedule K-1 for indication of an amended return for the Partnership, S Corporation or Trust (i.e., TC 976).

Note: EINs filed for a Trust return can be located on MFT 05, S Corporation on MFT 02 and Partnership returns should be located on MFT 06.

- b. If no TC 976 is located on the EIN, reject the claim as outlined in IRM 21.5.3.4.2, Tax Decrease or Credit Increase Processing. Inform the taxpayer that we have no record of an amended return filed for the Partnership, S Corporation, or Trust.
- c. If a TC 976 is located, allow the taxpayer’s claim, input a transaction

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Note: If the claim is due to an original Schedule K-1 or there is no indication of a Ponzi loss, process as a normal Schedule K-1 adjustment.

21.6.6.2.44
(10-25-2022)
Self-Created Goodwill Claims

- (1) Self-Created Goodwill claims **MUST** be referred to CAT-A regardless of the tax decrease claim amount, unless they fit the criteria in paragraph 2 below. For more information, refer to IRM 21.5.3-2, Examination Criteria (Cat-A) - General. Do **NOT** refer tax increases to CAT-A; process the claim following normal adjustment procedures.
- (2) Do not refer to CAT-A Self-Created Goodwill claims that contain the following, these claims must be disallowed:
 - Wording such as “Intangible Asset Deduction”, “Goodwill” or “Amortization” on the Schedule C and/or Schedule E (K-1) or notated **anywhere** on the claim or
 - Letter attached to the claim with reference “Internal Revenue Code Section 197 or 167”, “Income Tax Regulation 1.167”, or “Self-Created Goodwill”

Include in the Letter 105C the following disallowance language:
“Self-created intangibles are not considered amortizable intangibles. No depreciation deduction is allowable with respect to self-created intangible goods. In general, the basis of property shall be the cost of such property. You have no cost basis in your self-created intangible. Accordingly, a Self-Created Goodwill is not an amortizable or depreciable asset.”

- (3) Several taxpayers filed “Self-Created Goodwill” claims in error and are filing Form 1040-X, Amended U.S. Individual Income Tax Return to correct their account(s). These taxpayers received a letter with guidance on how to file the amended return(s). Taxpayers are instructed to write “Remove Goodwill” across the top of the claim or in the remarks section and attach a copy of the letter. Process these claims following normal adjustment procedures.

Reminder: Research for **ANY** open controls, refer to procedures in IRM 21.5.2.3, Adjustment Guidelines - Research.

21.6.6.2.45
(12-15-2017)
Demutualization Claims

- (1) Taxpayers may file claims stating the sale of the “stock” received from demutualization has a “basis” and the amount as originally reported for tax purposes is now lower. Claim may also reference *Fisher v. US*.
- (2) Disallow all demutualization claims. Use the following verbiage in the open paragraphs: *The Appellate Court issued opinions in the government’s favor in Dorrance v. United States, 809 F.3d 479 (9th Cir. 2015), and in Reuben v. United States. In both cases, the Ninth Circuit held that because the taxpayers failed to show that they paid any consideration for their stake in the membership rights, they had a basis of \$0 in the shares of stock received resulting from the demutualization of the insurance company.*

21.6.6.2.46
(10-26-2018)
Sinai Peninsula Claims

- (1) The Tax Cuts and Jobs Act enacted on Dec. 22, 2017, granted combat zone tax benefits to any member of the Armed Forces of the United States who is receiving or has received imminent danger pay or hostile fire pay while serving in the Sinai Peninsula of Egypt. Troops began receiving this pay as of June 9, 2015. The benefit lasts during the period such entitlement is in effect, but not

later than taxable years beginning before Jan. 1, 2026. For more information on Combat Zone provisions, refer to Publication 3, Armed Forces Tax Guide.

- (2) Telephone calls are handled via App 98/99, Special Services; therefore, customer service representatives should route calls relating to the Sinai Peninsula combat zone to 1098/1099 per the Telephone Transfer Guide (TTG).
- (3) These claims are worked in Accounts Management at the Andover Campus, and are controlled with a category code of XRET. If received at any other site, reassign the case to 0830141335.
- (4) To obtain a refund or decrease in tax, the service member **must** file a Form 1040-X, Amended US Individual Tax Return, if they have already filed a tax return for tax years 2015, 2016, and 2017, **and** include the Form W-2C, Corrected Wage and Tax Statement, they received from the Department of Defense. This Form W-2C should show the non-taxable pay that was received while serving in the combat zone in box 12 with code Q instead of box 1 where it was originally reported. For documentation requirements and processing instructions, refer to IRM 5.19.10.6, Combat Zone Accounts.
- (5) An eligible service member who is unable to secure a corrected Form W-2C for 2015, 2016, or 2017 may still claim the combat pay exclusion by attaching to their Form 1040-X copies of official documents showing they served or worked in the Sinai Peninsula. These documents should indicate the area, theater or military operation and the approximate entry date. Acceptable documents include military orders, letters of authorization (civilians), hospital discharge papers, discharge from active duty, official letterhead memorandum from a military department or civilian employer, or a request and authorization for temporary duty travel of Department of Defense personnel (civilians and military). Confirm that the service member was reported as having served in the Sinai Peninsula during the tax year. The date of entry (DOE) into the Sinai Peninsula may be notated on CC TXMOD with a TC 500 closing code 56, see IRM 5.19.10.6.3, Combat Zone Freeze Code, for a list of TC 500 closing codes.
- (6) Refer to IRM 21.5.3.4.6, No Consideration and Disallowance of Claims and Amended Returns, as needed.

21.6.6.2.47
(12-19-2018)
**Qualified Opportunity
Fund Investments**

- (1) The Tax Cuts and Job Act (TCJA) enacted on December 22, 2017, allows a taxpayer the ability to elect to defer recognition of the eligible gains timely invested in a Qualified Opportunity Fund (QO Fund) until the QO Fund investment is disposed of, or December 31, 2026, whichever is earlier.
- (2) A QO Fund is an investment vehicle set up as either a partnership or corporation for investing in qualified opportunity zone property. Qualified opportunity zone property is any stock or partnership interest in a qualified opportunity zone business or qualified opportunity zone business property.
- (3) Individuals shall elect to defer eligible gains invested into the QO Fund by reporting their eligible gains on Form 8949, Sales and Other Dispositions of Capital Assets, as well as a *Form 1040 Schedule D*, Capital Gains and Losses. If the taxpayer has filed an original return electing a QO Fund deferral, a Return Processable Code "U" should appear on CC RTVUE indicating the Form 8949 has been filed.

- (4) Normally, net gains are taxed at a minimum of 20 percent and a 3.8 percent surtax. The law permits an individual to defer the inclusion and taxation of eligible gains when the gains are invested in a QO Fund. The amount of tax relief depends upon the amount of time the investor holds the investment.
- (5) Eligible gains that may be deferred include capital gain from any actual or deemed sale or exchange, or any other gain that is required to be included in a taxpayer's computation of capital gain or is an IRC 1231 gain. This includes capital gains from disposition of stocks, mutual funds, real estate (including personal residence), collectibles and capital gains reported to the taxpayer on *Form 1065 Schedule K-1*, Partners Share of Income, Deductions, Credits, etc., from a partnership or S corporation.
- (6) The inclusion and taxation of eligible gains can be deferred if they were invested in a QO Fund within the 180-day time limit. Taxpayers who have filed their income tax returns must file an amended income tax return and attach a revised Form 8949, Sales and Other Dispositions of Capital Assets.
- (7) There are three tax incentives available for investors investing in a QO Fund.
 - **Temporary Deferral** - Investors may elect to defer eligible gains invested in a QO Fund within 180 days of the sale or exchange using Form 8949, Sales and Other Dispositions of Capital Assets. If an election is made, the deferral ends upon the earlier of an inclusion date or December 31, 2026
 - **Basis Increase** - If the QO Fund investment is held for at least 5 years, the basis of the investment is increased by 10 percent. If held for more than 7 years, the basis of the QO Fund investment increases to a total of 15 percent
 - **Permanent Exclusion** - If the QO Fund investment is held for at least 10 years, the capital gain on the sale of the QO Fund investment may be excluded.

21.6.6.2.47.1
(03-13-2020)

**Qualified Opportunity
Fund Investments -
Amended Return
Processing**

- (1) Taxpayers may file an amended return to adjust or claim a deferral of capital gains timely invested in a Qualified Opportunity Fund (QO Fund). The amended return **must** include a Form 8949, Sales and Other Dispositions of Capital Assets, as well as a *Schedule D*, Capital Gains and Losses, in addition to the Form 1040-X, Amended U.S. Individual Income Tax Return. Amended returns should be scanned into CII under category code TRFX; correspondence should be scanned into CII using TRFC. Employees working TRFX should use OFP code 85374; TRFC should use 85378. If a CII case has been identified as TRFX or TRFC and the adjustment or response to the taxpayer does not involve the Qualified Opportunity Fund, change the category code and program code to the appropriate codes (ie., TPRQ or XRET).
- (2) Review claim to ensure it is complete processable. See IRM 21.5.3.4, General Claims Procedures, for guidance on claims that are incomplete or not processable.

Note: Input of the EIN is not required by statute; therefore, the taxpayer may be entitled to the election under IRC 1400Z-2 even if the EIN is input incorrectly or is missing.

- (3) Review IRM 21.5.3-2, Examination Criteria (CAT-A)-General, to determine if claim meets CAT-A criteria for income changes going from taxable to non-taxable.
- (4) A TC 971 AC 177 should be used to record important information from the Form 8949. The TC 971 AC 177 should record the EIN of the QO Fund, the date of investment and dollar amount of the capital gain invested in the QO Fund.

Note: Information needed to input the TC 971 AC 177 may be contained in either Part I, Part II, or both of Form 8949 depending on whether the capital asset was a short term or long term transaction.

- (5) Review CC TXMOD for any previously input TC 971 AC 177. If there are none on the module, input a TC 971 AC 177 as instructed in the table below.

Note: Since the TC 971 AC 177 should not keep a running tally throughout the years, a TC 972 AC 177 should be used if needed to reverse any existing TC 971 AC 177.

If	And	Then	Required REQ77 Fields
No TC 971s and/or TC 972 with AC 177s on the module	Intentionally left blank	Input the TC 971 AC 177	<ul style="list-style-type: none"> Input the date of the investment (Form 8949 column "b") in the TRANS-DT field. Use 00000000, if "INHERITED" or "VARIOUS" or if REQ77 responds "with date invalid". Input the EIN of the QO Fund (located on Form 8949 column "a" Form 8949) in the XREF-TIN field. Use 00-0000001, if missing. Input the deferred amount in the misc. field as a positive amount (dollars only) (capital gain amount located on Form 8949 column "g" shown as a negative on the form but should post as a positive on TC 971). Input the Secondary Date - this should be the tax period of the return or 1 year prior.

If	And	Then	Required REQ77 Fields
Previous TC 971 AC 177 on the module	The EIN number is the same as the previous TC 971 AC 177	Completely reverse the original TC 971 AC 177 with a TC 972 AC 177 using the original figures from the existing TC 971 AC 177 Note: Use a posting delay of "1" on the new TC 971 AC 177.	For reversal: <ul style="list-style-type: none"> Input the date currently in TRANS-DT field of TC 971 AC 177 being reversed. Input the EIN of the QO Fund of the current TC 971 AC 177 (that is being reversed) in the XREF-TIN field. Input the deferred amount from the current TC 971 AC 177 being reversed in the misc. field as a negative amount. Note: See row above to input the new TC 971 AC 177 after reversal. Use a posting delay of "1" on the new TC 971 AC 177
Previous TC 971 AC 177 on the module	The EIN number is different than the previous TC 971 AC 177	Input another TC 971 AC 177	<ul style="list-style-type: none"> Input the date of the investment (Form 8949 column "b") in the TRANS-DT field. Use 00000000, if "INHERITED" or "VARIOUS" or if REQ77 responds "with date invalid". Input the EIN of the QO Fund (located on Form 8949 column "a"), in the XREF-TIN field. Use 00-0000001, if missing. Input the deferred amount in the misc. field as a positive amount (dollars only) (capital gain amount located on Form 8949 Column "g" shown as a negative on the form but should post as a positive on TC 971). Input the Secondary Date - this should be the tax period of the return or 1 year prior.
No TC 971 AC 177 on the module	Taxpayer submits multiple Forms 8949, with different EINs	Input separate TC 971 AC 177 for each EIN number	<ul style="list-style-type: none"> Input the date of the investment (Form 8949 column "b") in the TRANS-DT field. Use 00000000, if "INHERITED" or "VARIOUS" or if REQ77 responds "with date invalid". Input the EIN of the QO Fund (located on Form 8949 column "a"), in the XREF-TIN field. Use 00-0000001, if missing. Input the deferred amount in the misc. field as a positive amount (dollars only). The capital gain amount located on Form 8949 Column "g" shown as a negative on the form but should post as a positive on TC 971. Input the Secondary Date - this should be the tax period of the return or 1 year prior.

- (6) Make the appropriate adjustment to the module, use the applicable source code and blocking series. Use Reason Code(RC) 157 for Opportunity Zone to inform the taxpayer of the changes to the account, in addition to any other applicable reason code for other items adjusted.

Reminder: If no other adjustments are needed and there is a -A freeze on the account, input a TC 290 for zero with a RC 157 (RC 157 indicates change due to Opportunity Zone) to release the -A freeze; see IRM 21.5.6.4.2, -A Freeze.

21.6.6.2.48
(05-08-2023)
**Unemployment
Compensation Exclusion
(UCE) due to American
Rescue Plan Act (ARPA)
of 2021**

- (1) The American Rescue Plan Act of 2021 allows the taxpayer to exclude \$10,200 (MFJ - \$10,200 per spouse) of Unemployment Compensation from income for tax year 2020. For information on MFJ couples living in community property states, see *2020 Unemployment Compensation Exclusion FAQs*.

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Note: If taxpayer contact is made by phone or correspondence (including Form 1040-X) stating the UCE adjustment was incorrect, and your research shows the recovery adjustment was made using the guidance above, advise them of the following:

"To correct returns as quickly as possible, we calculated the exclusion amount as if both spouses received unemployment if a Form 1099-G was not available at the time we made the correction.

There is no need to take any action, and we won't make any changes once the Forms 1099-G become available."

- (2) The following qualifications apply:
- Unemployment Compensation must have been received during calendar year 2020;
 - Modified Adjusted Gross Income (MAGI) for any filing status must be less than \$150,000 (does not double to \$300,000 for MFJ);
 - Taxpayer must have a valid SSN or ITIN.
- (3) The MAGI is calculated by subtracting all unemployment compensation from the Adjusted Gross Income (AGI). Form 1040 *Instructions* for 2020 include an Unemployment Compensation Exclusion (UCE) Worksheet to assist in this calculation.
- If the MAGI is less than \$150,000, the taxpayer(s) may exclude up to \$10,200 (\$10,200, per spouse, if MFJ) from their unemployment income.
 - If the MAGI is more than \$150,000, the taxpayer(s) does not qualify and may not exclude any part of their unemployment income.

- (4) For taxpayers that filed their TY 2020 returns and included Unemployment Compensation, accounts were corrected systemically through our recovery efforts. In most cases, it was not necessary for those taxpayers to file an amended return; IRS notified them of the correction within 30 days of the adjustment and refunded or offset any overpayment. Accounts reviewed for the exclusion are identified on IMFOLT or TXMODA by a TC 971 AC 123 with MISC field UCERECOVERY03112021, and a subsequent TC 972 AC 123 with MISC field UCERECOVERY03112021. A TC 972 with no adjustment does not always indicate they are not eligible for UCE, it may only be that it could not be corrected systemically and required a manual review and/or adjustment.
- (5) As of November 19, 2022, the systemic and manual review was discontinued. Accounts previously identified with the TC 971 AC 123 with MISC field UCERECOVERY03112021, but not reviewed, will have a TC 972 AC 123 with MISC field UCERECOVERY03112021**NR** posted to show that it is no longer under review. Normal adjustment procedures apply to these accounts and **amended returns are now required**, if one has not been filed claiming the exclusion. See IRM 21.6.6.2.48.1, Account Adjustments for the UCE, for specifics on adjusting these accounts.

Exception: The following cases should be forwarded to the AM HQ Analyst thru normal procedures. Suspend the case for 30 days, additional closing actions will be notated, if needed, on the UCE Team response.

- If a TC 972 AC 123 posted prior to November 19, 2022, with no adjustment, and the UCE adjustment is still needed;
- If a UCE adjustment appears to be incorrect, do **NOT** adjust. Include reason for incorrect adjustment in referral;
- If a TC 972 AC 123 is needed after a UCE adjustment has posted. RIVO is the only area that can input the TC 972 AC. Allow 30 days for the TC 972 AC 123 to post;
- Taxpayer Advocate and/or Congressional UCE cases.

Recovery adjustments are identified by the following:

- a unique DLN (17254-JJJ-0504**X**-Y) (the Julian date is + 400, and the X should change with each recovery phase. There are a total of 8 phases.);
- an employee identification number that can be found on CC IMFOLA (99999999**41** for non-married; 99999999**42** for MFJ;
- Source Code (SC) 03 and Reason Code (RC) 020;

If applicable, Recovery adjustments should include:

- Taxable amount of unemployment compensation;
- Adjusted Gross Income (AGI) (RN 888);
- Taxable Income (TXI) (RN 886);
- Total tax (TC 290/291);
- Non-refundable credits;
- Refundable credits, including the Recovery Rebate Credit (RRC). Refer to IRM 21.6.3.4.2.7.4(7), EITC Earned Income, and IRM 21.6.3.4.2.8(10), Additional Child Tax Credit, for assistance in computing these refundable credits.

Note: If the exclusion of unemployment income results in the taxpayer qualifying for a credit not claimed on the original return (except RRC and EIC with no dependents), a Form 1040-X, Amended US Individual Income Tax Return is required.

- (6) The UCE Recovery was postponed or forwarded to another area if any of the following conditions existed for TY 2020:

Tax module contained:

- freeze codes -E, I-, -L, P-, R, -X, or Z;
 - a TC 971 AC 199 with a miscellaneous field of AMWEX60033 with no subsequent TC 846 or module has a zero or “debit balance” with the exception of full year prisoner returns;
 - an unresolved TC 971 AC 129 with no subsequent TC 846
 - a TC 570 with DLN NN2778888888Y with no subsequent TC 846
 - an unresolved TC 841 with BS 77711, 77712, 77713, or 77714 with no subsequent TC 846
- #
- a duplicate TIN (with an unreversed TC 971 AC 151) followed by an adjustment backing out the return (TC 291 = the TC 150 amount)
 - a TC 300 or TC 301
 - a prior unemployment adjustment (TC 29X with RC 020)
 - a TC 976 duplicate return

Entity Module contains:

- an unreversed TC 971 AC 123 with a miscellaneous field of IDTVACASE and no subsequent TC 971 AC 123 MISC IDTVACLSD
 - an account merge is in progress
- #

- (7) The following chart includes UCE scenarios and recommendations when answering taxpayer calls:

If	And	Then
The taxpayer is a victim of identity theft	Account contains an unreversed TC971 AC 123 MISC “IDTVACASE” on CC IMFOLE and no subsequent TC 971 AC 123 MISC IDTVACLSD	Advise the taxpayer the UCE shall be adjusted as part of the IDT case resolution.
Unresolved TPP		Follow normal TPP procedures.
There is an examination issue	Account contains -E or -L freeze code	Advise the taxpayer that the UCE should be adjusted as part of the examination resolution

If	And	Then
Taxpayer has filed an amended return to claim UCE and/or other changes		<p>Locate and process the amended return (even if there is a TC 971 AC 123 with MISC UCERECOVERY03112021).</p> <p>Caution: Be sure to use RC 020 to adjust the unemployment compensation so a duplicate adjustment does not occur.</p> <p>Exception: If there is an unreversed TC 971 AC 122, advise the taxpayer that the UCE recovery should occur, and any other changes should be resolved when the XRET is worked (2 separate refunds if there is an overpayment). Follow normal procedures for accounts with TC 971 AC 122.</p>
Taxpayer calls regarding any account issues	Account contains a TC 972 AC 123 with MISC UCERECOVERY03112021 and a UCE adjustment.	The account has been reviewed for the UCE. Follow normal procedures for handling the call. See paragraph 4 above for details of UCE adjustment.
Taxpayer calls regarding any account issues	Account contains a TC 972 AC 123 with MISC UCERECOVERY03112021 posted prior to November 19, 2022 and NO adjustment to UCE is posted.	Advise the taxpayer to allow 30 days for a response. Prepare a Form 4442 to send to the local P and A Analyst per paragraph 5 above. The inquiry will be forwarded to the HQ Analyst for review and action, if needed.
Taxpayer calls regarding any account issues	Account contains a TC 972 AC 123 with MISC UCERECOVERY03112021NR and no UCE adjustment.	Follow normal procedures for handling the call. The recovery process has ended. A UCE adjustment may be needed, see IRM 21.6.6.2.48.1, Account Adjustments for the UCE, for specifics on adjusting the account.

21.6.6.2.48.1
(11-22-2022)
**Account Adjustments
for the UCE**

- (1) Review the account to ensure that a systemic recovery has not corrected the unemployment compensation before adjusting the module. Specifics are found in IRM 21.6.6.2.48, Unemployment Compensation Exclusion (UCE) due to the American Rescue Plan Act of 2021. If no TC 971 AC 123 with MISC UCERECOVERY03112021 is present, follow normal procedures for amended returns. If a TC 972 AC 123 with MISC UCERECOVERY03112021 is posted, the account was reviewed in the recovery process. There may or may not be a UCE adjustment. Amended returns are now required for UCE; follow normal procedures to ensure that the adjustment captures all items reflected on the amended return, including ripple effects that do not require additional forms, such as Schedule EIC and Form 8812. Whenever adjusting unemployment compensation, you must use Reason Code (RC) 020 to prevent duplicate adjustments. If the taxpayer is reporting unemployment compensation on the amended return, and a UCE recovery adjustment was made, do not add the excluded unemployment compensation back onto the account. Net the adjustments and only add the amount over the UCE.

Example: The single taxpayer filed a Form 1040-X to correct the amount of unemployment compensation on his original return. The original amount was \$11,750, but should have been \$17,150. A UCE adjustment for \$10,200 has posted to his account. In addition to any other changes made on the 1040-X, the adjustment includes RC 020 and IRN 886/888 of \$5,400.

Caution: UCE Recovery adjustments released the -A freeze on many accounts. A correction was made to reset the -A freeze and can be identified by a TC 971 AC 010 MISC RESET-AFRZUCERCVRY. Normal procedures should be followed when processing the document that set the original -A freeze.

- (2) The systemic adjustment should correct any “ripple effects”, including RRC, and EITC (only when Schedule EIC is not required), caused by the UCE. For instance, if the adjustment results in the taxpayer being eligible for a higher amount of a credit or deduction that was claimed on the original return, that credit or deduction is increased. If the systemic adjustment results in making the taxpayer eligible for a credit or deduction that was not reported on the original return, the taxpayer needs to file a Form 1040-X, Amended US Individual Income Tax Return and attach necessary forms or schedules.

Note: Economic Impact Payment (EIP) 3 adjustments are not made as part of the UCE recovery. If the taxpayer received less than the full amount, they may be eligible to claim RRC on their 2021 return. Apologize to the taxpayer for any confusion and/or inconvenience. Refer to IRM 21.6.3.4.2.14, Recovery Rebate Credit (RRC), to determine if an RRC adjustment can be made. If the taxpayer has additional questions regarding UCE, RRC, or EIP3 refer them to the following links on IRS.gov:

Questions and Answers about the Third Economic Impact Payment - Topic B: Eligibility and Calculation
2020 UCE FAQs - Topic A: Eligibility

- (3) Follow IRM 21.5.3.4.6.3, No Consideration Procedures, for amended returns submitted to adjust the UCE systemic adjustments allowed because of missing Forms 1099-G and community property states. See IRM 21.6.6.2.48, Unemployment Compensation Exclusion (UCE) due to American Rescue Plan Act (ARPA) of 2021, for specifics.

- (4) Follow IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for amended returns requesting UCE adjustments in excess of the unemployment compensation amount or \$10,200 (\$20,400 for MFJ) allowed by law. See IRM 21.6.6.2.48, Unemployment Compensation Exclusion (UCE) due to American Rescue Plan Act (ARPA) of 2021, for specifics.