



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

21.7.4

AUGUST 30, 2024

## EFFECTIVE DATE

(10-01-2024)

## PURPOSE

- (1) This transmits revised IRM 21.7.4, *Business Tax Returns and Non-Master File Accounts, Income Taxes/Information Returns*.

## MATERIAL CHANGES

- (1) Various changes and updates are made throughout this IRM. The following table is a list of incorporated changes which were added, removed, or revised, as appropriate.

IRM	Material Change
IRM 21.7.4.1(5)	Added Abbreviation (PPB) for Policy and Procedures BMF
IRM 21.7.4.1.3(2)	Updated title of “Commissioner” to “Chief” of Taxpayer Services; deleted 8th bullet in reference to AM field directors responsibility for IRM policy
IRM 21.7.4.1.6(2)	Added Acronym “TS” to the table for Taxpayer Services, per Chief Counsel feedback.
IRM 21.7.4.3.3(1)	Deleted first bullet point because Pub 550 is listed in reference to IRM 21.7.4.3(3), per Chief Counsel feedback.
IRM 21.7.4.4.1.1.1(2)	Added 2023 gross income reporting requirements for Domestic Decedent and Bankruptcy Estates per Pub. 908
IRM 21.7.4.4.1.7(2)	Added 2023 Form 1041 tax rate schedule per Form 1041 instructions
IRM 21.7.4.4.1.7.4(1)	Added 2023 Qualified Disability Trust Exemption amount per Form 1041 instructions
IRM 21.7.4.4.1.9(2)(3)	Update paragraph (2) to include a link to irs.gov E-services information for tax professionals; delete paragraph (3) (information now included in paragraph 2 irs.gov E-services link)
IRM 21.7.4.4.1.11(5)	Updated IRM number reference from 21.7.2.4.11.1 to 21.7.2.4.9.1, Forms Used in Reporting Employment Taxes for Household Employees, per IRM 21.7.2 author feedback.
IRM 21.7.4.4.1.11.1(3)	Add 2023-2024 wage threshold for SSDERA per Pub. 926

IRM	Material Change
IRM 21.7.4.4.1.11.1.1	Updated paragraph (3) and (5) with new link to IRM 21.7.2.4.4.2, Interest-Free Adjustments (Employment Tax Returns), per IRM 21.7.2 author feedback.
IRM 21.7.4.4.1.12.1(1)	Added due date for 2024 Form 1041-T, per Chief Counsel Feedback
IRM 21.7.4.4.1.13(3)	Added paragraph 3 containing routing information for KITA/KIA Claims
IRM 21.7.4.4.1.17 (5)	Updated link in paragraph 5 from IRM 21.6.6.2.30, Tax Treatment of Compensation for Exonerated Prisoners to IRM 21.6.6.2.31, Tax Treatment of Compensation for Exonerated Prisoners per SERP Feedback #16578. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.2.3(6)	Updated example of timely filing if 1065 return due date falls on a holiday per SERP Feedback #16514. IPU 24U0386 issued 03-11-2024.
IRM 21.4.4.2.7(7)	Modified failure to file penalty chart for returns due between January 1, 2023, and December 31, 2023 and for returns due after January 1, 2024 and subsequent, per Chief Counsel feedback.
IRM 21.7.4.4.2.8	Per Notice 2024-18, updated guidance throughout section on hardship waiver, administrative exemption, and religious exemption for partnerships required to electronically file per Notice 2024-18. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.2.8	Changes throughout; updated paragraph (1) specifying the electronic filing requirements applicable to calendar year returns prior to 2024; removed paragraph (2); specified e-file requirements paragraph (3); specified Reg. 301.6011-3 authorizes the Commissioner to provide hardship waivers in paragraph (4); editorial changes to paragraph (6) including updated wording from “waiver” to administrative exemption; updated title of Publication 4163 in paragraph (7); updated paragraph (8) with irs.gov links on how to register for e-Services and new user registration information, per Chief Counsel feedback.
IRM 21.7.4.4.2.8.1.1(3)	Failure to File Partnership Return Using Electronic Media penalty rate for 2024 updated per IRM 20.1.2.5

IRM	Material Change
IRM 21.7.4.4.2.8.1.1(5)	Updated IDRS number from 0430469845 to 0445160144 based on SERP Feedback 12799. IPU 23U0982 issued 10-02-2023.
IRM 21.7.4.4.2.8.1.2(5)	Removed dated timeframes for filing electronic filing waivers and replaced with a statement that requests should be filed at least 45 days prior to the due date of the return, including extensions, per Chief Counsel feedback.
IRM 21.7.4.4.2.9(7)	Updated corresponding line number for Ordinary Business Income (loss) on Form 1065 per SERP Feedback #18177. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.2.9(7)	Added Note for Variance in Credits, Schedule K, lines 15a - Line 15f, between the original filing and the amended return in relation to e-filed vs. paper filed returns based on SERP Feedback #16723. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.2.9(7)	Clarification of Form 1065 Variance in Ordinary Business Income (loss) line numbers for 2022 and prior and 2023 and later tax years per SERP feedback #20285.
IRM 21.7.4.4.2.9(9)	Added additional guidance for routing amended Form 1065 and Form 1065-X to the BBA Unit per SERP Feedback #18813. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.2.9(11)	Updated corresponding line number for Ordinary Business Income (loss) on Form 1065. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.2.9.2	Changes throughout replacing IRC 705(b)(1)(B) with IRC 708(b)(1)(B) and including the word "former" in reference to IRC 708(b)(1)(B), per Chief Counsel feedback.
IRM 21.7.4.4.2.11(6)	Removed requirement to use a Form 2158 to process Form 8804 payment to NMF. IPU 23U1158 issued 12-08-2023.
IRM 21.7.4.4.3.4(8)	Updated contact information to: Subject Matter Experts RICs, REITs, and REMICs Internal Revenue Service LB&I, Financial Services 847-737-6666 Between 8:30 AM and 5:00 PM (CST) per SERP Feedback #13606. IPU 23U1107 issued 11-20-2023.
IRM 21.7.4.4.4.6(2)	Clarified guidance on Form 1128 to adopt, change, or retain a tax year, per Chief Counsel feedback.

IRM	Material Change
IRM 21.7.4.4.4.6.1(8)	Clarified instructions for relief when Form 1128 is denied, per Chief Counsel feedback.
IRM 21.7.4.4.4.7.2	Changes throughout updating guidance on new Corporate Alternative Minimum Tax (CAMT) reported on Form 4626 per amended IRC 55 due to the Inflation Reduction Act of 2022. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.4.11.1(3)	Updated CAT-A guidance on variance in credits, Schedule K, lines 13a through 13g, between the original filing and the amended return per SERP Feedback #16725. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.4.11.1(11)	Updated incorrect reference in paragraph 11 to refer to BMF Entity Unit information in paragraph 11. Reference now reads to refer to BMF Entity Unit information in paragraph 8 based on SERP Feedback 12822. IPU 23U0982 issued 10-02-2023.
IRM 21.7.4.4.4.11.1(12)	Added reference to paragraph (9) referencing timeframes to advise the taxpayer when sending Form 4442 referrals to the BMF Entity Unit per SERP Feedback 15262. IPU 23U1158 issued 12-08-2023 .
IRM 21.7.4.4.4.11.1.1	Changes throughout specifying guidance in Rev. Proc 2013-30, and clarifying abbreviations for ESBT, QSST and Qsub, per Chief Counsel feedback.
IRM 21.7.4.4.4.11.1.7(1)	Updated link from IRM 3.13.222.62 to IRM 3.13.222.63 for Unpostable Code (UPC) 310 Reason Code 4 based on SERP Feedback #15850. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.4.11.1.7(1)	In the first sentence, add “Corporation” between “Small” and Business”, per Chief Counsel Feedback
IRM 21.7.4.4.4.11.6	Updated paragraph (3) and (4) with qualifications and filing requirements for Form 4876-A, Election To Be Treated as an Interest Charge DISC, per Chief Counsel feedback.
IRM 21.7.4.4.4.11.6(6)	Updated IDRS number from 0241326771 to 0244374812 based on SERP Feedback 12836. IPU 23U0982 issued 10-02-2023.

IRM	Material Change
IRM 21.7.4.4.4.11.11.3(5)	Updated No Consideration contact information from Financial Products Specialist Area to Subject Matter Expert RICs, REITs, and REMICs. Phone number updated from 847-737-6430 to 847-737-6666 and hours of operation updated to 8:30 a.m. to 5:00 p.m. CST per SERP Feedback #13607. IPU 23U1107 issued 11-20-2023.
IRM 21.7.4.4.4.11.11.3(9)	Phone number updated from 847-737-6430 to 847-737-6666 for the Financial Products Specialists in the LB&I Enterprise Activities Practice Area. IPU 23U1107 issued 11-20-2023.
IRM 21.7.4.4.4.11.12	Changes throughout; corrected title of IRM 21.7.4.4.4.2.1 in paragraph (3); clarified terms for Regulated Investment Company (RIC) in paragraph (5), per Chief Counsel feedback.
IRM 21.7.4.4.4.11.14(11)	Updated mailing zip code for Form 1120-C, U.S. Income Tax Return for Cooperative Associations, per Form 1120-C instructions.
IRM 21.7.4.4.4.13.3(2)	Instruction added for FDIC correspondence received requesting tax abatement under IRC 7507 to be referred to LB&I Exam "HQ Reserve 5".
IRM 21.7.4.4.4.15(7)	Updated paragraph with irs.gov links on how to register for e-Services and new user registration information.
IRM 21.7.4.4.4.15.1	Per Notice 2024-18, updated guidance throughout section on hardship waiver, administrative exemption, and religious exemption for corporations required to electronically file . IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.4.15.1	Updated guidance throughout regarding electronic filing requirements for returns required to be filed during calendar years ending on or before December 31, 2023 including the aggregate number of returns comprising the requirement; updated Form 8879-C ,Form 8879-S, and Form 8879-I, replacing with new Form 8879-CORP in paragraph (8) and (9), clarification of administrative exemption for e-filing due to religious beliefs in paragraph (10), per Chief Counsel feedback.

IRM	Material Change
IRM 21.7.4.4.4.15.2(2)	Updated to include T.D. 9972 and correct date from December 21, 2023 to December 31, 2023 and clarified the aggregate number of returns comprising the electronic filing requirement, per Chief Counsel feedback.
IRM 21.7.4.4.4.20(3)	Removed sentence to follow normal amended return procedures. Instruction to follow IRM 21.5.3 General Claims Procedures added in paragraph (4). IPU 23U0982 issued 10-02-2023.
IRM 21.7.4.4.4.20(3)	Updated IRM link referenced in paragraph 3 from IRM 21.3.1.6.65 Letter 6336, Micro-Captive Insurance, Soft Notice to IRM 21.3.1.6.58 Micro-Captive Insurance Amended Returns. IPU 23U1107 issued 11-20-2023.
IRM 21.7.4.4.4.20(4)	Added link to IRM 21.5.3 General Claims Procedures for instruction on adjusting Micro-Captive Insurance Amended Returns. Removed mailing address for other statements/correspondence related to micro-captive insurance. IPU 23U0982 issued 10-02-2023.
IRM 21.7.4.4.7(6)	Updated IDRS number for CII correspondence referral concerning Form 8752, or IRC 7519 in CAMC from 0248492337 to 0231092337 per SERP feedback #18101. IPU 24U0405 issued 03-14-2024.
IRM 21.7.4.4.8.1(4)	Added reference to IRM 21.7.4.4.8.1.4, Carryback/Carryforward of Excess Credits, per Chief Counsel Review.
IRM 21.7.4.4.8.1.1	Changes throughout; credit order information updated; added the following credits: Advanced nuclear power facility production, Form 7213, New Clean Vehicle Credit, Form 8936, Zero-emission Nuclear Power Production, Form 7213, Sustainable Aviation Fuel, Form 8864, Clean Hydrogen Production, Form 7210, Qualified Commercial Clean Vehicle, Form 8936 Advanced Manufacturing Production, Form 7207, Military Spouse Retirement Plan Credit, Form 8881. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.1.1(2)	Following new credits added: Clean Electricity Investment Credit, Form 3468, Investment Credit, Part V, Clean Electricity Production Credit, Form 7211, Clean Fuel Production Credit, Form 7218, per 2024 Form 3800, General Business Credit, Part III.

IRM	Material Change
IRM 21.7.4.4.8.1.2 (1)	Deleted reference to Form 8860; added reference to Form 8912, Credit to Holders of Tax Credit Bonds, per Chief Counsel feedback
IRM 21.7.4.4.8.1.4(1)	Added clarifying information on carryforward/ carryback of unused credits, per IRC 38(c), IRC 6417(b), and IRC 39(a) and Chief Counsel feedback
IRM 21.7.4.4.8.3.1	Changes throughout; added the Clean Electricity Investment Credit to list of credits in paragraph (1); deleted outdated information on the qualifying therapeutic discovery project credit (6); added note to paragraph (7) referring to IRA credit calculations beginning in paragraph (14); Moved existing paragraph (8-14) below existing paragraph (20) to place IRA legislation in sequential order after prior tax law changes; added new paragraph (20) regarding CHIPS 2022 Advanced Manufacturing Investment Credit under IRC 48D; added information regarding “Applicable credits” as defined in IRC 6417(b) are carried back 3 years, per Chief Counsel feedback.
IRM 21.7.4.4.8.3.1.2	Updated IRM Title to Form 3468, Credit for Investment in Clean Coal Facilities. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.1.3	Updated IRM Title to Form 3468, Qualifying Advanced Energy Project Credit Under Section 48C. Changes throughout IRM reflecting updated guidance resulting from P.L. 117-169, commonly known as the Inflation Reduction Act (IRA) of 2022. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.1.5	Subsection added Form 3468, Advanced Manufacturing Credit Under Section 48D. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.1.6	Subsection added Form 3468, Energy Credit under Section 48. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.2	Updates throughout; adding abbreviation name for Work Opportunity Tax Credit in paragraph (1) and editorial edits in paragraph (5) removing explanation of acronym WOTC, per Chief Counsel Feedback.



IRM	Material Change
IRM 21.7.4.4.8.3.2.6	Changes throughout; updated wording in paragraph (1) “for qualified veterans”; per Chief Counsel feedback; Updated paragraph (2) new link to IRM 21.7.2.5.15, Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, and Form 5884-D, Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters, per IRM 21.7.2 author feedback.
IRM 21.7.4.4.8.3.3(6)	Updated new link to IRM 21.7.2.5.15, Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, and Form 5884-D, Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters, per IRM 21.7.2 author feedback.
IRM 21.7.4.4.8.3.4	Updated the word IRC 404 to “section” 404 in the paragraph (1), 2nd Note. Updated the word “possession” to “territory” in paragraph (7), per Chief Counsel feedback.
IRM 21.7.4.4.8.3.5(7)	Updated new link to IRM 21.7.2.5.21, Form 8974, Qualified Small Business Payroll Tax Credit for Increasing Research Activities, per IRM 21.7.2 author feedback.
IRM 21.7.4.4.8.3.5(14)	Updated IDRS number for reassignment of CII cases from 0445160144 to 0444281365. IPU 23U0982 issued 10-02-2023.
IRM 21.7.4.4.8.3.5(14)	Updated IDRS number for reassignment of CII cases from 0444281365 to 0445160144. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.8.3.5(14)	Updated IDRS number for reassignment of Research Credit Claims in CII from 0444281365 to 0445160144 in second box of “If and Then” chart, per SERP Feedback #21537. IPU 24U0858 issued 07-22-2024.
IRM 21.7.4.4.8.3.5(15)	Extended timeframe of claim perfection procedures for Forms 1120x, 1040x, and amended Forms 1041 with Research Credit Claims to January 10, 2025. IPU 23U1107 issued 11-20-2023
IRM 21.7.4.4.8.3.5(15)	Added note for research credit claims post-marked June 18, 2024 and subsequent, regarding change to qualifying criteria from 5 to 3 items per .



IRM	Material Change
IRM 21.7.4.4.8.3.6	Updates throughout; inserted in the third sentence of paragraph (1) "in which the building is placed in service" ;replaced the 2nd bullet of paragraph (2) with finance obligation described in IRC 42(h)(4)(A) ; added clarifying Notice 2021-17, and Notice 2022-5 information to paragraph (3): Replace the 2nd bullet of paragraph (3) with the applicable dollar limitation for 2022. Replace the 3rd bullet of paragraph (3) with updated calculation information; paragraph (6) added clarifying information on what form to use to claim the Low-Income Housing Credit.
IRM 21.7.4.4.8.3.7(3)	Added a reference to Notice 2023-57 providing the inflation adjustment factor for tax years beginning after 2023.
IRM 21.7.4.4.8.3.8(2)	Clarified treatment of unused credit with referral to IRM 21.7.4.4.8.1.4, Carryback/Carryforward of Excess Credits
IRM 21.7.4.4.8.3.9	Updated title to IRM to Form 8835 Renewable Electricity Production Credit to reflect form change; changes throughout IRM reflecting updated guidance resulting from P.L. 117-169, commonly known as the Inflation Reduction Act (IRA) of 2022. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.9(7)	Added the 2024 credit rates for renewable electricity production determined under IRC 45(a) for a facility placed in service after December 31, 2021, and before January 1, 2023
IRM 21.7.4.4.8.3.9(9)	Added Announcement 2022-23, 2022-48 and I.R.B. 499 to the 2022 notice column for the inflation adjustment factor for the PTC and the refined coal production credit under IRC 45.
IRM 21.7.4.4.8.3.9(16)	Updated Form 8835 Renewable Electricity Production Credit carryback information from one year to three years per IRC 6417(b). IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.8.3.10(9)	Added 2023 Reference Price information for form 8907 Non-Conventional Source Fuel Credit
IRM 21.7.4.4.8.3.13(2)	Clarified treatment of unused credit with referral to IRM 21.7.4.4.8.1.4, Carryback/Carryforward of Excess Credits
IRM 21.7.4.4.8.3.14(5)	Clarified treatment of unused credit with referral to IRM 21.7.4.4.8.1.4, Carryback/Carryforward of Excess Credits

IRM	Material Change
IRM 21.7.4.4.8.3.15(1)	Removed outdated reference to Form 6765 per Chief Counsel Review. Clarified For taxable years beginning after December 31, 2017, the Orphan Drug Credit is limited to “an amount equal to” 25 percent.
IRM 21.7.4.4.8.3.15(2)	Paragraph deleted, per Chief Counsel feedback.
IRM 21.7.4.4.8.3.15(4)	Clarified treatment of unused credit with referral to IRM 21.7.4.4.8.1.4, Carryback/Carryforward of Excess Credits
IRM 21.7.4.4.8.3.17(3)	Clarified treatment of unused credit with referral to IRM 21.7.4.4.8.1.4, Carryback/Carryforward of Excess Credits
IRM 21.7.4.4.8.3.20	Renamed heading to: Form 8881, Credit for Small Employer Pension Plan Startup Costs, Auto Enrollment, and Military Spouse Participation. This reference now provides a general overview of all credits reported on Form 8881; new subsections added for each credit. Previous information pertaining to Credit for Small Employer Pension Plan Startup Costs moved to 21.7.4.8.3.20.1, Form 8881 Credit for Small Employer Startup Costs. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.20.1	Subsection updated from Section 45T Auto-Enrollment Option for Retirement Savings Options Provided by Small Employers to Form 8881, Credit for Small Employer Pension Plan Startup Costs. Previous information pertaining to Section 45T Auto-Enrollment Option for Retirement Savings Options Provided by Small Employers moved to IRM 21.7.4.8.3.20.2, Form 8881, Small Employer Auto-Enrollment Credit. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.20.1	Added description of Employer Contributions Credit under IRC 45E(f), per Chief Counsel feedback.
IRM 21.7.4.4.8.3.20.2	New subsection added: Form 8881, Small Employer Auto-Enrollment Credit replacing information previously found in IRM 21.7.4.4.8.3.20.1. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.20.3	New subsection added: Form 8881, Military Spouse Participation Credit. IPU 24U0386 issued 03-11-2024.

IRM	Material Change
IRM 21.7.4.4.8.3.20.3	Updates to paragraphs (1) and (6) specifying contribution plans need to be defined contribution plans under IRC 414(i), per Chief Counsel feedback.
IRM 21.7.4.4.8.3.22	Changes throughout clarifying necessary certificates for SAF Synthetic Blending Components; Notice updates from 2023-06 to 2024-06, added Notice 2024-37, clarification on what type of fuel mixtures can be used in sustainable aviation fuel per IRC 40B.
IRM 21.7.4.4.8.3.25(5)	Updated average tax-financing cost per case Form 8906, Distilled Spirits Credit for 2023 and 2024 per Form 8906 instructions
IRM 21.7.4.4.8.3.27.1(13)	Removed reference to IRM 21.7.4.4.8.3.38.1, Form 8936, Qualified Plug-in Electric Drive Motor Vehicle Credit (Including Qualified Two- or Three-Wheeled Plug-in Electric Vehicle). IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.29	Changes throughout section reflecting updated guidance for Form 8911, Alternative Fuel Vehicle Refueling Property Credit resulting from P.L 117-169, commonly known as the Inflation Reduction Act of 2022. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.30	Changes throughout IRM; adding clarifying information on Form 7213, Nuclear Power Production Credit. IRM title changed to match form. Updated general information and processing procedures for both IRC 45J Advanced Nuclear Power Facilities and IRC 45U Qualified Nuclear Power Facilities. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.30(7)	Updated paragraph with information on transferring the production credit from advanced nuclear power facilities from qualified entities to eligible project partners, per Notice 2023-24.
IRM 21.7.4.4.8.3.32(8)	Added paragraph regarding changes to IRC 48 under The Inflation Reduction Act (IRA), P. L. 117-169 linked to IRM 21.7.4.4.8.3.1 Form 3468, Investment Credit, per Chief Counsel feedback.
IRM 21.7.4.4.8.3.34(3)	Clarified extended credit requirements per IRA for Form 8908, Energy Efficient Home Credit P.L. 117-169, commonly known as the Inflation Reduction Act of 2022.

IRM	Material Change
IRM 21.7.4.4.8.3.34(4)	Updated definition of an eligible contractor for Form 8908, Energy Efficient Home Credit per Chief Counsel review
IRM 21.7.4.4.8.3.37	Changes throughout IRM reflecting updated guidance for Form 8933, Carbon Oxide sequestration credit resulting from P.L. 117-169, commonly known as the Inflation Reduction Act of 2022. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.37(14)	Added 2024 inflation reduction factors for Form 8933, Carbon Oxide Sequestration Credit per Notice 2024-39, IRB 2024-24 1611.
IRM 21.7.4.4.8.3.37(18)	Added information regarding IRC 6417 Elective Payment Elections for S Corporations and Partnerships for Form 8933, Carbon Oxide Sequestration Credit. IPU 24U0405 issued 03-14-2024.
IRM 21.7.4.4.8.3.37(20)	Added adjustment consideration for IRC 6417 Elective Payment Elections for S Corporations and Partnerships for Form 8933, Carbon Oxide Sequestration Credit. IPU 24U0405 issued 03-14-2024.
IRM 21.7.4.4.8.3.38	Renamed heading to Clean Vehicle Credits - Form 8936. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.38	Changes throughout referring to credit as "Clean Vehicle Credit" and vehicles as "clean new vehicles". Updates to word percent to % throughout. Clarification on flow through to Form 3800 for some entities, per Chief Counsel feedback.
IRM 21.7.4.4.8.3.38(20)	Changed paragraph to include guidance on following IRM sub-sections which provide guidance on responding to inquiries related to the various credits claimed on Form 8936. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.38.1	Renamed heading to Form 8936, Qualified Two- or Three-Wheeled Plug-In Electric Vehicle. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.38.2	Added Subsection; Form 8936, Qualified Plug in Electric Drive Motor Vehicle Credit (place in service 2022 or prior). IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.38.3	Added Subsection; Form 8936, New Clean Vehicle Credit (2023 or subsequent). IPU 24U0386 issued 03-11-2024.

IRM	Material Change
IRM 21.7.4.4.8.3.38.3(7)	Exceptions to VIN lookup tool noted; CAT-A guidance added. IPU 24U0678 issued 05-23-2024. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.8.3.38.3(8)	New paragraph added for actions required for Clean Vehicle Credit claimed on Form 8936. IPU 24U0678 issued 05-23-2024. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.8.3.38.4	Added Subsection; Form 8936, Qualified Commercial Clean Vehicle Credit. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.38.4(7)	Exceptions to VIN lookup tool noted; CAT-A guidance added. IPU 24U0678 issued 05-23-2024. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.8.3.38.4(8)	New paragraph added for required actions for Commercial Clean Vehicle Credit claimed on Form 8936. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.8.3.41(7)	Added 2024 dollar amount, \$32,400, per Rev. Proc. 2023-34.
IRM 21.7.4.4.8.3.42(4)	Added form number for Form 3468 Investment Credit
IRM 21.7.4.4.8.3.43	Subsection added Form 7207, Advanced Manufacturing Production Credit. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.8.3.44	Subsection added Form 7210, Clean Hydrogen Production Credit. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.9.3.3(2)	Updated IDRS number from 0435140576 to 0435240576 based on SERP Feedback 13246. IPU 23U0982 issued 10-02-2023
IRM 21.7.4.4.9.3.3(2)	Updated IDRS number from 0435140576 to 0434904470 based on SERP Feedback #17634. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.9.5	Renamed heading to Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers; changes throughout IRM; note added regarding TC 971 AC 831 -R Freeze, math error notices, updated guidance for superseding and amended returns claiming EPE for processing years beginning 202312 and subsequent, and CAT-A procedure information updated for adjusting amended and superseding returns claiming EPE. IPU 24U0386 issued 03-11-2024.

IRM	Material Change
IRM 21.7.4.4.9.5	Changes throughout IRM identifying EPE IRN's with updates to Amended/Superseding adjustment procedures; CAT-A criteria. IPU 24U0678 issued 05-23-2024.
IRM 21.7.4.4.9.5	Changes throughout; paragraphs (1) - (6) updated with clarifying information on eligibility of taxpayers under IRC 6417 and IRC 6418, elective payment/transfer registration, and credit eligibility, per Chief Counsel feedback.
IRM 21.7.4.4.9.5.1	Subsection added Adjusting Accounts with Elective Payment Election Sequestration. IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.9.5.1(10)	Added CRN 463 Clean Electricity Production Credit under IRC 45Y to table, per Chief Counsel feedback.
IRM 21.7.4.4.10(2)	Updated new link to IRM 21.7.2.4.8.3, Backup Withholding (BUWH) Claims on Form 945, per IRM 21.7.2 author feedback
IRM 21.7.4.4.11	Changes throughout; clarification on filing requirements and adjustment information for Form 8621, Return by a Shareholder of a Passive Foreign Investment Co. or Qualified Electing Fund; paragraphs added/deleted and renumbered, per Chief Counsel Feedback.
IRM 21.7.4.4.11(4)	Clarification on source documentation adjustments for Form 8621 attachment to tax returns.
IRM 21.7.4.4.14	Changes throughout clarifying Form 8873, Extraterritorial Income Exclusion and repeal of FSC and ETI binding contract rules for taxable years beginning after May 17, 2006.
IRM 21.7.4.4.15	Changes throughout updating references to Rev. Proc. 2023-24 to 2024-23, Rev. Proc. 2023-01 to 2024-1, per Chief Counsel feedback.
IRM 21.7.4.4.15.1.1	Changes throughout adding information to paragraph 1, new bullet (d), Forms 3115 filed with a designated change number (DCN) 255, "Changes related to cost offsets resulting from concurrent cost-offset related inventory changes" updating references to Rev. Proc. 2023-24 to 2024-23, Rev. Proc. 2023-01 to 2024-1, and modifying paragraph (4) with by Rev. Proc. 2017-59, 2017-48 I.R.B. 543, per Chief Counsel Feedback

IRM	Material Change
IRM 21.7.4.4.15.1.2	Changes throughout updating references to Rev. Proc. 2023-24 to 2024-23, Rev. Proc. 2023-01 to 2024-1. Added paragraph (3) information on revoking an election per private letter ruling or consent of the Commissioner, per Chief Counsel Feedback
IRM 21.7.4.4.15.1.1(4)	Removed expiration date on taxpayer ability to use electronic signature on Form 3115 per revised IRM 10.10.1 published 10-17-2023. IPU 23U1107 issued 11-20-2023.
IRM 21.7.4.4.17.7.8(2)	Updated table with 2022, 2023, 2024 inflation adjustments for business assets under IRC 179, per Rev. Proc. 2021-45, 2022-38, and 2023-34.
IRM 21.7.4.4.17.11(7)	Added bullet reference to Announcement 2024-24 affirming Reference Standard 90.1-2022 for property placed in service after December 31, 2028, and the construction of which did not begin by December 31, 2022, per Chief Counsel review.
IRM 21.7.4.4.19.2	Changes throughout; added information that Notice 2015-74 is obsolete in paragraphs (3) and (4). Removed reference to Notice 2015-74 in paragraphs (5) and (6), per Chief Counsel feedback.
IRM 21.7.4.4.23(6)	Note added for delay of the new \$600 Form 1099-K, Payment Card and Third Party Network Transactions reporting threshold for third party settlement organizations for calendar year 2023. IPU 23U1148 issued 12-05-2023.
IRM 21.7.4.4.26(7)	Updated paragraph to include IRM 21.5.9.2.1, Identifying Carryback Applications and Claims, and IRM 21.5.9.2.2, Identifying Carryforward Claims links for carryback case identification and assignment procedures, per IRM 21.5.9 author feedback.
IRM 21.7.4.4.28	New subsection added; Capital Construction Fund (CCF). IPU 24U0386 issued 03-11-2024.
IRM 21.7.4.4.28(2)	Updated word “fishermen” to taxpayers, per Chief Counsel Feedback.
IRM 21.7.4.4.28(6)	Clarified information in (6) pertains to “corporate” taxpayers, per Chief Counsel Feedback.

- (2) Various editorial changes have been made throughout this IRM. Cross-references were added, removed, or revised, as appropriate.



## **EFFECT ON OTHER DOCUMENTS**

IRM 21.7.4 Income Taxes/Information Returns dated August 25, 2023, effective October 1, 2023 is superseded. The following IRM procedural update(s) have been incorporated into this IRM: IPU 23U0982 issued 10-02-2023, IPU 23U1107 issued 11-20-2023, IPU 23U1148 issued 12-05-2023, IPU 23U1158 issued 12-08-2023, IPU 24U0386 issued 03-11-2024, IPU 24U0405 issued 03-14-2024. IPU 24U0678 issued 05-23-2024, IPU 24U0858 issued 07-22-2024.

## **AUDIENCE**

This IRM is intended for all Taxpayer Services (TS) Customer Account Service employees, including Customer Service Representatives (CSR) and Tax Examiners (TE) in Accounts Management who answer telephone inquiries and/or work taxpayer correspondence regarding issues involving Business Master File (BMF) Income Tax Returns and Information Returns.

Lucinda Comegys, Director, Accounts Management  
Taxpayer Services Division

21.7.4  
Income Taxes/Information Returns

## Table of Contents

### 21.7.4.1 Program Scope and Objectives

- 21.7.4.1.1 Background
- 21.7.4.1.2 Authority
- 21.7.4.1.3 Responsibilities
- 21.7.4.1.4 Program Management and Review
- 21.7.4.1.5 Program Controls
- 21.7.4.1.6 Terms/Definitions/ Acronyms
- 21.7.4.1.7 Related Resources

### 21.7.4.2 Taxpayer Advocate Service (TAS)

### 21.7.4.3 BMF Income Tax / Information Returns and Related Research Material

- 21.7.4.3.1 Form 1041 Research Material
- 21.7.4.3.2 Form 1065 Research Material
- 21.7.4.3.3 Form 1066 Research Material
- 21.7.4.3.4 Form 1120 Series Research Material
- 21.7.4.3.5 Form 7004, *Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*
- 21.7.4.3.6 Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*

### 21.7.4.4 Income and Information Returns Procedures

#### 21.7.4.4.1 Form 1041, *U.S. Income Tax Return for Estates and Trusts*

- 21.7.4.4.1.1 Filing Requirements, Form 1041
  - 21.7.4.4.1.1.1 Domestic Decedent and Bankruptcy Estates
  - 21.7.4.4.1.1.2 Domestic Trusts
  - 21.7.4.4.1.1.3 Types of Trusts
  - 21.7.4.4.1.1.4 Form 1041-QFT, *U.S. Income Tax Return for Qualified Funeral Trusts*
  - 21.7.4.4.1.1.5 Form 1041-N, *U.S. Income Tax Return for Alaska Native Settlement Trusts*
  - 21.7.4.4.1.1.6 Qualified Disability Trust
- 21.7.4.4.1.2 Schedules Associated with Form 1041
- 21.7.4.4.1.3 General Definitions
- 21.7.4.4.1.4 Entity Perfection of Form 1041
- 21.7.4.4.1.5 Permissible Tax Years, Form 1041
- 21.7.4.4.1.6 Extensions to File, Form 1041
- 21.7.4.4.1.7 Tax Computation, Form 1041
  - 21.7.4.4.1.7.1 Form 8960, *Net Investment Income Tax - Individuals, Estates, and Trusts*
  - 21.7.4.4.1.7.2 Short Period Returns, Form 1041

- 21.7.4.4.1.7.3 Annualized Tax, Form 1041
  - 21.7.4.4.1.7.4 Form 1041 Exemptions
  - 21.7.4.4.1.7.5 Allowable Credits (Form 1041)
    - 21.7.4.4.1.7.5.1 Non-Refundable Credits (Form 1041)
    - 21.7.4.4.1.7.5.2 Refundable Credits (Form 1041)
  - 21.7.4.4.1.8 Estimated Tax Payments (Form 1041)
    - 21.7.4.4.1.8.1 Short Taxable Years (Form 1041)
    - 21.7.4.4.1.8.2 Electronic Payment Options for e-file Users; Payment by Electronic Funds Withdrawal (Direct Debit) and Payment by Credit or Debit Card (Pay by Phone or Internet)
    - 21.7.4.4.1.8.3 Form 1041-V, *Payment Voucher*
  - 21.7.4.4.1.9 Electronic Filing of Form 1041 Returns
  - 21.7.4.4.1.10 Form 1041 Claims and Requests for Adjustments
  - 21.7.4.4.1.11 Social Security Domestic Employment Reform Act (SSDERA) and Business Master File (BMF) Schedules H
    - 21.7.4.4.1.11.1 Provisions of Social Security Domestic Employment Reform Act (SSDERA), General Information
      - 21.7.4.4.1.11.1.1 Social Security Domestic Employment Reform Act (SSDERA) Interest-free Provisions
    - 21.7.4.4.1.11.2 Business Master File (BMF) Schedule H Processing
      - 21.7.4.4.1.11.2.1 Loose Schedules H (BMF)
    - 21.7.4.4.1.11.2.3 Adjustments (Amended Returns, TRNS 193s, etc.) Involving Form 1041 With Schedule H
    - 21.7.4.4.1.11.2.4 Net Decrease, Original Assessment on Form 1041 (MFT 05) and Form 940 (MFT 10)
    - 21.7.4.4.1.11.2.5 Net Increase, Original Assessment on Form 1041 (MFT 05) and Form 940 (MFT 10)
  - 21.7.4.4.1.12 Form 1041-T, *Allocation of Estimated Tax Payments to Beneficiaries*
    - 21.7.4.4.1.12.1 Form 1041-T Filing Dates
    - 21.7.4.4.1.12.2 Transferring Credits/Payments (Form 1041-T)
    - 21.7.4.4.1.12.3 CP 208 Notice, *Potential Credit Transfer Action Form 1041*
    - 21.7.4.4.1.12.4 Balance Due Notices on IMF Accounts
  - 21.7.4.4.1.13 Victims of Terrorism Tax Relief Act of 2001 - Tax Forgiveness
  - 21.7.4.4.1.14 Pooled Income Trusts Government National Mortgage Association (GNMA)
  - 21.7.4.4.1.15 Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts*, Received in Conjunction with Form 1041
  - 21.7.4.4.1.16 United States Department of Agriculture (USDA) Discrimination Settlement Payments
  - 21.7.4.4.1.17 Wrongful Incarceration Exclusion
- #
- 21.7.4.4.2 Form 1065, *U.S. Return of Partnership Income*
    - 21.7.4.4.2.1 Form 1065-B, *U.S. Return of Income for Electing Large Partnerships*
    - 21.7.4.4.2.2 Publicly Traded Partnerships

- 21.7.4.4.2.3 Form 1065 Return Due Dates
  - 21.7.4.4.2.3.1 Form 1065 Short Period Final Returns with Tax Period Beginning After December 31, 2015
  - 21.7.4.4.2.3.2 Form 1065 for Tax Period 201512 – Return Received Date Problem
- 21.7.4.4.2.4 Schedules K and K-1 (Form 1065)
  - 21.7.4.4.2.4.1 Schedule K-2 and Schedule K-3
- 21.7.4.4.2.5 Extensions of Time to File Form 1065
  - 21.7.4.4.2.5.1 Taxpayers Abroad
- 21.7.4.4.2.6 Publication 541, *Partnerships*
- 21.7.4.4.2.7 Partnership Penalties
  - 21.7.4.4.2.7.1 Form 1065 Failure to File Penalty and CP 575 Notice
  - 21.7.4.4.2.7.2 Form 5471 Penalties for Partnerships
- 21.7.4.4.2.8 Modernized *e-file* (MeF) - Electronic Filing of Partnership Returns and Mandatory e-Filing Requirements
  - 21.7.4.4.2.8.1 Partnerships with More Than 100 Partners
    - 21.7.4.4.2.8.1.1 Large Partnership Penalty for Failing to File Electronically
    - 21.7.4.4.2.8.1.2 Waiver Requests by Large Partnerships Required to File Electronically
  - 21.7.4.4.2.8.2 Small Partnership Penalty Abatement
  - 21.7.4.4.2.8.3 Known e-file Issues and Solutions - Form 1065
- 21.7.4.4.2.9 Form 1065 and Form 1065X, *Amended Return, Administrative Adjustment Request (AAR) and Bipartisan Budget Act (BBA)*
  - 21.7.4.4.2.9.1 Items to Compare on Transcript (TRNS) 193s (Form 1065)
  - 21.7.4.4.2.9.2 Partnership Terminations for Partnership Tax Years Beginning on or Before December 31, 2017, Only
  - 21.7.4.4.2.9.3 Amended Returns for Bipartisan Budget Act (BBA) Partnerships for Taxable Years Beginning in 2018 and 2019, Rev. Proc. 2020-23
- 21.7.4.4.2.10 Multiple Filed Form 1065
- 21.7.4.4.2.11 CP 282 Notice, *Notification of Possible Additional Partnership Filing Requirements (Withholding Tax on Foreign Partners)*
- 21.7.4.4.2.12 Form 1065 Filed under Rev. Proc. 2003-84
- 21.7.4.4.2.13 Schedule M-3 (Form 1065), *Net Income (Loss) Reconciliation for Certain Partnerships*
- 21.7.4.4.2.14 Payment by Credit or Debit Card (Pay by Phone or Internet)
- 21.7.4.4.2.15 Substantial Built-In Loss in the Case of Transfer of Partnership Interest
- 21.7.4.4.3 Form 1066, *U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return*
  - 21.7.4.4.3.1 Form 1066 Due Dates, Payments, and Extensions to File
  - 21.7.4.4.3.2 Amended Form 1066 and Form 1065X, *Amended Return or Administrative Adjustment Request (AAR)*
  - 21.7.4.4.3.3 Schedule Q (Form 1066), *Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation*

21.7.4.4.3.4 Foreclosure Property Extension Requests

21.7.4.4.4 Form 1120 Series Returns, Corporation Income Tax

21.7.4.4.4.1 Types of Form 1120

21.7.4.4.4.2 Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016

21.7.4.4.4.2.1 Form 1120 Corporate Series Return Due Dates – Tax Years Beginning after December 31, 2015

21.7.4.4.4.2.1.1 Form 1120 Short Period Final Returns with Tax Period Beginning After December 31, 2015

21.7.4.4.4.2.1.2 Correcting the Form 1120 Return Due Date

21.7.4.4.4.3 Personal Service Corporations (PSC)

21.7.4.4.4.3.1 CP 224 Notice, *Notice of Potential Qualification as a Personal Service Corporation*

21.7.4.4.4.4 Consolidated Returns

21.7.4.4.4.5 Extensions to File Form 1120 Series Returns

21.7.4.4.4.5.1 Form 1120 Short Period Final Returns with Tax Period Beginning After December 31, 2015 Filing Extension Requests

21.7.4.4.4.5.2 Taxpayers Abroad

21.7.4.4.4.6 Change in Accounting Period (Corporations)

21.7.4.4.4.6.1 Taxpayer Requests Ruling on Accounting Period

21.7.4.4.4.7 Tax Computation (Corporations)

21.7.4.4.4.7.1 Exceptions to the Standard Tax Rate (Corporations)

21.7.4.4.4.7.1.1 Qualified Personal Service Corporations

21.7.4.4.4.7.1.2 Members of a Controlled Group

21.7.4.4.4.7.2 Form 4626, *Alternative Minimum Tax - Corporations*

21.7.4.4.4.7.3 CP 130 Notice, *Potential Exemption from AMT*

21.7.4.4.4.8 Schedules, Form 1120 Series

21.7.4.4.4.9 Credits, Form 1120 Series Returns

21.7.4.4.4.9.1 Investment Credit, General Business Credit — Missing or Incomplete Schedules

21.7.4.4.4.9.1.1 Investment Credit Erroneously Computed or Claimed

21.7.4.4.4.10 Payment of Tax (Corporations)

21.7.4.4.4.10.1 Estimated Tax Payments - Due Dates

21.7.4.4.4.10.2 Large Corporate Underpayments

21.7.4.4.4.11 Other Form 1120 Series Returns

21.7.4.4.4.11.1 Form 1120-S, *U.S. Income Tax Return for an S Corporation*

21.7.4.4.4.11.1.1 Relief for Late S Corporate Elections

21.7.4.4.4.11.1.2 Estimated Tax Payments (Subchapter S Corporations)

21.7.4.4.4.11.1.3 Required Tax Year (Subchapter S Corporations) and Exceptions

21.7.4.4.4.11.1.4 Refundable Credit (Form 1120-S)

21.7.4.4.4.11.1.5 Item Reference Number (IRN) 886, Form 1120-S

- 21.7.4.4.4.11.1.6 Form 8869, *Qualified Subchapter S Subsidiary Election* (Under Section 1361(b)(3) of the Internal Revenue Code)
- 21.7.4.4.4.11.1.7 Converting Form 1120 Back to Form 1120-S
- 21.7.4.4.4.11.1.8 Section 13543 Modification of Treatment of S Corporation Conversions to C Corporation
- 21.7.4.4.4.11.1.9 Failure to File S Corporation Return Penalty
- 21.7.4.4.4.11.2 Form 1120-H, *U.S. Income Tax Return for Homeowners Associations*
- 21.7.4.4.4.11.3 Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations*
- 21.7.4.4.4.11.4 Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*
  - 21.7.4.4.4.11.4.1 IRC Section 847 Payments and Requirements (Prior to January 1, 2018)
  - 21.7.4.4.4.11.4.2 Repeal of Special Estimated Tax Payments
- 21.7.4.4.4.11.5 Form 1120-L, *U.S. Life Insurance Company Income Tax Return*
- 21.7.4.4.4.11.6 Form 1120-IC-DISC, *Interest Charge Domestic International Sales Corporation Return*
- 21.7.4.4.4.11.7 Form 1120-ND, *Return for Nuclear Decommissioning Funds and Certain Related Persons*
- 21.7.4.4.4.11.8 Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*
- 21.7.4.4.4.11.9 Form 1120-FSC, *U.S. Income Tax Return of a Foreign Sales Corporation*
- 21.7.4.4.4.11.10 Form 1120-SF, *U.S. Income Tax Return for Settlement Funds*
- 21.7.4.4.4.11.11 Form 1120-REIT, *U.S. Income Tax Return for Real Estate Investment Trusts*
  - 21.7.4.4.4.11.11.1 Form 8927, *Determination Under IRC 860(e)(4) by a Qualified Investment Entity*
  - 21.7.4.4.4.11.11.2 Deficiency Dividends for Regulated Investment Company (RIC) and Real Estate Investment Trust (REIT) Filing Form 8927 - Background
  - 21.7.4.4.4.11.11.3 Deficiency Dividends Procedures and Deadlines (OAMC Complex Interest Team Only)
- 21.7.4.4.4.11.12 Form 1120-RIC, *U.S. Income Tax Return for Regulated Investment Companies*
- 21.7.4.4.4.11.13 Form 1120-X, *Amended U.S. Corporation Income Tax Return*
  - 21.7.4.4.4.11.13.1 Pre-Adjusted Form 1120-X Procedures
  - 21.7.4.4.4.11.13.2 Line on Form 1120-X to Apply Overpayment as Credit Elect
- 21.7.4.4.4.11.14 Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*
- 21.7.4.4.4.12 Adjusting Tax and Item Reference Number (IRN) 886
- 21.7.4.4.4.13 Insolvent Financial Institutions/Failed Savings and Loans, and Failed Banks
  - 21.7.4.4.4.13.1 Resolution Trust Corporation (RTC)/Federal Deposit Insurance Corporation (FDIC) Returns
  - 21.7.4.4.4.13.2 Adjustment Procedures (RTCs/FDICs)
  - 21.7.4.4.4.13.3 Insolvent Financial Institutions/Failed Banks
- 21.7.4.4.4.14 Form 4466 Transcripts (Form 1120)
- 21.7.4.4.4.15 Modernized *e-file* (MeF) System Functionality Overview
  - 21.7.4.4.4.15.1 Modernized *e-file* (MeF) - Electronic Filing of Corporate and Exempt Organization Returns

- 21.7.4.4.4.15.2 Corporate and Exempt Organization Penalty for Failure to File Electronically
- 21.7.4.4.4.15.3 Known e-file Issues and Solutions - Form 1120
- 21.7.4.4.4.16 Failure to File Form 1120, with a Form 5471 or a Form 5472 Penalty
- 21.7.4.4.4.17 Form 1120 and Reinstated Exempt Organization Determination
- 21.7.4.4.4.18 Forms 1120 Series and Form 1120-S - Potential Frivolous Refunds/Possible ID Theft or RICS Involvement
- 21.7.4.4.4.19 Form 966 - Corporate Dissolution or Liquidation
- 21.7.4.4.4.20 Micro-Captive Insurance Amended Returns
- 21.7.4.4.5 Estimated Tax Overpayment, Credit Elect - General
  - 21.7.4.4.5.1 Credit Elect Computer Programming on Certain Income Tax/EO Returns
- 21.7.4.4.6 Form 8716, *Election to Have a Tax Year Other Than a Required Tax Year*
- 21.7.4.4.7 Form 8752, *Required Payment or Refund Under Section 7519*
  - 21.7.4.4.7.1 Election Year, Base Year, Required Tax Year (Form 8752)
  - 21.7.4.4.7.2 Penalties (Form 8752)
  - 21.7.4.4.7.3 Posting of the Payment (Form 8752)
  - 21.7.4.4.7.4 Form 8752 Credit Transfers
  - 21.7.4.4.7.5 Form 8752 Tax Adjustments
    - 21.7.4.4.7.5.1 Incorrect Percentage Used (Form 8752)
    - 21.7.4.4.7.5.2 Form 8752 Posts to Incorrect Period, Correct Return Unavailable
    - 21.7.4.4.7.5.3 Form 8752 Posts to Incorrect Period, Return Available
  - 21.7.4.4.7.6 Form 8752 Overpayments
  - 21.7.4.4.7.7 Form 8752 Refunds
    - 21.7.4.4.7.7.1 Refunds Involving Termination of Section 444 Election
    - 21.7.4.4.7.7.2 Refunds Involving Continuation of Section 444 Election
    - 21.7.4.4.7.7.3 No Interest on Section 444 Refunds
  - 21.7.4.4.7.8 Section 7519 Statute of Limitations, Period for Assessment
    - 21.7.4.4.7.8.1 Section 7519 Statute of Limitations, Period for Claiming a Refund of a Payment.
- 21.7.4.4.8 Non-refundable Credits, Income Tax Returns
  - 21.7.4.4.8.1 General Business Credit, Form 3800
    - 21.7.4.4.8.1.1 Priority of Credits
    - 21.7.4.4.8.1.2 Use of Other Credits Prior to Allowance of General Business Credit
    - 21.7.4.4.8.1.3 Form 8844, *Empowerment Zone Employment Credit*
    - 21.7.4.4.8.1.4 Carryback/Carryforward of Excess Credits
  - 21.7.4.4.8.2 Expiration of Credits
  - 21.7.4.4.8.3 Information on Specific Non-Refundable Credits
    - 21.7.4.4.8.3.1 Form 3468, *Investment Credit*
      - 21.7.4.4.8.3.1.1 Carryforward of Investment Credit
      - 21.7.4.4.8.3.1.2 Form 3468, *Credit for Investment in Clean Coal Facilities*
      - 21.7.4.4.8.3.1.3 Form 3468, *Qualifying Advanced Energy Project Credit Under IRC 48C*



- 
- 21.7.4.4.8.3.1.4 Form 8942, *Application for Certification of Qualified Investments Eligible for Credits and Grants Under the Qualifying Therapeutic Discovery Project Program*
  - 21.7.4.4.8.3.1.5 Form 3468, *Advanced Manufacturing Investment Credit Under IRC 48D*
  - 21.7.4.4.8.3.1.6 Form 3468, *Energy Credit Under IRC 48*
  - 21.7.4.4.8.3.2 Form 5884, *Work Opportunity Credit*
  - 21.7.4.4.8.3.2.1 Form 8884, *Expanded Work Opportunity Credit, New York Liberty Zone*
  - 21.7.4.4.8.3.2.2 Form 5884, *Work Opportunity Credit, Hurricane Katrina Employees*
  - 21.7.4.4.8.3.2.3 Employee Retention Credit for Employers Affected by Hurricane Katrina, Rita, and Wilma (Form 5884-A, *Credit for Employers Affected by Hurricanes Katrina, Rita, and Wilma*)
  - 21.7.4.4.8.3.2.4 Form 5884-A, *Hurricane Katrina Housing Credit*
  - 21.7.4.4.8.3.2.5 Form 5884, *Work Opportunity Credit - Incentives to Hire Unemployed Veterans and Disconnected Youth*
  - 21.7.4.4.8.3.2.6 Form 5884, *Work Opportunity Credit - Section 261, Returning Heroes and Wounded Warriors Work Opportunity Tax Credits, of the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011, Title II, subtitle D, of Pub. L. No. 112-056*
  - 21.7.4.4.8.3.2.7 Form 5884, *Work Opportunity Credit*
  - 21.7.4.4.8.3.3 Employee Retention Credit for Employers Affected by Qualified Disasters - Form 5884-A, *Credits for Affected Disaster Area Employers*
  - 21.7.4.4.8.3.3.1 Form 5884-A Eligibility Requirements
  - 21.7.4.4.8.3.3.2 Form 5884-A, *Claim Procedures*
  - 21.7.4.4.8.3.4 Form 6478, *Biofuel Producer Credit*
  - 21.7.4.4.8.3.5 Form 6765, *Credit for Increasing Research Activities*
  - 21.7.4.4.8.3.6 Form 8586, *Low-Income Housing Credit* and Form 8609, *Low-Income Housing Credit Allocation and Certification*
  - 21.7.4.4.8.3.7 Form 8830, *Enhanced Oil Recovery Credit*
  - 21.7.4.4.8.3.8 Form 8826, *Disabled Access Credit*
  - 21.7.4.4.8.3.9 Form 8835, *Renewable Electricity Production Credit*
  - 21.7.4.4.8.3.10 Form 8907, *Nonconventional Source Fuel Credit*
  - 21.7.4.4.8.3.11 *Credit for Prior Year Minimum Tax*, Form 8801 (Estates and Trusts) and Form 8827 (Corporations)
  - 21.7.4.4.8.3.12 Form 8845, *Indian Employment Credit, and Accelerated Depreciation for Business Property on an Indian Reservation*
  - 21.7.4.4.8.3.13 Form 8846, *Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips*
  - 21.7.4.4.8.3.14 Form 8847, *Credit for Contributions to Selected Community Development Corporations*
  - 21.7.4.4.8.3.15 Form 8820, *Orphan Drug Credit*
  - 21.7.4.4.8.3.16 Form 8861, *Welfare-to-Work Credit*
  - 21.7.4.4.8.3.17 Trans-Alaska Pipeline Liability Fund Credit

- 21.7.4.4.8.3.18 Form 8912, *Credit to Holders of Tax Credit Bonds*
- 21.7.4.4.8.3.19 Form 8882, *Credit for Employer-Provided Childcare Facilities and Services*
- 21.7.4.4.8.3.20 Form 8881, *Credit for Small Employer Pension Plan Startup Costs, Auto-Enrollment, and Military Spouse Participation*
  - 21.7.4.4.8.3.20.1 Form 8881, *Credit for Small Employer Pension Plan Startup Costs*
  - 21.7.4.4.8.3.20.2 Form 8881, *Small Employer Auto-Enrollment Credit*
  - 21.7.4.4.8.3.20.3 Form 8881, *Military Spouse Participation Credit*
- 21.7.4.4.8.3.21 Form 8874, *New Markets Tax Credit*
- 21.7.4.4.8.3.22 Form 8864, *Biodiesel, Renewable Diesel, or Sustainable Aviation Fuels Credit*
- 21.7.4.4.8.3.23 Form 8896, *Low Sulfur Diesel Fuel Production Credit*
- 21.7.4.4.8.3.24 Form 8900, *Qualified Railroad Track Maintenance Credit*
- 21.7.4.4.8.3.25 Form 8906, *Distilled Spirits Credit*
- 21.7.4.4.8.3.26 Form 8904, *Credit for Producing Oil and Gas from Marginal Wells*
- 21.7.4.4.8.3.27 Form 8834, *Qualified Electric Vehicle Credit*, TY 2006 and Prior
  - 21.7.4.4.8.3.27.1 Form 8834, *Qualified Plug-in Electric and Electric Vehicle Credit*
- 21.7.4.4.8.3.28 Form 8910, *Alternative Motor Vehicle Credit*
  - 21.7.4.4.8.3.28.1 Conversion Kits, *Qualified Plug-in Electric Drive Motor Vehicle*
- 21.7.4.4.8.3.29 Form 8911, *Alternative Fuel Vehicle Refueling Property Credit*
- 21.7.4.4.8.3.30 Form 7213, *Nuclear Power Production Credit*
- 21.7.4.4.8.3.31 Credit for Investment in Clean Coal Facilities
- 21.7.4.4.8.3.32 Credit for Business Installation of Qualified Fuel Cell, Qualified Microturbine and Combined Heat and Power Property
- 21.7.4.4.8.3.33 Form 8923, *Mine Rescue Team Training Credit*
- 21.7.4.4.8.3.34 Form 8908, *Energy Efficient Home Credit*
- 21.7.4.4.8.3.35 Form 8931, *Agricultural Chemicals Security Credit*
- 21.7.4.4.8.3.36 Form 8909, *Energy Efficient Appliance Credit*
  - 21.7.4.4.8.3.36.1 Energy Efficient Appliance Credit - American Taxpayer Relief Act, P.L. 112-240
- 21.7.4.4.8.3.37 Form 8933, *Carbon Oxide Sequestration Credit*
- 21.7.4.4.8.3.38 Form 8936, *Clean Vehicle Credits*
  - 21.7.4.4.8.3.38.1 Form 8936, *Qualified Two or Three-Wheeled Plug-In Electric Vehicle*
  - 21.7.4.4.8.3.38.2 Form 8936, *Qualified Plug in Electric Drive Motor Vehicle Credit* (placed in service 2022 or prior)
  - 21.7.4.4.8.3.38.3 Form 8936, *New Clean Vehicle Credit* (placed in service 2023 or subsequent)
  - 21.7.4.4.8.3.38.4 Form 8936, *Qualified Commercial Clean Vehicle Credit*
- 21.7.4.4.8.3.39 Form 5884–B, *New Hire Retention Credit*
- 21.7.4.4.8.3.40 Black Liquor Credit Claims
- 21.7.4.4.8.3.41 Form 8941, *Credit for Small Employer Health Insurance Premiums*
- 21.7.4.4.8.3.42 Rehabilitation Credit Limited to Certified Historic Structures
- 21.7.4.4.8.3.43 Form 7207, *Advanced Manufacturing Production Credit*

- 21.7.4.4.8.3.44 Form 7210, *Clean Hydrogen Production Credit*
- 21.7.4.4.8.4 Form 8903, *Domestic Production Activities Deduction*
- 21.7.4.4.8.5 Amortization of Research and Experimental Expenditures
- 21.7.4.4.8.6 Form 8994, Employer Credit for Paid Family and Medical Leave
- 21.7.4.4.8.7 COVID-19-related Tax Credits for Paid Sick and Paid Family Leave
- 21.7.4.4.9 Refundable Credits, Income Tax Returns
  - 21.7.4.4.9.1 Form 4136, *Credit for Federal Tax Paid on Fuels*
  - 21.7.4.4.9.2 Credits for Taxes Paid on Undistributed Capital Gains of Regulated Investment Company (RIC) or Real Estate Investment Trusts (REIT)
    - 21.7.4.4.9.2.1 Form 2439, *Notice to Shareholder of Undistributed Long-Term Capital Gains*, for Individual Retirement Account (IRA) Trusts
    - 21.7.4.4.9.2.2 Loose Form 2439, Copies A and B
  - 21.7.4.4.9.3 Prior Sequestration of Form 8827 Credit - General Information
    - 21.7.4.4.9.3.1 Previously Sequestered Corporate Alternative Minimum Tax (AMT) Recovery
    - 21.7.4.4.9.3.2 Repeal of Alternative Minimum Tax (AMT), and Repeal of Corporate AMT Sequestration
    - 21.7.4.4.9.3.3 Processing Amended Returns with Form 8827, or Certain Cares Act Form 1139 Applications , with Form 8827
  - 21.7.4.4.9.4 Coronavirus Aid, Relief and Economic Security Act of 2020 (CARES Act) (PL 116-136, Section 2305)
  - 21.7.4.4.9.5 Inflation Reduction Act (IRA), Superseding and Amended Return Processing; Elective Payment Elections (EPE) or Transfers
    - 21.7.4.4.9.5.1 Adjusting Accounts with Elective Payment Election Sequestration
- 21.7.4.4.10 Federal Income Tax Withheld (FITW)/Backup Withholding (BUWH) on Income Tax Returns
- 21.7.4.4.11 Form 8621, *Return by a Shareholder of a Passive Foreign Investment Co. or Qualified Electing Fund*
- 21.7.4.4.12 Form 8865, *Return of U.S. Persons With Respect to Certain Foreign Partnerships*
- 21.7.4.4.13 Form 8875, *Taxable Real Estate Investment Trust (REIT) Subsidiary Election*
- 21.7.4.4.14 Form 8873, *Extraterritorial Income Exclusion*
- 21.7.4.4.15 Form 3115, *Application for Change in Accounting Method*
  - 21.7.4.4.15.1 Loose Form 3115 Procedures
    - 21.7.4.4.15.1.1 Forms 3115 Filed Under Automatic Change Procedures
    - 21.7.4.4.15.1.2 Forms 3115 filed Under Non-Automatic Change Procedures
    - 21.7.4.4.15.1.3 Forms 3115 - All Others
    - 21.7.4.4.15.1.4 Mark to Market Elections under IRC 475
- 21.7.4.4.16 Form 8329, Form 8330, Form 8703, *Mortgage Credit Certificates (MCC), and Notice of Defeasance - Background and Purpose*
  - 21.7.4.4.16.1 Form 8329, *Lender's Information Return for Mortgage Credit Certificates (MCCs)*
  - 21.7.4.4.16.2 Form 8330, *Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs)*
  - 21.7.4.4.16.3 Form 8703, *Annual Certification of a Residential Rental Project*

- 21.7.4.4.16.4 Mortgage Credit Certificate Election and State Certification
- 21.7.4.4.16.5 Notices of Defeasance
- 21.7.4.4.17 First-Year Bonus Depreciation and IRC 179 Expense
  - 21.7.4.4.17.1 The Job Creation and Workers Assistance Act of 2002, P.L. 107-147 - Additional First-Year Depreciation - New York Liberty Zone IRC 168(k)
    - 21.7.4.4.17.1.1 The Job Creation and Workers Assistance Act of 2002, P.L. 107-147 - Additional First-Year Depreciation - New York Liberty Zone IRC 1400L
    - 21.7.4.4.17.1.2 Election Not to Deduct
  - 21.7.4.4.17.2 The Jobs and Growth Tax Relief Reconciliation Act of 2003, P.L. 108-27 - Bonus First-Year Depreciation
  - 21.7.4.4.17.3 Gulf Opportunity Zone Act of 2005, P.L. 109-135
    - 21.7.4.4.17.3.1 Gulf Opportunity Zone Act of 2005, Additional First-Year Depreciation
    - 21.7.4.4.17.3.2 Gulf Opportunity Zone Act of 2005 - Low-Income Housing Credit
    - 21.7.4.4.17.3.3 *Gulf Opportunity Zone Act of 2005 - New Markets Credit*, Form 8874
    - 21.7.4.4.17.3.4 Gulf Opportunity Zone Act of 2005 - Bonus First-Year Depreciation
    - 21.7.4.4.17.3.5 Form 3468, *Gulf Opportunity Zone Act of 2005 - Investment Credit*
  - 21.7.4.4.17.4 Tax Relief and Health Care Act of 2006, P.L. 109-432, Qualified Cellulosic Biomass Ethanol Plant Property - Additional First-Year Depreciation
    - 21.7.4.4.17.4.1 Emergency Economic Stabilization Act of 2008, P.L. 110-343, Qualified Cellulosic Biofuel Plant Property - Additional First-Year Depreciation
    - 21.7.4.4.17.4.2 Second-Generation Biofuel Plant Property - Additional First-Year Depreciation
  - 21.7.4.4.17.5 Small Business and Work Opportunity Tax Act of 2007, P.L. 110-28
  - 21.7.4.4.17.6 Economic Stimulus Act of 2008 P.L. 110-185, 50 percent Additional Special Depreciation Allowance
    - 21.7.4.4.17.6.1 American Recovery and Reinvestment Act of 2009 P.L. 111-5, 50 percent Additional Special Depreciation Allowance
    - 21.7.4.4.17.6.2 Small Business Jobs Act of 2010 P.L. 111-240, 50 percent Additional Special Depreciation Allowance
    - 21.7.4.4.17.6.3 The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, 50 percent Additional Special Depreciation Allowance
      - 21.7.4.4.17.6.3.1 The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, Temporary 100 percent Additional Special Depreciation Allowance
    - 21.7.4.4.17.6.4 American Taxpayer Relief Act of 2012, P.L. 112-240, 50 percent Additional Special Depreciation
    - 21.7.4.4.17.6.5 Tax Increase Prevention Act of 2014, P.L. 113-295, 50 percent Additional Special Depreciation
    - 21.7.4.4.17.6.6 Protecting Americans From Tax Hikes Act of 2015, P.L. 114-113, 50 percent Additional Special Depreciation

- 21.7.4.4.17.6.7 Protecting Americans From Tax Hikes Act of 2015, P.L. 114-113, 50 percent Additional Special Depreciation Deduction for Qualified Property for 2016 Through 2019
- 21.7.4.4.17.6.8 Section 263A not Applicable to Certain Costs of Replanting Citrus Plants Due to Loss or Damages
- 21.7.4.4.17.6.9 Applicable Recovery Period for Real Property
- 21.7.4.4.17.6.10 Temporary 100-Percent Expensing
- 21.7.4.4.17.7 Economic Stimulus Act of 2008, P.L. 110-185, IRC 179 Expense
  - 21.7.4.4.17.7.1 American Recovery and Reinvestment Act of 2009, P.L. 111-5, IRC 179 Expense
  - 21.7.4.4.17.7.2 Hiring Incentives to Restore Employment Act, P.L. 111-147, IRC 179 Expense
  - 21.7.4.4.17.7.3 Small Business Jobs Act of 2010, P.L. 111-240, IRC 179 Expense
  - 21.7.4.4.17.7.4 Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, IRC 179 Expensing
  - 21.7.4.4.17.7.5 American Taxpayer Relief Act of 2012, P.L. 112-240, IRC 179 Expensing
  - 21.7.4.4.17.7.6 Tax Increase Prevention Act of 2014, P.L. 113-295, IRC 179 Expensing
  - 21.7.4.4.17.7.7 Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, IRC 179 Expensing
  - 21.7.4.4.17.7.8 Modifications of Rules for Expensing Depreciable Business Assets under Code 179
- 21.7.4.4.17.8 Food, Conservation, and Energy Act of 2008, P.L. 110-246 - Additional First-Year Depreciation for Kiowa County, Kansas and Surrounding Areas
  - 21.7.4.4.17.8.1 Food, Conservation, and Tax Relief Act of 2008, P.L. 110-246 - Increased Section 179 Expense for Kiowa County, Kansas and Surrounding Areas
  - 21.7.4.4.17.8.2 Food, Conservation, and Energy Act of 2008, (Form 5884-A) *Credit for Employers Affected by May 4, 2007 Storms and Tornadoes in Kiowa County, Kansas and Surrounding Areas*
  - 21.7.4.4.17.8.3 Food, Conservation, and Energy Act of 2008, Hurricane Katrina Housing Credit, Form 5884-A for Taxpayers Affected by the May 4, 2007 Storms and Tornadoes in Kiowa County, Kansas and Surrounding Areas
- 21.7.4.4.17.9 Form 8932, *Credit for Employer Differential Wage Payments*
- 21.7.4.4.17.10 The Housing and Economic Recovery Act of 2008 P.L. 110-289, Election to Accelerate Research Credit and Alternative Minimum Tax Credit in Lieu of Bonus Depreciation
  - 21.7.4.4.17.10.1 American Recovery and Reinvestment Act of 2009 P.L. 111-5, Election to Accelerate Research Credit and Alternative Minimum Tax Credit in Lieu of Bonus Depreciation
  - 21.7.4.4.17.10.2 Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, Election to Accelerate Alternative Minimum Tax Credit in Lieu of Bonus Depreciation
  - 21.7.4.4.17.10.3 American Taxpayer Relief Act of 2012, P.L. 112-240, Extension of Election to Accelerate the Alternative Minimum Tax Credit in Lieu of Bonus Depreciation
  - 21.7.4.4.17.10.4 Tax Increase Prevention Act of 2014, P.L. 113-295, Accelerate the Alternative Minimum Tax Credit in Lieu of Bonus Depreciation

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- 21.7.4.4.17.10.5 Protecting Americans From Tax Hikes Act of 2015, P.L. 114-113, Extension of Election to Accelerate the Alternative Minimum Tax Credit in Lieu of Bonus Depreciation
    - 21.7.4.4.17.10.5.1 Protecting Americans From Tax Hikes Act of 2015, P.L. 114-113, Extension of Election to Accelerate the Alternative Minimum Tax Credit in Lieu of Bonus Depreciation for 2016 through 2019
    - 21.7.4.4.17.10.6 Repeal of Election to Accelerate the Alternative Minimum Tax Credit in Lieu of Bonus Depreciation
  - 21.7.4.4.17.11 Energy Efficient Commercial Building Deduction
  - 21.7.4.4.17.12 Election to Expense Advanced Mine Safety Equipment
  - 21.7.4.4.17.13 Special Allowance for Certain Reuse and Recycling Property
  - 21.7.4.4.17.14 Emergency Economic Stabilization Act of 2008, P.L. 110-343 - Special Allowance for Qualified Disaster Assistance Property, Additional First-Year Depreciation
  - 21.7.4.4.18 Qualified Opportunity (QO) Fund Investments
    - 21.7.4.4.18.1 Qualified Opportunity (QO) Fund Investor - Amended Return Processing
    - 21.7.4.4.18.2 Qualified Opportunity (QO) Fund Penalties and Amended Returns
  - 21.7.4.4.19 Form 8886, *Reportable Transaction Disclosure Statement*
    - 21.7.4.4.19.1 Form 8883, *Asset Allocation Statement Under Section 338*
    - 21.7.4.4.19.2 Basket Option Contracts
  - 21.7.4.4.20 Form 8697, *Interest Computation Under the Look-Back Method for Completed Long-Term Contracts*
  - 21.7.4.4.21 Form 8866, *Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method*
  - 21.7.4.4.22 Telephone Excise Tax Refund (TETR)
  - 21.7.4.4.23 Form 1099-K, Payment Card and Third-Party Network Transactions - Reporting Requirements
  - 21.7.4.4.24 Demutualization Claims
  - 21.7.4.4.25 Section 965 Transition Tax
  - 21.7.4.4.26 Net Operating Loss (NOL) - Carryforward
  - 21.7.4.4.27 Qualified Business Income Deduction (QBID)
    - 21.7.4.4.27.1 Amended Returns Claiming Section 199A - Qualified Business income Deduction (QBID)
  - 21.7.4.4.28 Capital Construction Fund (CCF)



21.7.4.1  
(10-01-2024)  
**Program Scope and Objectives**

- (1) This IRM section provides procedures and guidance for resolving Business Master File (BMF) income tax accounts.
- (2) **Purpose:** This IRM provides general information concerning business income tax returns, and procedures for working telephone inquiries and correspondence relating to BMF income tax adjustments.
- (3) **Audience:** Customer Account Services, Customer Service Representatives (CSR) and Tax Examiners (TE) in Accounts Management who answer telephone inquiries and/or work taxpayer correspondence.
- (4) **Policy Owner:** The Director, Accounts Management; Taxpayer Services Division.
- (5) **Program Owner:** Taxpayer Services, Customer Accounts Services, Accounts Management, Policy & Procedures BMF(PPB), Business Adjustments.
- (6) **Primary Stakeholders:** Taxpayers, Taxpayer Services (TS), Small Business Self Employed (SBSE), Large Business and International (LB&I).
- (7) **Program Goals:** The objectives for the program ensure taxpayers will receive timely and accurate responses to their inquiries and quickly and effectively resolve issues with their Business Master File (BMF) accounts by outlining the steps for employees to accomplish their tasks.

21.7.4.1.1  
(10-01-2021)  
**Background**

- (1) Employees in Accounts Management (AM) respond to taxpayer inquiries and phone calls as well as process claims, certain applications and other internal adjustment requests.
- (2) The IRS is committed to a customer service program that encourages taxpayers to comply voluntarily with the tax laws and assist them in meeting their obligations.
- (3) AM employees provide customers with assistance in a manner that warrants the highest degree of public confidence, Customer Service Representatives (CSRs) practice courtesy and proper communication techniques while ensuring that taxpayers receive complete technical and accurate procedural responses.
- (4) IRM 21.7.4 includes current instructions for AM employees working business accounts to accurately address the most frequent situations encountered by CSRs.

21.7.4.1.2  
(10-01-2022)  
**Authority**

- (1) The procedures in this IRM attempt to translate a variety of legal and administrative authorities into practical guidance assistants can use. These authorities take many forms: Treasury regulations, Internal Revenue Codes (IRC), advice from counsel, Policy Statements (e.g., P-21-3), etc., are cited in this IRM as they apply to the topic being discussed.
- (2) The authorities for this IRM include:
  - The Internal Revenue Code (IRC) is the authority for the procedures in this Internal Revenue Manual.
  - In addition to participating in the promulgation of Treasury (Tax) Regulations, the IRS publishes a regular series of other forms of official tax guidance, including revenue rulings, revenue procedures, notices, and announcements. See *Tax Code, Regulations and Official Guidance* , for



a comprehensive list of official IRS guidance. The authoritative instrument for the distribution of all forms of official IRS tax guidance is the **Internal Revenue Bulletin** (IRB), a weekly collection of these and other items of general interest to the tax professional community.

- Notices (which may contain guidance that involves substantive interpretations of the Code or other revenue laws) or announcements (through which the IRS makes public pronouncements of immediate or short-term value) published in the Internal Revenue Bulletin.
- (3) See IRM 1.2.1.13, *Servicewide Policies and Authorities, Policy Statements for Customer Account Services Activities*, which contains the Policy Statements that relate to customer Account Services activities. The following are used by this program:
- Policy Statement 21-1 (Formerly P-6-1) - Service Commitment to Taxpayer Service Program
  - Policy Statement 21-2 (Formerly P-6-10) - The public impact of clarity, consistency, and impartiality in dealing with tax problems must be given high priority
  - Policy Statement 21-3 (Formerly P-6-12) - Timeliness and Quality of Taxpayer Correspondence
  - Policy Statement 21-4 (Formerly P-6-13) - One-stop service defined
  - Policy Statement 21-5 (Formerly P-6-40) - Assistance furnished to taxpayers in the correction of accounts

21.7.4.1.3  
(10-01-2024)  
**Responsibilities**

- (1) Accounts Management Policy and Procedures, BMF (PPB) has responsibility in this IRM for issuing guidance to employees who help taxpayers in resolving account issues, work amended returns, prepare installment agreements and process penalty abatement requests among many other duties. These procedures include instructing employees on the actions for input into the Internal Data Retrieval System (IDRS).
- (2) Guidance for Accounts Management employees include the following:
- AM Operation Support (AMOS)
  - Reports, Equipment & Phones (REP)
  - Resource Management & Training (RMT)
  - Policy and Procedures BMF (PPB)
  - Policy and Procedures IMF (PPI)
  - Technology Assistance & Stakeholder Communication (TASC)
  - Identity Protection Strategy and Oversight (IPSO)
  - The Taxpayer Services Chief has overall responsibility for the policy related to this IRM which is published on a yearly basis
  - The Chief of PPB is responsible for ensuring this IRM is timely submitted to publishing each year
- (3) IRM 21.1.1, *Accounts Management and Compliance Services Overview*, provides guidance to employees assigned to the Accounts Management organization.

21.7.4.1.4  
(10-01-2021)  
**Program Management and Review**

- (1) IRM 1.4.16, *Accounts Management Guide for Managers*, provides guidance for program management and review of programs assigned to Accounts Management. Managers manage work programs and perform program and employee reviews to ensure Accounts Management work is completed according to procedural guidelines contained in this IRM.

- (2) **Program Reports:** The program reports provided in this IRM help Accounts Management Customer Service Representatives (CSR) and Tax Examiners (TE). For reports concerning quality, inventory, aged listings, refer to IRM 1.4.16, *Accounts Management Guide for Managers*. View aged listings by accessing Control Data Analysis, Project PCD, on the Control-D/Web Access server, which has a login program control.
- (3) **Program Effectiveness:** Program Effectiveness is determined by Accounts Management's employees successfully using IRM guidance to perform necessary account actions and duties. Use the following reports to ensure program effectiveness:
  - National Quality Review System (NQRS)
  - Centralized Evaluative Review (CER)
  - Managerial Reviews
- (4) **Annual Review:** Review the processes included in this manual annually to ensure accuracy and promote consistent tax administration.

21.7.4.1.5  
(10-01-2021)  
**Program Controls**

- (1) **Program Controls:** See 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*, for quality data and guidelines for measurement. The Embedded Quality Review Program is the system used by Accounts Management for reviewing employees' work quality. The Quality Review process provides a method to monitor, measure, and improve the quality of work. Quality Review data is used to provide quality statistics for the Service's Business Results part of the Balanced Measures, and/or to identify trends, problem areas, training needs, and opportunities for improvement.
- (2) Centralized Quality Review System (CQRS) is operated by the Joint Operations Center (JOC) to provide independent quality review services for a number of product lines.
- (3) Perform local and Operation reviews to focus attention on areas that require improvement. The Quality Assurance Manager's staff performs local quality reviews, or Corrective and Preventative Action System Manager (CPAS). Local quality reviews are used for employee development and on-the-job instruction. The Accounts Management function may also request that local quality reviews be performed on processes not subject to the national quality review. Managerial reviews, prepared on EQRS, measure employee performance.
- (4) Quality Review data is used by management to provide a basis for measuring and improving program effectiveness by identifying:
  - Defect(s) resulting from site or systemic action(s) or inaction(s),
  - Driver(s) of customer accuracy,
  - Reason(s) for defect occurrence,
  - Defect trends,
  - Recommendation(s) for corrective action, and
  - Training needs.

21.7.4.1.6  
(10-01-2024)

**Terms/Definitions/  
Acronyms**

- (1) The ReferenceNet Legal and Tax Research Service page provides an *Acronym Database* to research acronyms found within this IRM.
- (2) The following table includes a list of common acronyms used by Accounts Management employees. This list is not all inclusive.

Acronym	Definition
AGI	Adjusted Gross Income
AM	Accounts Management
AMT	Alternative Minimum Tax
BMF	Business Master File
BMFOL	Business Master File On-Line
BS	Blocking Series
CFOL	Corporate File On-Line
CIC	Coordinated Industry Cases
CII	Correspondence Imaging Inventory
EIN	Employer Identification Number
FR	Filing Requirement
FTC	Foreign Tax Credit
FTD	Federal Tax Deposit
IDRS	Integrated Data Retrieval System
IDT	Identity Theft
IMF	Individual Master File
IMFOL	Individual Master File On-Line
JCC	Joint Committee Case
LC	Large Corp
LCI	Large Corp Indicator
LCC	Large Corporate Compliance
MeF	Modernized e-File
MFT	Master File Tax
MTC	Minimum Tax Credit
NMF	Non-Master File
RIVO	Return Integrity Verification Operations
SSN	Social Security Number
TC	Transaction Code

Acronym	Definition
TS	Taxpayer Services
TXI	Taxable Income

21.7.4.1.7  
(10-01-2017)

#### Related Resources

- (1) Below are websites, job aids, or electronic tools needed to assist in completing the work in Accounts Management:
- The Correspondence Imaging Inventory (CII) for case inventory.
  - The Employee User Portal (EUP) to view corporate, estate and trust, partnership, and individual electronic tax returns filed via MeF.
  - IRM 21.2.2-2, *Accounts Management Mandated IAT Tools*. These IAT tools simplify taxpayer account processing by assisting the user with IDRS research and input.
  - Servicewide Electronic Research Program (SERP) to view SERP Alerts, IPU's, Correspondence Letters and IRM supplements among others.
  - The Electronic Publishing Website to research forms, instructions and publication, other Internal Revenue Manuals, revenue procedures and IRS announcements.

21.7.4.2  
(10-01-2019)

#### Taxpayer Advocate Service (TAS)

- (1) 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 accord with taxpayer rights. See IRC 7803(a)(3), Execution of Duties in Accord with Taxpayer Rights. For additional information about the TBOR, see *Taxpayer Bill of Rights*.
- (2) Per the TBOR, taxpayers have the right to expect a fair and just tax system which provides taxpayers with the opportunity to have their facts and circumstances considered when it might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service (TAS) if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through normal channels. See IRM 13.1.1.1.1, *Taxpayer Bill of Rights (TBOR)*, IRM 13.1.1.1.2, *Taxpayer Bill of Rights 2 (TBOR 2)*, and Pub 1, *Your Rights as a Taxpayer*, for more information.
- (3) Refer taxpayers to TAS if the contact meets TAS criteria (see IRM 13.1.7, *Taxpayer Advocate Service (TAS) Case Criteria*), or Form 911, Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order), is attached, and steps cannot be taken to resolve the taxpayer's issue the same day (24 hours). "Same day" resolution occurs if an issue is resolved within 24 hours, or if the IRS takes steps within 24 hours to resolve the issue. (See also IRM 13.1.7.5, *Same Day Resolution by Operations*.) When making a TAS referral, use Form 911, and forward to TAS in accordance with your local procedures.

## 21.7.4.3

(10-01-2020)

**BMF Income Tax /  
Information Returns and  
Related Research  
Material**

## (1) Forms covered in this section:

- Form 1041, *U.S. Income Tax Return for Estates and Trusts*
- Form 1065, *U.S. Return of Partnership Income*
- Form 1066, *U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return*
- Form 1120 series, *U.S. Corporation Income Tax Return*
- Form 7004, *Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*
- Form 8697, *Interest Computation Under the Look-Back Method for Completed Long-Term Contracts*
- Form 8716, *Election to Have a Tax Year Other Than a Required Tax Year*
- Form 8752, *Required Payment or Refund Under Section 7519*
- BMF Schedule H (Form 1040), *Household Employment Taxes*

## (2) Utilize the specific form and corresponding instructions for that form, such as the Instructions for Form 1041, for additional information.

## (3) For Form 1041, Form 1065, Form 1066, and Form 1120 series returns, taxpayers or Accounts Management employees can use the publications listed below to obtain additional information.

- Publication 535, *Business Expenses*
- Publication 538, *Accounting Periods and Methods*
- Publication 544, *Sales and Other Dispositions of Assets*
- Publication 550, *Investment Income and Expenses*
- Publication 583, *Starting a Business and Keeping Records*
- Publication 908, *Bankruptcy Tax Guide*
- Publication 925, *Passive Activity and At-Risk Rules*
- Publication 1066-C, *A Virtual Small Business Tax Workshop DVD*

(4) A small business or self-employed individual who needs answers to tax questions, educational materials or tools to help them run their business, see *Small Business and Self-Employed Tax Center* found on IRS.GOV. This site offers extensive resources and online tools to help small businesses and self-employed persons such as:

- Small business forms and publications
- Online applications for an Employer Identification Number
- Employment tax information – federal income tax, Social Security and Medicare taxes, Federal Unemployment Tax Act (FUTA) and self-employment tax
- Tax-related news that could affect your business
- Small business educational events
- IRS videos for small businesses
- A-Z Index for Business, a fast way to find information

## 21.7.4.3.1

(10-01-2018)

**Form 1041 Research  
Material**(1) Besides the publications listed in IRM 21.7.4.3(3), *BMF Income Tax/ Information Returns and Related Research Material*, Form 1041 filers can use the publications below for additional information. Also see IRM 21.7.4.4.1.9, *Electronic Filing of Form 1041 Returns*, for publications relating to the electronic filing of Form 1041.

- Publication 559, *Survivors, Executors, and Administrators*

- Publication 926, *Household Employer's Tax Guide*, for Form 1041 domestic (household) employers who must file Schedule H.

(2) To obtain IRS publications:

- Access the IRS Internet Web site at IRS.GOV *Frequently Used Forms and Publications*
- Call the Forms and Publication toll-free line at 800-829-3676
- For information on ordering forms and publications see IRM 21.3.6.4.1, *Ordering Forms and Publications*

21.7.4.3.2  
(10-01-2021)  
**Form 1065 Research  
Material**

- (1) Besides the publications listed in IRM 21.7.4.3(3), *BMF Income Tax / Information Returns and Related Research Material*, Form 1065 filers can use the publications as sources for additional information:
- Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*
  - Publication 541, *Partnerships*
  - Publication 925, *Passive Activity and At-Risk Rules*
  - Publication 4163, *Modernized e-file (MeF) Information for Authorized IRS e-file Providers for Business Returns*
  - Publication 4164, *Modernized e-file (MeF) Guide for Software Developers and Transmitters*
- (2) Obtain the publications listed above on the IRS Internet Web site at [www.irs.gov](http://www.irs.gov) or by calling the Forms and Publication toll-free line at 800-829-3676. See IRM 21.3.6.4.1, *Ordering Forms and Publications*, for information on ordering forms and publications.

21.7.4.3.3  
(10-01-2024)  
**Form 1066 Research  
Material**

- (1) Besides the publication listed in IRM 21.7.4.3(3), *BMF Income Tax / Information Returns and Related Research Material*, Form 1066 filers can use the publication below as a source for additional information:
- Publication 938, *Real Estate Mortgage Investment Conduits (REMICs) Reporting Information (And Other Collateralized Debt Obligations (CDOs))*. This publication contains directories relating to real estate mortgage investment conduits (REMICs) and collateralized debt obligations (CDOs). The directory for each calendar quarter is based on information submitted to the IRS during that quarter and is only available on the Internet.

21.7.4.3.4  
(01-01-2005)  
**Form 1120 Series  
Research Material**

- (1) Besides the publications listed in IRM 21.7.4.3(3), *BMF Income Tax / Information Returns and Related Research*, Publication 542, *Corporations*, Form 1120 filers can use it as an additional source of information.
- (2) Also, see the instructions for each specific type of Form 1120 series return for additional information.



21.7.4.3.5  
(10-01-2022)

**Form 7004, Application  
for Automatic Extension  
of Time To File Certain  
Business Income Tax,  
Information, and Other  
Returns**

- (1) Form 7004 is used to request an automatic extension of time to file certain business income tax, information, and other returns. The extension is granted if the taxpayer completes Form 7004 properly, and properly estimates the tax (if applicable), files the form by the due date of the return to which the Form 7004 applies, and pays any tax that is due. Per Treas. Reg. 1.6081-3(a)(3), corporations (or affiliated group of corporations filing a consolidated return) must remit the amount of the properly estimated unpaid tax liability on or
- (2) Form 7004 does not extend the time for payment of tax. Therefore, to avoid interest charges and a late payment penalty, payment of any balance due on line 8 of Form 7004 is required by the due date of the return for which the extension is filed.
- (3) Form 7004 can be filed on paper or can be filed electronically. See the *Instructions for Form 7004* for the forms that cannot be filed electronically and for general information. Also, visit the IRS Web site at [www.irs.gov](http://www.irs.gov), for more information on filing Form 7004 electronically.
- (4) Form 7004 is processed to BMF as Transaction Code (TC) 620 with Document Code 04. Form 7004 received without remittance posts as \$.00. In addition, when the TC 620 posts to the account, Integrated Data Retrieval System (IDRS) generates TC 460 on the module and reflects the extended due date.
- (5) Computer Condition Code (CCC) "L" shows a rejected or denied extension of time to file.
- (6) See IRM 3.11.212, *Application for Extension of Time To File Tax Returns*, for additional information. Also, follow the procedures in IRM 20.1.2.2.3, *Extensions of Time to File and Pay*, when the taxpayer requests penalty abatement and claims they filed a timely extension.
- (7) Universal Location Code (ULC 98) is entered to allow a date more than 6 months in the future. See IRM 20.1.2.2.3.3, *Taxpayers Abroad*, for more information.

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21.7.4.3.6  
(10-01-2023)

**Form 7004, Application  
for Automatic Extension  
of Time to File Certain  
Business Income Tax,  
Information, and Other  
Returns**

- (1) The Bipartisan Budget Act of 2015 (BBA of 2015) (P.L. 114-74, Title XI, section 1101) repealed the rules for electing large partnerships for tax years beginning after 2017. Due to elimination of large partnership elections, the Form 7004, *Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*, deleted the line used to extend the filing for Form 1065-B, *U.S. Return of Income from Electing Large Partnerships*. For tax years beginning in 2018 and subsequent, Form 1065-B is no longer filed.
- (2) Section 2006(a) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P. L. 114-41, (the Act) changed the due date for filing the tax return of a partnership, and thus the date by which a partnership must file a corresponding Form 7004 has also changed. Additionally, section 1.6081-2T now allows for a six-month extension of time to file Form 1065. The new statutory due date is effective for tax years beginning after December 31, 2015, but 2016 returns filed by the prior due date were treated as timely under Notice 2017-71. The regulatory extension was effective for ap-



plications for extensions filed after July 20, 2017, but taxpayers could have elected to apply it to their returns filed for periods beginning after December 31, 2015.

- The due date for a partnership to file its income tax return, and therefore, the date by which a partnership may request an automatic extension for filing Form 1065 or Form 8804 using Form 7004 is now the 15th day of the third month following the close of the partnership's tax year.
  - The duration of the automatic extension of time to file Form 1065 and Form 8804 has increased to six months.
- (3) Section 1.6081-6T increased the duration of the automatic extension of time to file Form 1041 for a trust or non-bankruptcy estate to 5½ months.
- (4) Section 2006(a) of the Act changed the due date for filing most C corporation returns, and thus the date by which a C corporation may request an automatic extension using Form 7004 for the Form 1120 Series (except Form 1120-C filers that do not meet the requirements of section 6072(d) and Form 1120-IC-DISC filers), has changed.

**Note:** Form 1120-S is not filed by a "C" corporation and therefore its due date has not changed. See also, IRM 21.7.4.4.4.11.14, *Form 1120-C, U.S. Income Tax Return for Cooperative Associations* for information on the return due date for Form 1120-C filers.

- (5) In addition, section 2006(c) of the Act changed the duration of the automatic extension of time to file the return of a C corporation that ends its taxable year on June 30. For purposes of this rule, a taxable year ending any time in June is treated as ending on June 30. The provisions are effective for tax years beginning after December 31, 2015 and before January 1, 2026. Although section 2006(c) also provided that the duration of the automatic extension for C corporations filing on a calendar-year basis was five months, that provision has no effect because section 1.6081-3T provides a six-month extension for such filers.
- The due date of the return of most C corporations, and therefore, the date by which a C corporation (except if filing Form 1120-C or Form 1120-IC-DISC) may request an automatic extension of time to file its return using Form 7004, is the 15th day of the fourth month following the close of the C corporations tax year. The income tax return of a C corporation that ends its tax year on June 30 remains due on or before the 15th day of the third month following the close of the taxable year for tax years beginning after December 31, 2015 and before January 1, 2026. For purposes of this rule, a taxable year ending any time in June is treated as ending on June 30.
  - If a C corporation files its return for a taxable year that ends on June 30 and ends before January 1, 2026, the duration of the automatic extension is seven months. A taxable year ending any time in June is treated as ending on June 30. A filer of a Form 1120-POL is not treated as a C corporation for purposes of this rule, and is always eligible for an automatic six-month extension of time to file. Immediately prior to cycle seven, master file programming provided a five-month extension of time to file for most C corporations, rather than the six months provided by section 1.6081-3. Master file programming was corrected in cycle seven

to allow a six-month extension. Accurate BMF extensions posted cycle seven and subsequent. Information Technology (IT) corrected the return due dates and the extended due dates for extensions processed before cycle seven. These accounts show a TC 971 with Action Code 399 posting in Cycle 201709.

**Note:** See the various subsections in this IRM for more information concerning the forms impacted by this legislation. Notice Review developed procedures to handle extension requests received in 2016.

- (6) See the tables below and the information in the paragraphs above for tax years beginning after December 31, 2015 and before January 1, 2026, for eligible forms requiring an automatic 5 ½ month extension and for an automatic 6-month extension:

Form 7004, Automatic Five and a Half Month Extension		
Extension is For Form	MFT	Form Code
1041 (except bankruptcy estates)	05	05

Form 7004, Automatic Six-Month Extension (Except most 1120 series with tax years ending in June)					
Extension is For Form	MFT	Form Code	Extension is for Form	MFT	Form Code
706-GS(D)	78	01	1120-ND (IRC 4951 Taxes)	02	20
706-GS(T)	77	02	1120-PC	02	21
1041 (Bankruptcy Estate Only)	05	03	1120-POL	02	22
1041-N	05	06	1120-REIT	02	23
1041-QFT	05	07	1120-RIC	02	24
1042	12	08	1120-S	02	25
1065	06	09	1120-SF	02	26
1065-B (form obsoleted after 2017)	06	10	3520-A	42	27

<b>Form 7004, Automatic Six-Month Extension (Except most 1120 series with tax years ending in June)</b>					
<b>Extension is For Form</b>	<b>MFT</b>	<b>Form Code</b>	<b>Extension is for Form</b>	<b>MFT</b>	<b>Form Code</b>
1066	07	11	8612	89 NMF	28
1120	02	12	8613	14 NMF	29
1120-C (All Form 1120-C filers)	02	34	8725	27 NMF	30
1120-F	02	15	8804	08	31
1120-FSC	02	16	8831	89 NMF	32
1120-H	02	17	8876	27 NMF	33
1120-L	02	18	8924	08	35
1120-ND	02	19	8928	89 NMF	36

- (7) See the table below and the information in paragraph (4) above for tax years beginning after December 31, 2015, and before January 1, 2026, and that have a June 30 ending, for the forms that are eligible for an automatic 7-month extension.

<b>Form 7004, Automatic Seven-Month Extension (Tax year that end in June)</b>					
<b>Extension is For Form</b>	<b>MFT</b>	<b>Form Code</b>	<b>Extension is for Form</b>	<b>MFT</b>	<b>Form Code</b>
1120	02	12	1120-ND	02	19
1120-C (Non section 6072(d) filers)	02	34	1120-ND (IRC 4951 Taxes)	02	20
1120-F	02	15	1120-PC	02	21
1120-FSC	02	16	1120-REIT	02	23
1120-H	02	17	1120-RIC	02	24
1120-L	02	18	1120-SF	02	26

- (8) The IRS no longer sends notifications that the taxpayer's extension is approved. IRS will only notify the taxpayer if the taxpayer's request for an extension is disallowed. Computer Condition Code (CCC) "L" shows a rejected or denied extension of time to file. Per IRM 3.11.212.3.2, *Notification to*

*Taxpayer*, when the extension request is denied, Code and Edit must initiate correspondence to inform the taxpayer that the extension is denied. There is no automatic notice generated to the taxpayer.

- (9) Form 7004 is filed on paper or is filed electronically (see paragraphs directly above for those forms for which Form 7004 is valid). For details, see the *Instructions for Form 7004* for the forms that cannot be filed electronically and for general information.
- (10) Form 7004 is processed to BMF as Transaction Code (TC) 620 with Document Code 04. Form 7004 received without remittance posts as \$.00. In addition, when the TC 620 posts to the account, Integrated Data Retrieval System (IDRS) generates TC 460 on the module and reflects the extended due date.
- (11) See IRM 3.11.212, *Application for Extension of Time To File Tax Returns*, for additional information. Also, follow the procedures in IRM 20.1.2.2.3, *Extensions of Time to File and Pay*, when the taxpayer requests penalty abatement and claims they filed a timely extension.
- (12) Universal Location Code (ULC 98) is entered to allow a date more than 6 months in the future. See IRM 20.1.2.2.3.3, *Taxpayers Abroad*, for more information.

21.7.4.4  
(01-01-2005)  
**Income and Information  
Returns Procedures**

- (1) Use the following information and procedures for the designated forms.

21.7.4.4.1  
(09-24-2009)  
**Form 1041, U.S. Income  
Tax Return for Estates  
and Trusts**

- (1) Form 1041 is filed to report the income of an estate or trust as reported by a fiduciary. The Master File Tax (MFT) code is 05 and the tax class is "2." It covers a calendar or fiscal year not exceeding 12 months. The return is due on or before the 15th of the fourth month following the close of the taxable year. Every Form 1041 is edited with a Fiduciary Code and may have a Trust Code. However, amended returns are not transcribed. See IRM 3.11.14.13.3, *Fiduciary and Trust Code Editing*, for more information on fiduciary and trust codes. Also, see IRM 3.11.14-4, *Due Date Chart*, for Form 1041 due dates.

21.7.4.4.1.1  
(01-01-2005)  
**Filing Requirements,  
Form 1041**

- (1) The fiduciaries for certain domestic decedent and bankruptcy estates and certain domestic trusts are required to file Form 1041.

21.7.4.4.1.1.1  
(10-01-2024)  
**Domestic Decedent and  
Bankruptcy Estates**

- (1) A domestic **decedent's estate** is a taxable entity separate from the decedent and comes into being with the death of the individual. It exists until the final distribution of its assets to the heirs and other beneficiaries. The income earned by the assets during this period is reported by the estate under the conditions described in Publication 559, *Survivors, Executors, and Administrators*. The personal representative of a domestic decedent's estate which meets either of the criteria below, must file Form 1041:

- Gross income of \$600 or more for the taxable year.
- Any beneficiary who is a non-resident alien.

- (2) A **bankruptcy estate** is a separate and distinct taxable entity from the debtor, if the debtor is an individual in a Chapter 7 or Chapter 11. For more informa-

tion, refer to Publication 908, *Bankruptcy Tax Guide*. If the bankruptcy estate is a separate taxable entity, the bankruptcy trustee or debtor-in-possession must file Form 1041 if the estate has:

For tax years beginning in	Gross income of at least
2015	\$10,300
2016	\$10,350
2017	\$10,400
2018	\$12,000
2019	\$12,200
2020	\$12,400
2021	\$12,550
2022	\$12,950
2023	\$13,850

- (3) Under Treasury Regulation section 1.6081-6, effective 6/24/2011, the automatic filing extension period for bankruptcy estates of individuals filing bankruptcy petitions under Chapter 7 or Chapter 11 of the Bankruptcy Code is 6 months.

21.7.4.4.1.1.2  
(01-01-2005)  
**Domestic Trusts**

- (1) A trust is an arrangement in which one party (the trustee) takes title to property for the benefit of another party or parties (beneficiaries). Trustees manage and control the property under a duty to administer the trust according to the trust agreement or local law for the benefit of the beneficiaries.
- (2) A trust is created during an individual's life (**inter vivos**), or at the time of their death under a will (**testamentary**).
- (3) Domestic trusts which meet any of the criteria below must file Form 1041:
- Any taxable income for the taxable year.
  - Gross income of \$600 or more, regardless of the amount of taxable income.
  - Any beneficiary who is a non-resident alien.

21.7.4.4.1.1.3  
(10-01-2007)  
**Types of Trusts**

- (1) A **simple trust** is created by a written document. This type of trust requires all income to be distributed currently, has no authority to make charitable contributions and (during the taxable year in question) does not distribute any amount allocated to the corpus of the trust.
- (2) A **complex trust** is created by a written document. It is for the taxable year and does not qualify as a simple trust. It may or may not distribute current income, principal, or make charitable contributions depending upon its terms.
- (3) A **grantor trust** is usually set up by a person, an organization, or, in certain cases, created by a will. The grantor retains sufficient control over the assets of the trust. The income from the trust is taxable to the grantor or other person treated as the owner of the trust. A separate statement attached to the Form

1041 includes reporting of the income, deductions, and credits (including Federal Income Taxes Withheld). Grantor trusts have many unique characteristics. Among them:

- a. Grantor trusts ordinarily file Form 1099, reporting all items of income paid by the trust and identifying the grantor or other payee. Treas. Reg. section 1.671-4(b), details methods by which the trustee may notify the grantor or other persons treated as the owner of the trust of all items of income, deductions, and credit for the taxable year. The trustee of certain grantor trusts may elect an alternative reporting method under Regulation 1.671-4. Generally, these trusts report by issuing a Form 1099 reporting the trust income and showing the grantor or other person treated as owner of the trust as payee.
  - b. A trust may be a partial grantor trust if the power which would make the trust a grantor trust only applies to a portion of the trust assets. The grantor trust portion must report under the general grantor trust rules, and the non-grantor trust portion should report as a simple or complex trust depending on its provisions.
- (4) A **pooled income fund** is a split interest trust that is established by a public charity. The donor or other beneficiary retains a life income interest and the charity receives the remaining interest. It is not exempt from tax under IRC 501(a). A Form 5227, *Split Interest Trust Information Return*, is filed by the fiduciary in addition to Form 1041.
  - (5) A **Qualified Revocable Trust** is any trust (or part of a trust) that, on the day the decedent died, is treated as owned by the decedent under IRC 676. The grantor of the trust pays taxes on the trust on their Form 1040 return. The trustee files Form 1041 for "informational purposes" only. The trustees of each qualified revocable trust and the executor of the related estate (if one exists), use Form 8855, *Election to Treat a Qualified Revocable Trust as Part of an Estate*, to make a IRC 645 election. This election allows a qualified revocable trust to be treated and taxed (for income tax purposes) as part of its related estate (Form 706) during the election period and cannot be revoked once the election is made. See the General Instructions for Form 8855 for more information.
  - (6) **Qualified Funeral Trust** - See IRM 21.7.4.4.1.1.4, *Form 1041 - QFT, U.S. Income Tax Return for Qualified Funeral Trusts*.
  - (7) **Alaskan Settlement Trust** - See IRM 21.7.4.4.1.1.5, *Form 1041-N, U.S. Income Tax Return for Alaska Native Settlement Trusts*.
  - (8) Treat **Electing Small Business Trusts (ESBTs)** as two separate trusts for purposes of determining income tax. The portion of an ESBT that consists of stock in one or more S corporations (the S portion) is treated as one trust. The portion that consists of all other assets in the trust is treated as a separate trust. The grantor or another person may be treated as the owner of all, or a portion of either or both trusts, in which case the grantor portion is subject under subpart E (grantor portion).
  - (9) **Qualified Disability Trust** See IRM 21.7.4.4.1.1.6, *Qualified Disability Trust*.
  - (10) See IRM 3.11.14.1.6, *Definitions*, for more general definitions relating to trusts and estates.

21.7.4.4.1.1.4  
(10-01-2019)

**Form 1041-QFT, U.S.  
Income Tax Return for  
Qualified Funeral Trusts**

- (1) The Taxpayer Relief Act of 1997 (TPRA) resulted in the establishment of Form 1041-QFT, *U.S. Income Tax Return for Qualified Funeral Trusts*. These trusts created by a contract with a trade or business provide funeral or burial services.
- (2) The sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use those funds to make payments for funeral or burial services for the beneficiaries of the trust. Do not allow exemptions.
- (3) The trustee of a trust that has elected to be taxed as a qualified funeral trust (QFT) files Form 1041-QFT to report the income, deductions, gains, losses, and tax liability of the QFT. The trustee can use the form to report information for a single QFT or for multiple QFTs having the same trustee. Composite Returns report multiple trusts.
- (4) Prior to August 28, 2008, each individual trust reported on Form 1041-QFT is limited in the amount that the beneficiaries could contribute for their funeral expenses. If a QFT has multiple beneficiaries, the contribution limit applies separately to each beneficiary. The contribution limit is determined by the year the purchaser entered into the contract for funeral or burial goods and services and does not change over the life of the trust. The threshold for aggregate contributions (for each individual trust) is adjusted each year based on cost of living adjustments. However, the Hubbard Act of 2008, P.L. 110-317, repealed the dollar limitation contribution for tax year 2009 and subsequent. See the General Instructions for Form 1041-QFT for TY 2008 and prior years for the specific dollar limitations.
- (5) A trustee may file a single, composite Form 1041-QFT for some or all QFTs of which they are the trustee, including QFTs that had a short tax year. The trustee must attach a statement to a composite Form 1041-QFT that includes the following information for each QFT (or separate interest treated as a separate QFT). See the General Instruction for Form 1041-QFT for more specific information on the requirements below:
  - The name of the owner or the beneficiary,
  - The type and gross amount of each type of income earned by the QFT for the tax year,
  - The type and amount of each deduction and credit allocable to the QFT,
  - The tax and payments made for each QFT, and
  - The termination date for each QFT that is terminated during the year.
- (6) Kansas City Submission Processing Campus processes **Domestic** Forms 1041-QFT and Ogden Submission Processing Campus processes all **International** Forms 1041-QFT. The MFT is 05, Document Code 39, and the Filing Requirement Code (FRC) is 9.
- (7) Determine Form 1041-QFT Estimated Tax (ES) payments individually for each trust reported on a composite (more than one trust involved) Form 1041-QFT. The ES payments are not based on the total taxable income for all trusts reported on the form. Therefore, some taxpayers may have incorrect ES penalties assessed since the computer bases the computation on the total taxable income. If a phone call or correspondence is received from a taxpayer stating an incorrect ES penalty is assessed:



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- b. If the taxpayer states they are liable for a penalty, but not for the amount assessed, reduce the penalty to the amount calculated by the taxpayer if they provide the calculation on paper. Do not reduce the penalty if the taxpayer does not provide the calculation.
  - c. If the calculation in (b) directly above is not provided, ask the taxpayer to fax/mail it to you.
  - d. Upon receipt, verify the computation and adjust the penalty to the taxpayer's figures.
  - e. Use reason code 045 in the fourth position and apologize to the taxpayer by phone or via Letter 544C.
- (8) When an amended Form 1041-QFT is received, adjust the account per the guidance in IRM 21.7.4.4.1.10, *Form 1041 Claims and Requests for Adjust-*

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21.7.4.4.1.1.5  
(10-01-2019)

**Form 1041-N, U.S.  
Income Tax Return for  
Alaska Native Settlement  
Trusts**

- (1) Under present law, the Alaska Native Claims Settlement Act ("ANCSA") established Native Corporations to hold property for Alaska Natives. Generally, only Alaska Natives can be common shareholders of those corporations, unless a Native Corporation specifically allows other shareholders under specified procedures.
- (2) ANCSA permits a Native Corporation to transfer money or other property to an Alaska Native Settlement Trust ("Settlement Trust") for the benefit of beneficiaries who constitute all or a class of the shareholders of the Native Corporation, to promote the health, education and welfare of beneficiaries and to preserve the heritage and culture of Alaska Natives.
- (3) Native Corporations and Settlement Trusts, as well as their shareholders and beneficiaries, are subject to tax under the same rules and in the same manner as other taxpayer corporations, trusts, shareholders, or beneficiaries.
- (4) Section 13821 of *Tax Cuts and Jobs Act of 2017 (TCJA)*, added three new provisions to the IRC that affect tax treatment of Native Corporations and Settlement trusts:
  - 1. IRC 139G allows a Native Corporation to assign the value of certain payments that it would otherwise receive to a Settlement Trust without including those payments in gross income if the assignment is in writing and the Corporation has not received the payments before the assignment.
  - 2. IRC 247 allows a Native Corporation to elect annually to deduct contributions made to a Settlement Trust, and a Settlement Trust to elect annually to defer any recognition of income related to the property contributed by the Corporation until the Trust disposes of the property in a sale or exchange.
  - 3. IRC 6039H(e) requires any Native Corporation, that has made an election under IRC 247 to furnish a statement to the Settlement Trust.

**Exception:** See 26 U.S. Code § 646 - Tax treatment of electing Alaska Native Settlement Trusts and 43 U.S. Code Chapter 33 - Alaska Native Claims Settlement for more information.

- (5) IRC 139G and IRC 6039H(e) apply to taxable years beginning after December 31, 2016.

**Note:** The provision relating to the deduction of contributions is effective for taxable years for which the Native Corporation's refund statute of limitations period has not expired. If the refund statute of limitations period expires before December 22, 2018, the Settlement Trust has until December 21, 2018 to make a claim for credit or refund.

- (6) Ogden Submission Processing Campus processes all Forms 1041-N. The volume is minimal. Forms 1041-N are processed as a Form 1041-QFT (Document Code "39," MFT "05," Tax Class "2"). The only unique identifying field that differentiates the two returns is **audit code "8"** on the 1041-N account.
- (7) See the *Instructions for Form 1041-N*, for more information.

21.7.4.4.1.1.6  
(10-01-2019)

**Qualified Disability Trust**

- (1) A Qualified Disability Trust is any trust:
- Described in 42 U.S.C. 1396p(c)(2)(B)(iv) and established solely for the benefit of an individual under 65 years of age who is disabled, **and**
  - The Commissioner of Social Security determines all of the beneficiaries to be disabled for some part of the tax year within the meaning of 42 U.S.C. 1382(c)(a)(3).
- (2) The Victims of Terrorism Tax Relief Act of 2001 provides that certain disability trusts may claim a personal exemption in an amount that is based upon the personal exemption provided for individuals under IRC 151(d), rather than the \$100 or \$300 personal exemption provided under current law.
- (3) See IRM 21.7.4.4.1.7.4, *Form 1041 Exemptions*, for the exemption amount and phaseout thresholds for Qualified Disability Trusts.

**Note:** For taxable years beginning after December 31, 2017 and ending before January 1, 2026, the exemption amount under section 151(d) is zero. See IRC 151(d)(5).

21.7.4.4.1.2  
(10-01-2018)

**Schedules Associated with Form 1041**

- (1) The schedules associated with Form 1041:
- Schedule A, *Charitable Deductions*
  - Schedule B, *Income Distribution Deduction*
  - Schedule D, *Capital Gains and Losses* (This schedule must be attached if the alternative tax computation is used.)
  - Schedule G, *Tax Computation*
  - Schedule H, Form 1040, *Household Employment Taxes* (1995 and subsequent)
  - Schedule I, *Alternative Minimum Tax-Estates and Trusts*.
  - Schedule J, *Accumulation Distribution for Certain Complex Trust*

- Schedule K-1, *Beneficiary's Share of Income, Deductions, Credits, etc.* (Trusts and estates are required to file Schedules K-1 for each beneficiary named on Form 1041.)

## 21.7.4.4.1.3

(10-01-2020)

**General Definitions**

- (1) The following list contains and defines common terms used with Form 1041 (See IRM 3.11.14.1.6, *Terms/Definitions*, for more definitions.)
- **Administrator** - The person in charge of administering an estate who is named by the courts when there is no will, or if no executor is named in the will, or if the named executor cannot or will not serve.
  - **Beneficiary** - A person designated as the recipient of funds or other property under a trust or an estate.
  - **Conservatorship** - An arrangement to hold property, usually for an incompetent person, which may or may not be a trust for federal purposes.
  - **Estate** - A legal entity created as a result of a person's death. The estate consists of the real and/or personal property of the deceased person.
  - **Fiduciary** - Trustee of a trust or executor, executrix, administrator, administratrix, personal representative, or person in possession of property of a decedent's estate.
  - **Guardianship/Custodianship** - An arrangement to hold property for a minor, which may or may not be a trust for federal purposes.
  - **Maker/grantor/etc.** - The person/organization that either creates a trust, or directly, or indirectly makes a gratuitous transfer to the trust.
  - **Trust** - A legal entity created under state law and taxed under federal law. The trust is an arrangement created by will or an inter vivos declaration by which trustees hold title to property to protect or conserve it for beneficiaries.

## 21.7.4.4.1.4

(01-01-2005)

**Entity Perfection of Form 1041**

- (1) A single individual or group may set up several trusts. These trusts may have almost identical names or structures.
- Example:** ABC Trust number 1 and ABC Trust number 2 represent separate trusts.
- (2) Mix-ups between these entities frequently occur since a single individual or firm usually administers both trusts. To resolve these cases:
- Determine the correct entities from information available.
  - If the correct entity is not determined or identified, forward a **photocopy** of the front page (entity portion) including available research, **and a photocopy** of any other document in the case file that may help determine the correct entity, to Entity Control.
  - Maintain an open control base until the case is returned and proper adjustment is completed.

## 21.7.4.4.1.5

(10-01-2011)

**Permissible Tax Years, Form 1041**

- (1) Most trusts are required to file a calendar year return.
- (2) The only Form 1041 filers permitted to retain or adopt a fiscal year include:
- Decedent's estates
  - Bankruptcy estates
  - Charitable trusts under IRC 4947(a)(1)
  - Trusts under IRC 501(a)

- Trusts treated as wholly owned by a grantor under rules of IRC 671 - 679 (which use the tax year of their owner)

- (3) To change the accounting period of an estate, a Form 1128, *Application to Adopt, Change or Retain a Tax Year*, must be filed and approved.
- (4) The bankruptcy estate of an individual in a Chapter 7 or Chapter 11 case may change its accounting period one time without approval.

21.7.4.4.1.6  
(10-05-2022)

**Extensions to File, Form 1041**

- (1) Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, and Other Returns* is used to request an automatic extension of time to file certain business income tax, information, and other returns. An extension of time to file Form 1041 will be granted if the taxpayer completes Form 7004 properly, makes a proper estimate of the tax (if applicable), files the form by the due date of the return to which the Form 7004 applies, and pays any tax that is due.
- (2) Generally, Form 7004 is filed on or before the due date of the Form 1041. Form 7004 does not extend the time for payment of tax. Therefore, to avoid interest charges and a late payment penalty, payment of any balance due on line 8 of Form 7004 is required by the due date of the return for which the extension is filed.
- (3) If more time is needed to file the estate or trust return, Form 7004 extends the time to file 5 1/2 months. Therefore, for trusts and estates (other than bankruptcy estates) filing Form 1041 that requested a valid extension on or before April 15th, the return is due on or before September 30th. Notice 2020-23, **Additional Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic**, extended the due date for filing 2019 tax returns and payments, as well as the first two 2020 estimated tax payments to Wednesday, July 15, 2020. Businesses that need additional time to file must file Form 7004. The extended return due date will not exceed October 15, 2020.
- (4) If the due date of a Form 1041 series return falls on a Saturday, Sunday, or legal holiday, the Form 1041 filer can file on the next day that is not a Saturday, Sunday, or legal holiday. See IRM 20.1.2.2.1, *When Timely Mailing Equals Timely Filing or Paying (Received Date vs. Filing/Payment Date)*.
- (5) See IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns - Tax Years Beginning After December 31, 2015*, for more general information.

21.7.4.4.1.7  
(10-01-2024)

**Tax Computation, Form 1041**

- (1) The method of calculating the liability using Form 1041 varies depending on the type of taxpayer involved.
- (2) Decedent's estates and trusts compute their income tax liability using the rates in the table below. The taxpayer enters the computed tax liability on line 1a of Schedule G. Follow the Schedule G submitted by the taxpayer as there can be other credits or taxes applicable. The total from line 7, Schedule G is the amount entered on the "Total tax" line on Form 1041.

2023 Tax Rate Schedule			
If the taxable income on Page 1, Line 22 is over:	But not over:	The tax is:	Of the amount over:
\$0	\$2,9000	10 percent	\$0
\$2,900	\$ 10,550	\$ 290 + 24 percent	\$ 2,900
\$10,550	\$ 14,450	\$2,126 + 35 percent	\$ 10,550
Over \$14,450		\$3,491 + 37 percent	\$ 14,450

2022 Tax Rate Schedule			
If the taxable income on Page 1, Line 23 is over:	But not over:	The tax is:	Of the amount over:
\$0	\$2,750	10 percent	\$0
\$2,750	\$ 9,850	\$ 275 + 24 percent	\$ 2,750
\$9,850	\$ 13,450	\$1,979 + 35 percent	\$ 9,850
Over \$13,450		\$3,239 + 37 percent	\$ 13,450

2021 Tax Rate Schedule			
If the taxable income on Page 1, Line 23 is over:	But not over:	The tax is:	Of the amount over:
\$0	\$2,650	10 percent	\$0
\$2,650	\$ 9,550	\$ 265 + 24 percent	\$ 2,650
\$9,550	\$ 13,050	\$1,921 + 35 percent	\$ 9,550
Over \$13,050		\$3,146 + 37 percent	\$ 13,050

2020 Tax Rate Schedule			
If the taxable income on Page 1, Line 23 is over:	But not over:	The tax is:	Of the amount over:
\$0	\$2,600	10 percent	\$0
\$2,600	\$ 9,450	\$ 260 + 24 percent	\$ 2,600
\$9,450	\$ 12,950	\$1,904 + 35 percent	\$ 9,450
Over \$12,950		\$3,129 + 37 percent	\$ 12,950

2019 Tax Rate Schedule			
If the taxable income on Page 1, Line 23 is over:	But not over:	The tax is:	Of the amount over:
\$0	\$2,600	10 percent	\$0
\$2,600	\$ 9,300	\$ 260 + 24 percent	\$ 2,600
\$9,300	\$ 12,750	\$1,868 + 35 percent	\$ 9,300
Over \$12,750		\$3,075.50 + 37 percent	\$ 12,750

**Note:** Previous Tax Rate Schedules are found in prior year IRMs.

- (3) If the decedent's estate or trust used Schedule D and the alternative tax computation, follow the computation using the applicable form line-by-line instructions.
- (4) If the bankruptcy estate must file a return, the trustee (or debtor-in-possession) completes the identification area at the top of the Form 1041 and lines 22 - 29 and signs and dates it. The trustee uses the Form 1041 as a transmittal for Form 1040, *U.S. Individual Income Tax Return*.
  - a. The trustee completes Form 1040 and figures the tax using the tax rate schedule for a married person filing separately.
  - b. In the top margin of Form 1040, the trustee writes "Attachment to Form 1041. DO NOT DETACH."
  - c. The trustee attaches Form 1040 to Form 1041.
  - d. The bankruptcy estate computes its liability in the same manner as an individual, claims the same exemption as an individual, and, if it does not itemize, uses the same standard deduction as an individual. See IRM 3.12.14-27 , **Bankruptcy Estate Tax Rate Schedule**, for applicable tax rate computations.

21.7.4.4.1.7.1  
(10-01-2021)

**Form 8960, Net  
Investment Income Tax -  
Individuals, Estates, and  
Trusts**

- (1) Section 1402(a)(1), of the Health Care and Education Reconciliation Act of 2010, P.L. 111–152, added a Net Investment Income Tax (NIIT) under section 1411 of the Internal Revenue Code for tax years beginning on or after January 1, 2013 and subsequent. Form 8960, *Net Investment Income Tax - Individuals, Estates, and Trusts*, is used to figure the amount of taxpayer's Net Investment Income Tax (NIIT). The NIIT applies at a rate of 3.8 percent to certain Net Investment Income (NII) of individuals, estates and trusts. Although section 1411 falls within Chapter 2A of the Code, entitled "Unearned Income Medicare Contribution," the tax is not a payroll tax. Generally, the NIIT cannot be offset by most tax credits (such as foreign tax credit or general business credit).
- (2) The 3.8 percent net investment income tax is levied on non-business income from interest, dividends, certain non-qualified annuities, royalties, rents, and capital gains. See *Instructions for Form 8960, Net Investment Income Tax - Individuals, Estates, and Trusts*, for more information.
- (3) Information concerning individual taxpayers and the NIIT is found in IRM 21.6.4.4.19, *Net Investment Income Tax*.
- (4) In the case of an estate or trust, section 1411(a)(2) imposes a tax (in addition to any other tax imposed by subtitle A) for each taxable year equal to 3.8 percent of the lesser of the taxpayer's:
  - a. Undistributed NII for such taxable year, or
  - b. excess (if any) of-(i) the adjusted gross income (as defined in Code section 67(e)) for such taxable year, over (ii) the dollar amount at which the highest tax bracket in Code section 1(e) begins for such taxable year.
- (5) The tax does not apply to the following estate and trusts listed below:
  - Trusts exempt from income taxes imposed by Subtitle A of the Internal Revenue Code (e.g., charitable trusts and qualified retirement plan trusts exempt from tax under IRC 501), and Charitable Remainder Trusts exempt from tax under IRC 664 (however, the annuity or unitrust distributions from such a trust to persons subject to tax under IRC 1411 are subject to special rules).
  - An unexpired trust with interests devoted to one or more of the purposes described in IRC 170(c)(2)(B).
  - Trusts classified as "grantor trusts" under IRC 671 through IRC 679.
  - Trusts not classified as "trusts" for federal income tax purposes (e.g., Real Estate Investment Trusts and Common Trust Funds).
  - Alaskan Native Settlement Trusts (Form 1041-N) or Perpetual Care (Cemetery) Trusts.
  - A trust or decedent's estate in which all the unexpired interests devoted to one or more of the purposes described in IRC 170(c)(2)(B).
  - Foreign estates or foreign trusts (but the U.S. beneficiary subject to the tax on the NII distributed by these entities).
- (6) The 3.8 percent net investment income tax is reported on Form 8960. Form 8960 is attached to either Form 1041 or Form 1041-QFT. For Form 1041, the NIIT is included in the amount on line 23, and for Form 1041-QFT, the NIIT is included in the amount on line 17.
- (7) For Form 8960 the amount of income which is subject to the NIIT is captured on line 20 and the NIIT is captured on line 21.



- (8) Beginning in January 2014 Net Investment Income is transcribed and posts to command codes TXMOD and BMFOLR under the field "NI Income" and the Net Investment Income Tax posts as "NI Income Tax." To adjust an account, input:
- Item Reference Number 861 to update the Net Investment Income
  - Item Reference Number 862 to update the Net Investment Income Tax
  - TC 29X to decrease/increase the tax
- (9) More information is found on [irs.gov](https://www.irs.gov) under Net Investment Income Taxes, *Questions and Answers on the Net Investment Income Tax*.

21.7.4.4.1.7.2  
(10-01-2019)  
**Short Period Returns,  
Form 1041**

- (1) Trusts and estates required to file a short period return under the conditions below:
- a. It is a final return.
  - b. It is an initial estate return (except fiscal year ending on date of death).
  - c. It is an initial trust return using the calendar year ending "12".
  - d. It is the first return the trust or estate files after changing its accounting periods.

21.7.4.4.1.7.3  
(05-08-2019)  
**Annualized Tax, Form  
1041**

- (1) To annualize tax and exemptions on short period returns, use the instructions in Publication 538, *Accounting Periods and Methods*.
- (2) Do **not** annualize tax on short period initial or final returns.
- (3) See the second table in IRM 20.1.3-1, *Installment Due Dates for Individuals, Estates and Trusts Subject to IRC 6654*, for the due date of estimated tax payments on short period returns.

21.7.4.4.1.7.4  
(10-01-2024)  
**Form 1041 Exemptions**

- (1) Allowable exemptions include:
- \$600 for a decedent estate.
  - \$300 for a trust, which under its instrument, is required to distribute all of its income for the taxable year (This deduction is allowed regardless of whether the trust is simple or complex).
  - \$100 for a trust which is not required to distribute all of its income for the taxable year (Complex trusts are entitled to this exemption).
  - Same exemption as an individual under IRC 151 for a bankruptcy estate.
- Note:** Grantor trusts are not entitled to an exemption, except for a partial grantor trust, which is entitled to the applicable exemption for its non-grantor trust portion.
- A Qualified Disability Trust is entitled to the same personal exemption amount as an unmarried individual and is effective for tax years ending after September 10, 2001. However, for a tax year beginning after December 31, 2017, the amount is \$4,150. For taxable years beginning after December 31, 2018, and before January 1, 2026, the \$4,150 amount is adjusted for inflation. See IRC 642(b)(2)(C)(iii). In addition, for taxable years 2017 through 2025, the phaseout does not apply. A Qualified Disability Trust is also subject to the same phaseout as the personal exemption if the trust's modified Adjusted Gross Income exceeds certain limits. Taxpayers must complete the Exemption

Worksheet for Qualified Disability Trusts to figure the amount of the trust's exemption when their modified AGI exceeds the limits shown in the chart below.

Tax Year	Exemption Amount	Phaseout Threshold
2012	\$3,800	Eliminated in 2012
2013	\$3,900	\$250,000
2014	\$3,950	\$254,200
2015	\$4,000	\$258,200
2016	\$4,050	\$259,400
2017	\$4,050	\$261,500
2018	\$4,150	No phaseout
2019	\$4,200	No phaseout
2020	\$4,300	No phaseout
2021	\$4,300	No phaseout
2022	\$4,400	No phaseout
2023	\$4,700	No phaseout

**Note:** This provision does not apply to any portion of a disability trust that is treated as a grantor trust.

(2) Exemptions **are** allowed on final returns.

21.7.4.4.1.7.5  
(01-01-2005)

**Allowable Credits (Form 1041)**

- (1) Certain non-refundable and refundable credits are allowed on Form 1041.
- (2) The following subsections address the processing of these credits

21.7.4.4.1.7.5.1  
(05-08-2019)

**Non-Refundable Credits (Form 1041)**

- (1) The General Business Credits reported on Form 3800 are treated as used on a first-in, first-out basis by offsetting the earliest-earned credits first. Therefore, the order in which the credits are used in any tax year is:
- Carryforwards to that year, the earliest ones first, as of the close of the tax year in which the credit is used;
  - The general business credit earned in that year, and
  - The carryback to that year.
- (2) See IRM 21.7.4.4.8, *Non-refundable Credits, Income Tax Returns*, for more information on non-refundable credits and IRM 21.7.4.4.8.1.1, *Priority of Credits*, for the components of the general business credits reported on Form 3800.

21.7.4.4.1.7.5.2  
(07-09-2009)

**Refundable Credits (Form 1041)**

- (1) The allowable refundable credits include:
- Credit for Federal Tax Paid on Fuels* - Form 4136

- *Notice to Shareholder of Undistributed Long-Term Capital Gains* - Form 2439
- All prepayment credits

(2) See IRM 21.7.4.4.9, *Refundable Credits, Income Tax Returns*, for more information on refundable credits.

21.7.4.4.1.8  
(05-08-2019)

**Estimated Tax Payments  
(Form 1041)**

- (1) Per IRC 6654(l), new and existing trusts and estates must make quarterly estimated tax payments in the same manner as individuals, except an estate and certain grantor trusts exempt from making such payments during their first two taxable years.
- (2) Generally, the estate or trust must make an estimated payment if it expects to owe at least \$1,000 in tax during the taxable year and it expects the withholding and credits to be less than the smaller of:
- 90 percent of the tax shown on the tax return, or
  - 100 percent of the tax shown on the prior year tax return (110 percent if the amount of the estate's or trust's AGI on that return is more than \$150,000, and less than 2/3 of the gross income of the prior year is from farming or fishing).

**Note:** If a return is not filed for the prior year or that return didn't cover a full 12 months, the second bullet does not apply.

- (3) The exceptions from making estimated tax payments for some entities include:
- An estate of a domestic decedent or a domestic trust that had no tax liability for the preceding taxable year.
  - A decedent's estate for any tax year ending before the date that is two years after the decedent's death.
  - A trust that is treated as owned by the decedent if the trust will receive the residue of the decedent's estate under the will (or if no will is admitted to probate, the trust primarily responsible for paying debts, taxes, and expenses of administration) for any tax year ending before the date that is two years after the decedent's death.
- (4) See the *Disaster Assistance Information* on SERP regarding the postponement of certain estimated tax payments due to various disasters and prior revisions of this IRM for more information on these postponements.
- (5) The following due dates for estimated tax payments for calendar year filers include:
- April 15
  - June 15
  - September 15
  - January 15 (of the following year)
- (6) Charitable trusts (Form 1041 with Fiduciary Code 9) and private foundations are subject to corporate estimated tax provisions under IRC 6655.
- (7) Form 1041-ES, *Estimated Income Tax for Estates and Trusts*, payment vouchers are mailed along with quarterly estimated payments to:

Internal Revenue Service  
P.O. Box 932400  
Louisville, KY 40293-2400

21.7.4.4.1.8.1

(04-02-2020)

**Short Taxable Years  
(Form 1041)**

- (1) For a short taxable year in which a trust or estate subject to IRC 6654 terminates, installments of estimated tax must be paid for any installment due before the last day of the short taxable year. A final installment must be paid by the 15th day of the first month following the month in which the short taxable year ends.
- (2) Per Notice 87-32, when a trust or estate makes payments with respect to a short taxable year, the percent of the required annual payment which is paid varies depending on the number of required installments. See IRM 20.1.3-1, *Installment Due Dates for Individuals, Estates and Trusts Subject to IRC 6654*, to determine the payment dates and the applicable percentage for short period returns.
- (3) Schedule H, Household Employment Taxes, is subject to estimated tax payments.

21.7.4.4.1.8.2

(10-14-2009)

**Electronic Payment  
Options for e-file Users;  
Payment by Electronic  
Funds Withdrawal  
(Direct Debit) and  
Payment by Credit or  
Debit Card (Pay by  
Phone or Internet)**

- (1) Form 1041 and Form 1065 filers may pay their taxes via electronic funds withdrawal (Direct Debit), or by phone or internet using a credit or debit card. Taxpayers can make payments using an American Express Card, Discover Card, MasterCard or VISA Card. The IRS does not determine which credit cards the service providers accept.
- (2) Taxpayers have the option to use either an IRS e-pay service provider or an integrated IRS e-file and e-pay service provider. The service providers offer these options to taxpayers who file on paper or electronically. The payment options are available 24 hours a day, 7 days a week. The service providers charge convenience fees for the services. See IRM 21.2.1.48, *Electronic Payment Options for Individuals and e-file Users*, for specific information on the Electronic Funds Withdrawal option, and for Credit or Debit Card Payments (Pay by Phone or Internet), for more specific information.

21.7.4.4.1.8.3

(10-01-2011)

**Form 1041-V, Payment  
Voucher**

- (1) Form 1041 filers have Form 1041-V, *Payment Voucher*, to remit payment. Form 1041-V allows the IRS to process payments more accurately and efficiently. Strongly encourage taxpayers to use Form 1041-V; however, there is no penalty if it is not used.

21.7.4.4.1.9

(10-01-2024)

**Electronic Filing of Form  
1041 Returns**

- (1) MeF will accept the current year and two prior tax years. Taxpayers cannot use MeF to file returns for tax years earlier than the two prior years. When an electronically transmitted business return is rejected there is a 10-day Transmission Perfection Period to perfect that return for electronic re-transmission. The perfection period is 10 calendar days for any business return that is rejected.

**Note:** For re-transmitted rejected returns, if the last day to file falls on a Saturday, Sunday or holiday, this is the due date of the return and not the next business day.

- (2) Qualified fiduciaries or transmitters can file Form 1041 and related schedules electronically. For more information about becoming an e-file provider, visit the IRS.gov website *Become an Authorized e-File Provider*.
- (3) To file Form 1041 electronically each software developer, transmitter, and large taxpayer wanting to participate in the MeF program **MUST** successfully pass the Assurance Testing System (ATS). The assurance testing system is a process that tests the tax preparation software and/or the electronic transmissions to ensure the participant's software and/or the electronic transmissions have the correct file specifications to file returns electronically. Testing for Form 1041 is generally available in ATS by the start of November each year. See Pub 5078, *Modernized e-file (MeF) Test Package*, and IRM 3.42.4.13, *Assurance Testing System (ATS) Process*, for more information on the testing process.
- (4) MeF allows for Year-Round Filing – MeF allows for year round submission of returns. For more information about the MeF system status and possible delays, refer to the *Modernized e-file (MeF) status page*.
- (5) Direct questions or problems related to the following issues to the e-help desk at 866-255-0654. For current year questions regarding MeF system problems, new transmitter development problems and new development of forms related to the MeF programs, send to the MeF mailbox at MeFmailbox@irs.gov:
  - IRS e-file application
  - ATS or communication testing
  - Transmission issues
  - Rejects
  - Status of processing
  - Strong authentication for A2A
  - Technical questions on schemas or business rules
- (6) Filers may also write to the IRS at the following address:  
Ogden Submission Processing Center  
Mail Stop 6052  
1160 West 1200 South  
Ogden, UT 84201
- (7) The following publications designed to provide the general requirements and procedures for Form 1041 e-file Program, U.S. Income Tax Return for Estates and Trusts include:
  - Pub 3112, *IRS e-File Application and Participation*
  - Pub 4163, *Modernized e-File (MeF) Information for Authorized e-File Providers for Business Returns, Tax Returns Processed in 2019*
  - Pub 4164, *Modernized e-File (MeF) Guide for Software Developers and Transmitters*
  - Pub 5078, *Modernized e-File (MeF) Test Package, Business Submissions, Assurance Testing System (ATS)*
- (8) Taxpayers must supply their name control when filing electronically. See IRM 21.7.13.5.6, *EIN Assignment: Estate*, for information on the name control assigned to estates and IRM 21.7.13.5.8, *EIN Assignment: Trust*, for information on the name control assigned to trusts. Also, see *Document 7071-A*, BMF Name Control Job Aid, for additional information.

## 21.7 Business Tax Returns and Non-Master File Accounts

- (9) Identification of electronic returns include a unique Document Locator Number (DLN) and the words "Electronic Return - Do Not Process" at the bottom of the return.
- (10) The following file location code/tax class/document code for returns previously processed in Philadelphia include:
- 52/2/36 - Form 1041
  - 98/2/36 - Form 1041 (Foreign Address)
  - 66/2/36 - Form 1041 (PR)
- (11) The following file location code/tax class/ document code for returns processed in Ogden include:
- 88/2/36 Ogden Submission Processing Center (MeF System)
  - 93/2/36 Ogden Submission Processing Center (Legacy System)
  - 92/2/36 Ogden Overflow Number

**Note:** See IRM 3.42.4.9.2, *Identifying e-file BMF Identification Codes*, for more information on these codes.

- (12) The IRS changed the Multiple Tax Return Listing process used to sign electronically filed Form 1041, *U.S. Income Tax Return for Estates and Trusts*. Beginning January 1, 2014, the IRS e-file Signature Authorization document, Form 8879-F, can only associate with a single 1041 return.
- (13) Beginning TY 2014, taxpayers who filed their original Form 1041 electronically via MeF may file a TY 2014 amended return through MeF. Other taxpayers must complete an amended return on paper and file it at the campus where they would normally file a paper return.
- (14) Use Corporate File On-Line (CFOL) command codes (CC) to research the account. Request the original return only when necessary. If it is necessary to secure the signature, use CC ESTAB and notate "Provide Form 8453" in the remarks section.
- Use Command Code TRPRT. See IRM 21.2.2.4.4.6, *TRDB CC TRPRT (Tax Return Print) Input*, for information on CC TRPRT.
- (15) Section 17 of the Worker, Homeownership, and Business Assistance Act of 2009, P.L. 111-92, amends IRC 6011(e), effective for returns filed after December 31, 2010, by adding at the end new paragraph (3): "SPECIAL RULE FOR TAX RETURN PREPARERS." In general, under new paragraph (3)(A), the Secretary requires the use of magnetic media (electronic) filing for any individual income tax return (includes estates and trusts) prepared by a tax return preparer if; such return is filed by such tax return preparer, **and** such tax return preparer is a specified tax return preparer for the calendar year during which such return is filed.
- For purpose of IRC 6011(e)(3), the term **specified tax return preparer** means, with respect to any calendar year, any tax return preparer unless such preparer reasonably expects to file 10 or fewer individual income tax returns during such calendar year, IRC 6011(e)(3)(B).
  - For purposes of IRC 6011(e)(3), the term **individual income tax return** means any return of the tax imposed by subtitle A of the Code on individuals, estates, or trusts, IRC 6011(e)(3)(C).



21.7.4.4.1.10  
(10-01-2019)  
**Form 1041 Claims and  
Requests for  
Adjustments**

- (1) Accounts Management processes various Form 1041 adjustment requests. Consider all prior adjustments to the account before making the requested adjustment.

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- (3) Form 1041 claims and/or amended returns involving Ponzi Scheme issues (including language discussing removal of phantom or fraudulent income), may

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**Note:** See Exhibit 21.5.3-2, *Examination Criteria (CAT-A) – General*, for more Cat-A information on paragraphs 2 or 3 above.

- (4) Action required on **tax** adjustments:

- a. Input TC 290/291 for the applicable amount using blocking series 00 with the original return and 17 without the original return.
- b. Input Item Reference Number (IRN) 886 for the applicable amount if taxable income is also being adjusted. See IRM 21.7.4.4.4.12, *Adjusting Tax and Item Reference Number (IRN) 886*, for more information on IRN 886.

- (5) Action required on **credit** adjustments:

- a. Input TC 290 \$.00 using blocking series 00 with the original return and 17 without the original return.
- b. Input the correct Credit Reference Number (CRN) for the amount of the credit adjustment.

- (6) The following Form 1041 CRNs include:

- Credit for federal tax paid on fuel (Form 4136). See IRM 21.7.4.4.9.1, *Form 4136 Credit for Federal Tax Paid on Fuel*, for more information.
- Substantiated payment credits - CRN 766 increases the credit; CRN 767 decreases the credit.
- Fuel from a Nonconventional Source Credit - CRN 883.
- *Credit for Alcohol Used as Fuel* (Form 6478) - CRN 884.
- Withholding tax - CRN 806 increases the credit; CRN 807 decreases the credit.
- Net Investment Income Taxes - See IRM 21.7.4.4.1.7.1, *Form 8960, Net Investment Income Taxes - Individuals, Estates, and Trusts*, for more information.

21.7.4.4.1.11  
(10-01-2024)  
**Social Security  
Domestic Employment  
Reform Act (SSDERA)  
and Business Master  
File (BMF) Schedules H**

- (1) As a result of the Social Security Domestic Employment Reform Act (SSDERA), taxpayers must file Schedule H (Form 1040), *Household Employment Taxes*, to report household wages and employment taxes paid to domestic household workers such as a gardener, nanny, cook or butler.
- (2) SSDERA mandates Schedule H to be filed on a calendar year basis. Therefore, FY filers must attach a Schedule H for a calendar year.



**Example:** ABC Trust has a FY of 06. When the trust filed Form 1041 for the period ending 202106, Schedule H should cover the period January 1, 2020 - December 31, 2020. For 202206, the Schedule H should contain information covering the period January 1, 2021 - December 31, 2021.

- (3) Individuals that hire a domestic employee (as defined in Pub 926), such as a gardener or a nanny, must file Schedule H. See IRM 21.6.4.4.8, *Schedule H, Household Employment Taxes*, for more information on individuals reporting employment taxes.
- (4) The information contained in the following subsections of this section pertain to Schedules H processed on MFT 05. Besides trusts (a trust can be a domestic employer) with domestic employees, certain tax-exempt entities not required to file income tax returns may have domestic employees. These groups can file loose Schedules H rather than filing an income tax return and attaching Schedule H or including these domestic employees on their Form 941. Processing information is found later in IRM 21.7.4.4.1.11.2.1, *Loose Schedule H (BMF)*.

**Example:** A tax-exempt group home which hires domestic employees to clean the group home (where the employer is the group home and not an individual resident of the home) can file a loose Schedule H.

**Example:** A church (tax-exempt) which pays a housekeeper to clean the minister's home can file a loose Schedule H.

- (5) For information on related subjects, see the subsections shown below:
  - a. For information on filing requirements and procedures for other entities such as partnerships, corporations, and state and local government health and welfare agencies, see IRM 21.7.2.4.9.1, *Forms Used in Reporting Employment Taxes for Household Employees*.
  - b. For information on individuals with domestic employees, see IRM 21.6.4.4.8, *Schedule H, Household Employment Taxes*.
  - c. For information on Federal Unemployment Tax Act (FUTA) taxes reported on the incorrect form or multiple forms, see IRM 21.7.3.4.14, *Schedule H FUTA Erroneously Reported*.
  - d. For information when both Form 940 and Form 941 have been filed erroneously (instead of Schedule H), see IRM 21.6.4.4.8.12, *BMF Form 941, Employer's Quarterly Federal Tax Return, Filed Instead of IMF Schedule H, Household Employment Taxes*.
- (6) It is strongly recommended that only a small group of employees work cases involving BMF Schedules H.

21.7.4.4.1.11.1  
(10-01-2024)

**Provisions of Social Security Domestic Employment Reform Act (SSDERA), General Information**

- (1) Even though Social Security Domestic Employment Reform Act (SSDERA) is considered employment taxes, SSDERA mandates the collection of domestic service employment taxes be coordinated with the collection of income taxes.
- (2) Domestic employees under the age of 18 are excluded from coverage if domestic service is not the principal occupation of the employee, see IRC 3121(b)(21).
  - a. Student is considered an occupation.

- b. This provision is effective regardless of the amount of wages paid to the employee under 18.
- (3) Wages less than the applicable dollar threshold are not subject to social security or Medicare taxes. This threshold is updated yearly. See the chart below for the applicable thresholds.

Year Wages Paid	Threshold	Tax Period(s)
2012 - 2013	\$1,800	201212 - 201411
2014 - 2015	\$1,900	201412 - 201611
2016 - 2017	\$2,000	201612 - 201811
2018 - 2019	\$2,100	201812 - 202011
2019 - 2020	\$2,200	201912 - 202111
2020 - 2021	\$2,300	202012 - 202211
2021 - 2022	\$2,400	202212 - 202311
2022 - 2023	\$2,600	202312 - 202411
2023-2024	\$2,700	202412 - 202511

- (4) Taxpayers are subject to FUTA tax if they paid total cash wages of \$1,000 or more to household employees in any calendar quarter of the tax year or the prior tax year. The first \$7,000 of cash wages paid to each household employee is "FUTA wages."
- (5) The law contains no provision for employees in (2) or (3) above to opt to make payments in order to obtain social security or Medicare coverage.
- (6) A trust or an individual that is required to pay household employment taxes using Schedule H must include household employment taxes in figuring their estimated tax payments, if either of the situations below apply:
- If it has federal income tax withheld from any income.
  - If it is required to make estimated tax payments (to avoid a penalty) even if it did not include household employment taxes when figuring its estimated tax.

21.7.4.4.1.11.1.1  
(10-01-2024)

**Social Security  
Domestic Employment  
Reform Act (SSDERA)  
Interest-free Provisions**

- (1) Employers who discover (ascertain) they have reported and paid less FICA tax or income tax withholding tax (FITW) than is due on an original Form 1041 tax return, may qualify for an interest-free tax adjustment under IRC 6205 and Regulation 26 CFR 31.6205-1 provisions. Schedule H adjustments carry the same interest-free provisions as employment tax returns. See the provisions detailed in IRM 21.7.2.4.4.2, *Interest Free Adjustments (Employment Tax Returns)*.
- (2) To qualify for an interest-free tax adjustment, the employer must file the proper forms reporting the correction by the due date of the tax return for the tax period in which the error is ascertained. A Form 1041 taxpayer has until the due date of the Form 1041 to which the Schedule H relates, to file an amended return.

**Example:** If the taxpayer's fiscal year month (FYM) is 12, and the error is found and reported on October 13th, the ascertained date is April 15 of the following year. Therefore, the last day to file an adjusted return is April 15. If the taxpayer's FYM is 04, and the error is found and reported on October 13th, the ascertained date is August 15 of the following year. Therefore, the last day to file an adjusted return carrying this date is August 15.

- (3) Employment tax regulations effective January 1, 2009, require payment of employment tax increases (including Schedule H) for income tax withheld, and social security and Medicare taxes made on or before the date the amended return/Schedule H is filed. (FUTA taxes are not affected.)
- (4) As with Form 940 unemployment tax, the FUTA portion (Part II) of Schedule H does not carry an interest-free provision. As a result, when adjusting Schedule H taxes, it is sometimes necessary to use both TC 298 (for interest-free income tax and FICA adjustments, Part I, Schedule H) and TC 290 (FUTA portion, Part II, Schedule H).
- (5) If the return is filed timely and payment is made in the time subscribed; when inputting a TC 298, the interest computation date is the IRS received date of

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Returns), for more information.

21.7.4.4.1.11.2  
(10-01-2013)

**Business Master File  
(BMF) Schedule H  
Processing**

- (1) All BMF Schedules H are processed on MFT 05 as an attachment to Form 1041. All transactions codes (TCs) and reference codes applicable to Form 940 (MFT 10) are valid on MFT 05, except for TC 186. In addition, use IRNs showing as valid on Form 94X on Schedule H adjustments. However, see paragraph (2) below. Use these transaction codes and reference codes when adjusting Schedules H on MFT 05.

**Note:** See the October 1, 2007 and prior editions of this IRM for information on BMF Schedule H processed prior to 1998.

- (2) **Do Not** use TC 766 when adjusting Advanced Earned Income Tax Credit (AEITC) on Schedule H. This would cause confusion with the 766 applicable to substantiated payment credits on Form 1041. When adjusting AEITC, simply include the increase/decrease as part of the TC 29X. No reference code is needed.
- (3) On August 10, 2010, Public Law 111-226, Education Jobs and Medicaid Assistance Act of 2010, was enacted. Section 219 of the Act repealed the AEITC for tax years beginning after December 31, 2010. Therefore, AEITC is not valid for tax periods ending after 201111.
- (4) Section 9015, Additional Hospital Insurance Tax on High-Income Taxpayers, of the Patient Protection and Affordable Care Act, added section 3101(b)(2) and section 3102(f) to the Internal Revenue Code. Section 3101(b)(2) increases the employee portion of Medicare (Hospital Insurance) tax for tax years beginning after December 31, 2012, by an additional .09 percent of wages, as defined in section 3121(a). The additional Medicare tax is not imposed until wages exceed the statutory threshold amounts below:
  - \$250,000 for a married couple filing a joint return,

- \$125,000 for married couples filing separate returns, and
- \$200,000 for single individuals.

**Note:** The threshold amounts are not indexed for inflation.

- (5) The Patient Protection and Affordable Care Act also increased the Medicare tax on self-employment income for any tax year beginning after December 31, 2012, by an additional 0.9 percent of self-employment income which is in excess of certain threshold amounts listed above. See various subsections of IRM 21.7.2, *Employment and Railroad Tax Returns*, for additional information.
- (6) When inputting an adjustment, the reference codes used do not have to equal the amount of the TC 29X. This check was not put in place because regular Form 1041 tax may also need adjusting. In this instance, it is not possible to match the reference code amounts to the TC 29X.

**Note:** This does not eliminate the procedures to input the proper reference codes with the Schedule H portion of the adjustment.

21.7.4.4.1.11.2.1  
(01-01-2005)  
**Loose Schedules H  
(BMF)**

- (1) Receipt and Control (R&C) may receive loose Schedules H with “trust” or “estate” in the name line, or from taxpayers not required to file an income tax return (for example, group homes). R&C:
  - a. Posts any payment to MFT 05
  - b. Forwards the loose Schedule H to Code and Edit (C&E) for preparation of a dummy Form 1041
- (2) Follow the same procedures for making adjustments to BMF Schedule H returns in IRM 21.7.4.4.1.11.2.3, *Adjustments (Amended Returns, TRNS 193s, etc.) Involving Form 1041 With Schedule H*, below.

21.7.4.4.1.11.2.2  
(01-01-2006)

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21.7.4.4.1.11.2.3  
(10-24-2012)  
**Adjustments (Amended  
Returns, TRNS 193s,  
etc.) Involving Form  
1041 With Schedule H**

- (1) The procedures for adjusting Schedules H depend on several factors, such as:
  - a. Whether the adjustment is an increase or decrease
  - b. The period on which the previous assessment was input
  - c. The MFT(s) on which the previous assessment was input
- (2) Use procedures in IRM 21.7.4.4.1.11.2.4 and IRM 21.7.4.4.1.11.2.5 below to make the adjustments involving Form 1041 with Schedule H.
- (3) When a state receives a loan (advance) from the Federal Unemployment Account in order to pay unemployment benefits, and does not repay the loan on time, the credit allowable against the tax is reduced. Refer to these states as credit reduction states. Employers that pay their state unemployment tax timely and in full receive a 5.4 percent credit against their Federal tax. However, the credit is reduced when a state has taken loans from the federal

government to meet its state unemployment benefits liabilities and has not repaid these loans within the allowable time frame.

- (4) The U.S. Department of Labor declares the credit reduction states. See IRM 21.7.3.4.10, *Credit Reduction States*, for more information on credit reduction states and for a listing of the states declared as credit reduction states.
- (5) Do not make adjustments to BMF Schedule H accounts due to telephone calls from taxpayers, other than abating duplicate assessments. If the taxpayer reported the incorrect amount of tax, advise them to file an amended return. However, if the taxpayer reported employment taxes on Form 94X and/or FUTA tax on Form 940, and reported the same amounts on Form 1041, remove the tax from the incorrect form (Form 940 and/or Form 94X) and ensure payment is on the correct account. Delete the Form 94X and/or Form 940 filing requirements if necessary.

21.7.4.4.1.11.2.4  
(06-04-2018)

**Net Decrease, Original  
Assessment on Form  
1041 (MFT 05) and Form  
940 (MFT 10)**

- (1) Use the chart below when the adjustment is a net decrease and the original assessment of the Schedule H amount is made on MFT 05 or MFT 10.

If	And	Then
The adjustment is a net decrease to Form 1041	The original assessment of the Schedule H amount was made on Form 1041	<ol style="list-style-type: none"> <li>a. Input TC 291 using appropriate reference codes.</li> <li>b. If taxpayer is also adjusting "normal" Form 1041 liability, input TC 291 for the net amount with blocking series 00 or 17.</li> </ol>
The adjustment is a net decrease to Form 940	The original assessment is on Form 940, Schedule H Adjustment only	<ol style="list-style-type: none"> <li>1. On MFT 10 Module(s):               <ol style="list-style-type: none"> <li>a. Input TC 291 in blocking series 40 with appropriate reference codes</li> <li>b. use ADD24/ADC24 to transfer the credit to MFT 05 using TC 570 on the credit side.</li> </ol> </li> <li>2. On the MFT 05 module:               <ol style="list-style-type: none"> <li>a. Input TC 290 \$.00 with posting delay code of 1 and blocking series 00 or 17</li> </ol> </li> </ol>

If	And	Then
The adjustment is a net decrease to both Form 1041 and 940	The original assessment is on the Form 940	<ol style="list-style-type: none"> <li>1. On MFT 10 Module(s):               <ol style="list-style-type: none"> <li>a. Input TC 291 in blocking series 40 with appropriate reference codes</li> <li>b. use ADD24/ADC24 to transfer the credit to MFT 05 using TC 570 on the credit side.</li> </ol> </li> <li>2. On the MFT 05 module:               <ol style="list-style-type: none"> <li>a. Input TC 291 for the Form 1041 portion only with blocking series 00 or 17.</li> <li>b. Use HC 3 and Posting delay code of 1</li> </ol> </li> </ol>
The Schedule H is an increase and Form 1041 portion is a decrease	The original assessment is on the Form 940	<ol style="list-style-type: none"> <li>1. On MFT 10 Module(s), no adjustment is necessary</li> <li>2. On the MFT 05 module:               <ol style="list-style-type: none"> <li>a. Input TC 291 for the net adjustment amount with blocking series 00 or 17</li> <li>b. Use the appropriate reference codes for the Schedule H amount and the Form 1041 portion</li> </ol> </li> </ol>
The Schedule H is a decrease and Form 1041 is an increase	The original assessment is on the Form 940	<ol style="list-style-type: none"> <li>1. On MFT 10 Module(s):               <ol style="list-style-type: none"> <li>a. Input TC 291 in blocking series 40 with appropriate reference codes</li> <li>b. use ADD24/ADC24 to transfer the credit to MFT 05 using TC 570 on the credit side.</li> </ol> </li> <li>2. On the MFT 05 module:               <ol style="list-style-type: none"> <li>a. Input TC 290 for the Form 1041 portion only with blocking series 00 or 17.</li> </ol> </li> </ol>

21.7.4.4.1.11.2.5  
(06-07-2018)

- (1) Use the chart below when the adjustment is a net increase and the original assessment of the Schedule H amount is made on MFT 05 or MFT 10.

**Net Increase, Original  
Assessment on Form  
1041 (MFT 05) and Form  
940 (MFT 10)**

If	And	Then
Both Form 1041 and Schedule H require increases	The original assessment is on either the 1041 or Schedule H	<ol style="list-style-type: none"> <li>If both the Form 1041 and schedule H reflect an increase, input the adjustment on MFT 05.</li> <li>On the MFT 05 module: <ol style="list-style-type: none"> <li>Input TC 290 for the Schedule H Part II and Form 1041 portion with blocking series 00 or 17</li> </ol> </li> </ol>
The Form 940 is a decrease and the Form 1041 portion is an increase	The original assessment is on the Form 940	<ol style="list-style-type: none"> <li>On the MFT 10 module(s): <ol style="list-style-type: none"> <li>Input TC 291 in blocking series 40 with the appropriate reference codes.</li> <li>Use ADD24/ADC24 to transfer the credit to MFT 05 using TC 570 on the credit side.</li> </ol> </li> <li>On the MFT 05 module: <ol style="list-style-type: none"> <li>Input TC 290 for the entire net increase (including the decrease(s) on MFTS 04 and 10) with blocking series 00 or 17.</li> <li>Use HC 3 and posting delay code of 1</li> </ol> </li> </ol>



If	And	Then
The Form 940 is an increase and the Form 1041 is a decrease	The original assessment is on the Form 940	<ol style="list-style-type: none"> <li>1. On the MFT 10 module(s), no adjustment is necessary</li> <li>2. On the MFT 05 module Input 29X with all appropriate reference codes with blocking series 00 or 17. Use the alpha list below:               <ol style="list-style-type: none"> <li>a. The Schedule H, Part I increase is equal to or greater than the entire net increase                   <ul style="list-style-type: none"> <li>• Input TC 298</li> </ul> </li> <li>b. The Schedule H, Part I increase is less than the entire net increase                   <ul style="list-style-type: none"> <li>• Input TC 298 for the Schedule H, Part I amount.</li> <li>• Input TC 290 for the increase. See the Example below.</li> </ul> </li> </ol> </li> </ol> <p><b>Example:</b></p> <p>Form 1041 portion, \$175 decrease  Schedule H, Part II, \$200 increase  Schedule H, Part I \$50 increase  <b>Total: \$75 increase - Input TC 298 for \$50 and TC 290 for \$25</b></p>

If	And	Then
The increase is on the Form 1041	The original assessment is on Form 1041	<ol style="list-style-type: none"> <li>1. Input TC 290/298 for the increase using the table and examples below. (The table assumes there is a valid ascertained date) with blocking series 00 or 17.</li> <li>2. Use the appropriate reference codes for both the Form 1041 portion and the Schedule H portion. <ol style="list-style-type: none"> <li>a. If the net FUTA portion (Part II) of the Schedule H and the Form 1041 portion is zero or an increase Input TC 298 for total net adjustment of the entire Schedule H and Form 1041. See Example 1 below.</li> <li>b. If the net of Part II, Sch H and the Form 1041 portion is an increase greater than the decrease on Part I, Sch H. Input TC 290 for the total net adjustment of the entire Sch H and Form 1041. See Example 2 below.</li> <li>c. If the net of Part II, Sch H and the Form 1041 portion is an increase and Part I Sch H is also an increase. Input TC 290 for the net of Part II Schedule H and the Form 1041 portion Input TC 298 for the Part I, Sch H portion. See Example 3 below.</li> </ol> </li> </ol> <p><b>Example: 1</b> Form 1041 Portion, \$100 decrease Schedule H, Part II, \$60 increase Schedule H, Part I, \$50 increase <b>Total: \$10 increase-Input TC 298 for \$10</b></p> <p><b>Example: 2</b> Form 1041 Portion, \$150 increase Schedule H, Part II, \$50 decrease Schedule H, Part I, \$70 decrease <b>Total: \$30 increase-Input TC 290 for \$30</b></p> <p><b>Example: 3</b> Form 1041 Portion, \$100 increase Schedule H, Part II, \$40 decrease Schedule H, Part I, \$30 increase <b>Total: \$90 increase-Input TC 290 for \$60 and TC 298 for \$30</b></p>

21.7.4.4.1.12  
(10-01-2021)

**Form 1041-T, Allocation  
of Estimated Tax  
Payments to  
Beneficiaries**

- (1) Form 1041-T is used by a trust or, for its final tax year, a decedent's estate may elect under Section 643(g) to have any part of its estimated tax payments (but not income tax withheld) treated as made by a beneficiary or beneficiaries.
- (2) If a trust files a valid Form 1041-T by the 65th day after the close of the tax year, the beneficiary who is allocated a payment is treated as receiving a distribution on the last day of the taxable year of the estate or trust. The distribution is included in the distributable net income (DNI) from the trust or estate for that tax year. If a beneficiary and the estate or trust has different tax years, the DNI from a fiscal year or a short year ending with or within the beneficiary's tax year is included in income for that tax year. Treas. Reg. section 1.662(c)-1. The beneficiary is considered to make a payment of estimated tax on January 15 following the last day of the taxable year.
- (3) Form 1041-T is a stand-alone form (even if filed with a Form 1041) that is filed by the due date for the Form 1041-T. See IRM 21.7.4.4.1.12.1(1), for applicable Form 1041-T due dates.
- (4) There are no provisions of law for transferring the credit for Federal Income Tax Withheld (FITW) on a Form 1041 Trusts and Estates account to an individual taxpayer's (beneficiaries) Form 1040 account. Section 643(g) allows the allocation of estimated tax payments on Form 1041-T and IRC 643(d) allows for the allocation of back-up withholding but not for transferring FITW. See the *Instructions for Form 1041*, line 24e and IRM 21.6.3.4.2.2, *Withholding (W/H) Tax Credit*, for more information.

**Note:** The owner of a grantor trust treats the income, deductions, credits (including Federal Income Tax Withheld) etc., as belonging directly to the grantor and are reported on the individual's personal income tax withheld. This also applies to any portion of a trust that is treated as a grantor trust.

- (5) Correspondex Letter 2305C, Estimated Tax Credits to Beneficiary - Form 1041-T was revised to respond to inquiries received on Form 1041-T. However, you may use another "C" letter if necessary.

21.7.4.4.1.12.1  
(10-01-2024)

**Form 1041-T Filing  
Dates**

- (1) For a valid election, a trust or decedent's estate must file Form 1041-T by the 65th day after the close of the tax year as shown at the top of the form. For a calendar year trust or estate, that date is March 6, or March 5 if it is a leap year. However, if the due date falls on a Saturday or Sunday, or is a legal holiday, then the due date is the next business day. See the due dates in the table below.

Calendar Year	Due Date
2019	March 5, 2020
2020	March 8, 2021 (March 6 was a Saturday)
2021	March 7, 2022 (March 6 was a Sunday)
2022	March 6, 2023

Calendar Year	Due Date
2023	March 5, 2024 (2024 is a leap year)
2024	March 6, 2025

(2) If the return is the **final return** of an estate or trust, the election is filed by the

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21.7.4.4.1.12.2  
(10-01-2022)  
**Transferring  
Credits/Payments (Form  
1041-T)**

- (1) Since the estimated tax payments are claimed as ES credits by the beneficiaries (BMF and IMF), the credits must be transferred on an expedited basis. The Form 1041-T may be filed without the Form 1041 and so a TC 150 does not have to post before transferring these credits. In addition, a TC 150 does not have to post to the beneficiaries account before transferring to the individuals IMF account. Once the election is made and the credits transferred to the beneficiaries, it cannot be revoked. Treas. Reg. section 301.9100–8(a)(4)(i).

(2) Form 1041-T is considered correspondence and must meet “**Policy Statement P-21-3**” time frames.

(3) Follow the instructions below when making credit transfers. Use CFOL command codes to research the accounts of all the beneficiaries listed on Form 1041-T. Use CC INOLE with definer “T” or “S” and determine if the beneficiary is the primary taxpayer.
  - Only transfer credit to the primary taxpayer’s SSN.
  - Transfer credit to the income tax return for individuals and businesses.
  - If an account is not present on master-file, input TC 000 to establish the account. See IRM 3.13.5.117, *Establishing a New Account (TC 000)*, for guidance on establishing an account.

(4) Verify the total amount of estimated taxes shown as being allocated to the beneficiaries on lines 1 and 4 (these two amounts must be equal) on Form 1041-T, is posted to the Form 1041 account. If the amount is not posted, research IDRS for any missing payments. If unable to locate, adjust the allocation for each beneficiary by the percentage shown on Form 1041–T.

(5) When additional information is needed to complete the credit transfers, make two attempts by phone to obtain the needed information.

(6) Advise the trust or estate of any action taken which changes the information originally submitted.

(7) Handle **Trusts** that file a calendar year return and a Form 1041-T in the following manner. Input CC ADD/ADC24 (when transferring between master file (e.g., BMF and IMF) or when transferring with a TC 820) to transfer the estimated tax payments for the calendar year (including any credit elect applied from the tax prior year and) with the last installment of estimated tax being due on January 15 of the following year. For example, a trust filing a Form 1041-T for the tax period 201612 and allocating to individual taxpayers:
  - Transfer the credits received by January 15 using the January 15 date of the year following the tax period ending date of the trust (including
- 21.7.4.4.1.12.2

Internal Revenue Manual

Cat. No. 36844G (08-30-2024)  
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- TC 716 credit elects) by debiting the MFT 05/201612 account with a TC 820 for the amount being transferred to an individual beneficiaries' account with a date of 01/15/2017.
  - Credit each individual beneficiaries' MFT 30/201612 account with a TC 700 for the amount being transferred and a date of 01/15/2017 and a designated payment code of "00" on the credit side of the credit transfer.
  - Insert a "1" in the Bypass Indicator Field on the credit side to bypass the unpostable check or input TC 570 as appropriate.
  - Transfer ES payments posted after 01/15/2017 using the payment date with TC 820 and TC 660. While posting of the TC 150 is not needed, the transferred credit cannot exceed the sum of the posted TC 66X and 71X credits. See UPC 325, RC 2.
  - Input TC 672 to reverse payments posted with a TC 670.
  - Send the necessary closing letter to the trust of the credits transferred.
- (8) **Trusts** must file on a calendar basis except for trusts exempt under IRC 501(a) or trusts described in IRC 4947. See IRC 644 for more information. If a trust files a short period final return, allocate the estimated tax payments made on Form 1041 among the beneficiaries as if the taxpayer filed a full 12-month Form 1041 return. For example, a trust filing a Form 1041-T for the tax period 201608: In this case the payments and any credit elect is likely on the 05/201612 module. Input CC ADD/ADC24 when transferring between master files (e.g., BMF and IMF or when transferring with a TC 820):
- Transfer the credits that are received by January 15 using the January 15 date of the year following the tax period ending date of the trust (including TC 716 credit elects) by debiting the MFT 05/201612 account with a TC 820 for the amount being transfer to an individual beneficiaries' account with a date of 01/15/2017.
  - Credit each individual beneficiaries' MFT 30/201612 account with a TC 700 for the amount being transferred and the same 01/15/2017 date.
  - Send the proper closing letter to the trust of the credits transferred.
- (9) An **estate** may file on a fiscal year basis. No matter what month the estate's final tax year ends in, credit payments to the beneficiary account using January 15 of the year following the end of that tax year. Therefore, any estate with a tax period ending in 2018 (201801 - 201812) is credited to the MFT 30/201812 account with a 01/15/2019 date. See the examples in the following 2 paragraphs.
- (10) **Example A:** An estate with a tax year ending on January 31, 2018, files a Form 1041-T on April 5, 2018. Transfer the estimated tax credits to an individual beneficiary's Form 1040 for 201812 effective January 15, 2019 which is the January 15th following the January 31 year end. Note that for the fiscal year estate, the ES payments are due on the 15th day of May 2018, July 2018 and October 2018 and February 2019. See IRC 6654(k)(1). Input CC ADD/ADC24 and:
- Transfer the credits through the 4th installment by debiting the MFT 05/201801 account with TC 820 for the amount being transfer to an individual beneficiaries' accounts with a 01/15/2019 date.
  - Credit each individual beneficiaries' MFT 30/201812 account with TC 700 for the amount being transferred using the same 01/15/2019 date.
  - Input an override indicator of "2" on both sides of the credit transfer.
  - Send the proper closing letter to the trust of the credits transferred.

(11) Example B: An estate with a tax year ending on October 31, 2018, files Form 1041-T on January 4, 2019. For an estate with a fiscal year ending in October, the ES payments are due on the 15th day of February 2018, April 15, 2018, July 15, 2018, and November 15, 2018. Input CC ADD/ADC24 and:

- Transfer the credits through the 4th installment by debiting the MFT 05/201810 account with TC 820 for the amount being transfer to an individual beneficiaries' account with a 01/15/2019 date.
- Credit each individual beneficiaries' MFT 30/201812 account with TC 700 for the amount being transferred using the same 01/15/2019 date.
- Input a designated payment code of "00" on the credit side of the credit transfer.
- Input an override indicator of "2" on both sides of the credit transfer.
- Send the proper closing letter to the trust of the credits transferred.

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- Suspend the case and send Letter 2305C explaining the reason for the rejection and request information for the disposition of the credit on the trust's account.
- The overpayment is applied to the trust or estate's account and may be refunded or applied as a credit elect to the trust's account for the next year.
- If no reply is received, refund the money and send Letter 2305C.
- To refund the credit and release the -P freeze, input an ADD24 credit transfer with a TC 820 debit and TC 700 credit to the same tax period using the due date of the return. This releases the freeze and allows the credit to refund.
- **EXCEPTION:** If the Form 1041 has not posted after the normal processing timeframe, send Letter 2305C explaining the reason for the rejection request and advise the taxpayer to file Form 1041 requesting a refund or credit elect. Close the case.

(13) The CII image is the source document on Form 1041-T cases and remains on CII for further recall if needed. If the TC 150 has posted to master file, the CII case is part of the electronic file.

(14) If TC 150 has not posted to master file and you are working a paper Form 1041-T case (non-CII), input TC 930 to have Form 1041-T attached to Form 1041 after action is completed.

21.7.4.4.1.12.3  
(10-01-2022)

**CP 208 Notice, Potential Credit Transfer Action Form 1041**

- (1) When Form 1041 posts with credit shown on the election line and the credit is not transferred, a -P freeze generates. The freeze is released when the module balance becomes zero or debit status.
- (2) If the freeze is not released within 6 cycles after the return has posted, a CP 208 Notice, *Potential Credit Transfer Action Form 1041* generates.
- (3) Action required:

If	Then
Form 1041-T is located (filed on or before the 65th day after the close of the taxable year)	Follow procedures in IRM 21.7.4.4.1.12.2.
Credit cannot be transferred due to Form 1041-T not being timely	<p>1. Correspond with or phone the trustee to explain the credit balance and why the credit cannot be applied to the beneficiaries' accounts.</p> <p>2. Request information for disposition of the credit.</p> <p>3. Suspend the case for 40 days awaiting the taxpayer's response.</p> <p>4. Upon receipt of the taxpayer's response, take the necessary action to resolve the -P freeze. Follow the procedures in IRM 21.7.4.4.1.12.2(12).</p> <p><b>Exception:</b> If the Form 1041 has not posted after the normal processing timeframe, send a Letter 2305C explaining the reason for the rejection request and advise the taxpayer to file Form 1041 requesting a refund or credit elect. Close the case.</p>

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#21.7.4.4.1.12.4  
(01-01-2005)**Balance Due Notices on IMF Accounts**

- (1) In situations where Form 1041-T is not processed because of late filing, the beneficiary may receive a balance due notice from the IMF account.
- (2) The Accounts Management employees (IMF and BMF) may need to coordinate resolution of the case when there is an indication the credits were to come from the trust's account. Action required:
  - a. Determine the status of Form 1041-T by researching the trust's account. (Form 1040, Schedule E, can provide the trust's Employer Identification Number (EIN).
  - b. If Form 1041-T is located and credit is available for transfer, follow procedures in IRM 21.7.4.4.1.12.2.
  - c. If there is no record of Form 1041-T being filed, or if Form 1041-T was filed and later rejected, send a letter to the beneficiary explaining the balance due is correct and they should contact the trust to resolve the balance due on the IMF account.



21.7.4.4.1.13  
(10-01-2024)

**Victims of Terrorism Tax Relief Act of 2001 - Tax Forgiveness**

- (1) The Victims of Terrorism Tax Relief Act of 2001 (the Act) was enacted on January 23, 2002. The Act amends IRC 692, by adding IRC 692(d) which provides that the IRS will forgive the federal income tax liability of those killed in the following attacks for certain tax years:
  - The April 19, 1995, attack on the Alfred P. Murrah Federal Building **(Oklahoma City attack)**.
  - The September 11, 2001, attacks on the World Trade Center, the Pentagon, and United Airlines Flight 93 in Somerset County, Pennsylvania **(September 11, attacks)**.
  - Terrorist attacks involving anthrax occurring after September 10, 2001, and before January 1, 2002, **(anthrax attacks)**.
  - The Military Family Tax Relief Act of 2003, amended IRC 692(d) to include families of astronauts whose death occurs in the line of duty after December 31, 2002. This includes the Space Shuttle Columbia heroes.
- (2) IRC 692(d) also allows that the minimum amount of relief for victims of the specified attacks is \$10,000. The \$10,000 minimum forgiveness applies to the original or amended Form 1040, *U. S. Individual Income Tax Return*, and Form 1041, *U. S. Income Tax Return for Estates and Trusts*. See the October 1, 2002, through October 1, 2007, revisions of this IRM for more information on the Victims of Terrorism Tax Relief Act of 2001 - Tax Forgiveness.
- (3) Refer all claims and inquiries referring to 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".

21.7.4.4.1.14  
(01-01-2005)

**Pooled Income Trusts Government National Mortgage Association (GNMA)**

- (1) Government National Mortgage Association (GNMA) Trusts are assigned a pool number which becomes the name of the trust with the first four digits of the pool number being the name control on the account. The fiduciary name is the owner of the GNMA Trust. When an EIN is assigned to a GNMA Trust pool number, it must remain with the pool number even when purchased by another fiduciary. ENMOD shows the pool number assigned to the GNMA Trust at the beginning of the first name line. Therefore, when a GNMA Trust account is sold, the EIN and pool number remain the same and only the fiduciary name changes.
- (2) GNMA Trust Pool Returns are Non-Taxable Grantor Trust returns which should contain no taxable income.
- (3) When a GNMA Trust is sold and bought during the year, each fiduciary files a short period return, which results in a Duplicate Filing Condition (DUPF). Determine which fiduciary is selling and which one is purchasing to perfect the fiduciaries name and address on ENMOD to the purchasing fiduciary.
- (4) It is not necessary to process the short period return to the current period. Adjust the account accordingly. The seller should show in box F and G; the pool number, that it is a final return, and the date of sale. The buyer should show in box F and G; the pool number, that it is an initial return, and the date of purchase. If you cannot determine which fiduciary is selling and which one

is buying from the available information, try to contact the taxpayer. If unable to secure the information, **DO NOT** change the care of/sort name line and the address currently on ENMOD.

- (5) If you receive a DUPF in which the pool number does not match the EIN:
- Search CC NAMEE for the correct EIN.
  - If unable to secure the correct EIN, contact the Fiduciary for the correct number.
  - If unable to obtain the correct EIN from the Fiduciary, send to Entity to assign a new number.
  - Wait for the new EIN to post. Reprocess the return to the new EIN after the new number posts.
  - Entity will send a notice to the taxpayer with the new EIN information.
  - See IRM 21.7.9, *Duplicate Filing Conditions*, for more information on processing DUPFs.

## 21.7.4.4.1.15

(11-20-2023)

**Form 5329, *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts, Received in Conjunction with Form 1041***

- (1) If an estate or trust is the recipient of a portion of an early distribution, or if the trust or estate does not receive at least the minimum required distribution (excess accumulations) from their Individual Retirement Arrangement (IRA), they may be required to file Form 5329 *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax Favored Accounts*. Estates and trusts not otherwise required to file Form 1041, may file Form 5329 by itself.
- (2) If the trust or estate does not receive at least the minimum required distribution, a 50 percent excise tax (penalty) is assessed on the excess accumulations. Part IX, Additional Tax on Excess Accumulation in Qualified Retirement Plans (Including IRAs), is completed when the taxpayer did not receive the minimum required distribution from their qualified retirement plan. The amount posts to master file as part of the TC 150.
- (3) If you receive a loose Form 5329 from a trust or estate reporting an addition to tax, and if:
- A TC 150 is not on the module, prepare a “dummy” Form 1041 for processing. Complete the entity section and write-in the amount of the addition to tax, on page 2, Schedule G, line 9. Write “Form 5329” to the left of the entry. Carry this amount from line 9 to line 24, total tax, on page 1 of Form 1041.
  - A TC 150 is on the module and the TC 150 amount is different than that reported on Form 5329 assess the additional tax with a TC 290 for the amount shown on Form 5329, allow CP 210/CP 220 to generate to the taxpayer.
  - A TC 150 is on the module and the amount reported on Form 5329 is the same amount as the TC 150, and is a Correspondence Imaging Inventory (CII) case, input 290 \$.00 and leave history item, “F5329N/C.” If not a CII case, associate the form with the TC 150 following local procedures.
- (4) The excise tax in Part IX can be waived if the taxpayer establishes the excess accumulation is due to a reasonable error and that steps were taken to correct the situation. If you receive a request for abatement on an account with TC 150 and you determine abatement of the 50 percent excise tax (penalty), abate with TC 291 and allow CP 210/220 Notice to generate to taxpayer.

- (5) If you receive a loose Form 5329 with no TC 150 and a request for abatement of the 50 percent tax in Part IX, you must prepare a dummy return as directed in paragraph (3) above. If you determine abatement of the 50 percent tax is necessary, enter \$.00 on page 2, Schedule G, line 9. Write "Form 5329" to the left of the entry. Carry this amount from line 9 to line 24, total tax, on page 1 of Form 1041. Send the taxpayer Letter 1803C, *IRA/Keogh Inquiry*, and advise them that we have waived the 50 percent additional tax.
- (6) If you receive a loose Form 5329 with a TC 150 on the account and a request for abatement of the 50 percent tax in Part IX, and you determine not to assess the 50 percent tax, close with a TC 290 for \$.00 and send the taxpayer Letter 1803C, *IRA/Keogh Inquiry*, and advise them that we have waived the 50 percent additional tax. If you decide to assess the additional tax, input with a TC 290 for the amount shown on Form 5329 and allow CP 210/220 to generate to the taxpayer.
- (7) Only the additional tax reported in Part IX on Excess Accumulations is waived. If a taxpayer requests abatement of the 6 percent, 10 percent or 15 percent addition to tax in Parts I through Parts VIII, check the *Instructions for Form 5329* for exceptions to when the additional tax does not apply. If no exception applies, send Letter 916C, *Claim Incomplete for Processing; No Consideration*, and advise the taxpayer that there are no provisions to waive the additional tax.

21.7.4.4.1.16  
(10-01-2023)  
**United States  
Department of  
Agriculture (USDA)  
Discrimination  
Settlement Payments**

- (1) The United States Department of Agriculture (USDA) paid cash settlements and granted loan cancellations to various groups of farmers pursuant to settlements approved throughout the years. The settlements resulted from discrimination suits brought against the USDA by the farmers.
- (2) Taxpayers may use terms other than "USDA" when communicating about these claims. Some frequently used terms include:
  - Pigford
  - Pigford II
  - Black Farmers Lawsuit/Settlement Cases
  - Keepseagle/Native Americans
  - Hispanic and Women Farmers and Ranchers
- (3) The settlement amounts fell into three categories:
  - \$50,000 cash payment
  - Forgiveness of the principal and interest on certain debts (amounts varied by claimant)
  - A payment toward tax equal to 25 percent of the total of the \$50,000 payment and the forgiveness of the debt principal (but not the interest)
- (4) Most taxpayers received these payments over a period of two years, the cash payment and the debt forgiveness occurred in one year, and the tax payment is remitted to IRS in the following year. The cash payment and the tax payment (the 25 percent amount) are taxable income. The forgiveness of debt is generally taxable income excludable under certain circumstances. The payment of tax (25 percent payment):
  - Is claimed as an estimated tax payment for the tax year the settlement/debt forgiveness is received.

- Is made directly to IRS by the USDA on behalf of the taxpayer and since the taxpayers did not make this payment, they may forget to claim the credit on their return.
  - Is identified by the unique Document Locator Number (DLN) of 52217 or 43217 (013/014) 9XX.
  - Will show a J – Freeze on the module if the farmer does not claim the estimated tax payment. See IRM 21.5.6.4.19, *J- Freeze*.
  - Is reported as taxable income for the year the payment is applied to the taxpayer's account.
- (5) Keepseagle and Pigford II settlements and Hispanic and Women Farmers and Ranchers settlements are divided into two categories:
- Track A - claimants received an award of up to \$50,000 plus an additional 25 percent in federal income tax withholding (for a total of up to \$62,500).
  - Track B - claimants received up to \$250,000 with no income tax withheld.
  - Track A and Track B - claimants may have also received debt forgiveness.
  - Both Track A and Track B claimants were issued a Form 1099-MISC, Miscellaneous Income, along with an instructional notice prepared by a third-party (not the IRS) advising the farmer how to correctly report the settlement.
  - Farmers who had debt forgiveness received a Form 1099-C, Cancellation of Debt.
- (6) If the recipient of this settlement is deceased, the executor of the estate must file a Form 1041. The recipient will receive a Form 1099 filed under the Employer Identification Number (EIN) of a trust or estate, or the Social Security Number (SSN) of the decedent.
- (7) If the estate or trust received a Form 1099 showing federal income tax withheld, it will check the box and include the amount withheld on income retained by the estate or trust in the total for line 24e.
- (8) Route U.S. Discrimination cases involving Form 1041 taxpayers or deceased taxpayers to the Kansas City campus. Complete Form 4442, *Inquiry Referral*, and e-fax to Kansas City AM, P & A, Bryan Becker, at 816-499-5161. Include a day and evening phone number for the taxpayer. See IRM 21.6.4.4.9.3, *U.S. Discrimination Settlement Payments*, for more information.

21.7.4.4.1.17  
(03-11-2024)  
**Wrongful Incarceration  
Exclusion**

- (1) Under Section 139F a wrongfully incarcerated individual excludes from gross income any civil damages, restitution, or other monetary award (including compensatory or statutory damages and restitution imposed in a criminal matter) relating to their incarceration for the covered offense for which they are convicted. A covered offense is any criminal offense under federal or state law, including any criminal offense arising from the same course of conduct as that criminal offense. This exclusion applies whether or not the wrongfully incarcerated individual suffered a personal physical injury or physical sickness.
- (2) A wrongfully convicted individual is an individual who is convicted of a covered offense, served part or all of a sentence of imprisonment relating to the covered offense and meets any one of the following requirements:

- The individual is pardoned, granted clemency, or granted amnesty for that covered offense because the individual is innocent of that covered offense; or
  - The judgment of conviction for the individual for that covered offense is reversed or vacated and the indictment, information, or other accusatory instrument for that covered offense is dismissed; or
  - The judgment of conviction for the individual for that covered offense is reversed or vacated and the individual is found not guilty at a new trial after the judgment of conviction for that covered offense is reversed or vacated.
- (3) Section 139F applies to taxable years beginning before, on, or after section 139F was enacted into law. A wrongfully incarcerated individual who included an award in income may file a claim for refund the later of the following:
- Within 3 years from the date the individual filed the income tax return that previously reported the award or
  - 2 years from the date the individual paid the tax on the award.
- (4) The fiduciary of an estate, such as an executor or administrator, may claim a refund on behalf of a decedent who included in income in a prior tax year an award qualifying for the Wrongful Incarceration Exclusion. If the estate received a posthumous award and included it in income for a prior tax year on Form 1041, the fiduciary must file an amended Form 1041 for the estate to exclude the award from income and a claim a refund. See Pub 559, *Survivors, Executors, and Administrators*, for more information.
- (5) Kansas City Submission Processing expeditiously processes the claims. Assign ALL exonerated prisoner claims to IDRS 0933578782 with category code **XRET**. Update the case note with **exonerated prisoner claim**. See IRM 21.6.6.2.31, *Tax Treatment of Compensation for Exonerated Prisoners*, for more information.
- (6) If an award does not qualify for the exclusion from income under Section 139F and IRM 21.7.4.4.1.17(1), it may qualify for exclusion from income under Section 104(a)(2). The exclusion from income under Section 104(a)(2) applies to compensatory damages for personal physical injuries or physical sickness (including damages for economic losses flowing from the personal physical injuries or physical sickness) that an individual receives from a state for wrongful incarceration or conviction. Exclude these compensatory damages from income whether they are received in a lump sum, periodic payments, or a factoring transaction.

21.7.4.4.1.18  
(10-01-2023)

module to set the –R freeze to hold any refund until a review of the module is completed.

(2) Identify these accounts by a TC 570 with all fives in the blocking series and serial number of the Document Locator Number (DLN), i.e., XXXXX-XXX-55555-X.

(3) If an inquiry is received from a Form 1041 filer inquiring about the expected refund, research the account for a TC 570 posted to the account as described in the paragraph above.

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- (4) If the tax module contains a TC 570 with all fives, prepare a Form 4442 and notate “unreversed TC 570”, and leave a history item on IDRS of “TC570ALL5S” and “ROUTETOFRP”, and route to:  
Internal Revenue Service  
Attn: FRP M/S 4450  
1973 N. Rulon White Blvd.  
Ogden, UT 84404
- (5) Advise the taxpayer that their inquiry is being forwarded to another department for resolution and apologize for the delay in resolving the issue.
- (6) Effective January 1, 2017, Computer Condition Code “E” (CCC) is edited on Form 1041, Form 1041-N, and/or Form 1041-QFT, (any year) if it is determined that the return is a potential identity theft filing. See IRM 3.11.14.8.4, *CCC E - Potential ID Theft Filing*, for additional information.
- (7) If a tax examiner in Submission Processing (SP) Code and Edit (C&E) finds a case with attachments or correspondence indicating the taxpayer is a victim of ID Theft, the case is referred to one of the SP BMF ID Theft liaisons. If the SP BMF Theft Liaison says the return is ID Theft, the tax examiner will edit CCC “E”. See IRM 25.23.11.6.3, *BMF Returns Selected for RICS Review*, for additional information.
- (8) When CCC “E” is edited on a return a TC 971 AC 711 will post to IDRS master file. This TC 971 code will cause the return to post as a TC 973 instead of a TC 150. In addition, a Letter 6042C is sent to the taxpayer requesting them to validate the filing of the return.

**Note:** As of June 2018, 6042C Letter replaced Letter 5263C.

**Caution:** Only RICS can reissue this letter.

- (9) If the taxpayer contacts the IRS by telephone and the criteria above is met, follow the guidance in IRM 25.23.11.6.3, *BMF Returns Selected for RICS Review*. If correspondence is received responding to the 6042C Letter, route to:  
RICS Unit, OSC  
Mail Stop 9002  
Ogden, UT 84401
- (10) For more information on potential BMF identify theft, see IRM 25.23.11.4, *Business Master File (BMF) ID Theft Research*.

21.7.4.4.2  
(10-01-2023)  
**Form 1065, U.S. Return  
of Partnership Income**

- (1) A partnership is a relationship between two or more persons who join to carry on a trade or business. The term partnership includes a limited partnership, syndicate, group, pool, joint venture, or other unincorporated organization, through or by which any business, financial operation, or venture is carried on that is not a corporation, trust, estate, or sole proprietorship. (See Publication 541, *Partnerships*, for additional information.)
  - a. Each partner contributes money, property, labor, and/or skill and all expect to share in the profits and losses of the business.
  - b. The partnership must file a Form 1065 to report its taxable income or loss.



- c. Each partner's distributive share of the income or loss is reported by the partnership to the partner on a Schedule K-1.
  - d. Each partner must make estimated tax payments if necessary.
- (2) Every partnership that engages in a trade or business, or has gross income, must file an information return on Form 1065 showing its income, deductions and other required information. A partnership **is not** considered to engage in a trade or business, and is not required to file a Form 1065, for any tax year in which it neither receives income nor pays or incurs any expenditures treated as deductions or credits for federal income tax purposes. See IRM 21.7.4.4.2.8.1, for information on partnerships with more than 100 partners.
- (3) See IRM 21.7.4.4.2.3, *Form 1065 Return Due Dates - Tax Periods Beginning on or Before December 31, 2015*, and IRM 21.7.4.4.2.3.1, *Form 1065 Return Due Dates Tax Periods Beginning After December 31, 2015*, for information on the return due date for Form 1065 returns. In addition, see IRM Exhibit 3.11.15-3, *Due date Chart, for Form 1065* due dates.
- (4) Form 1065 isn't considered a return unless it is signed by a partner or LLC member manager. The fact that a partner's name is signed on the return, it is prima facie evidence that such partner is authorized to sign the return on behalf of the partnership. When a return is made for a partnership by a receiver, trustee, or assignee, the fiduciary must sign the return, instead of the partner or LLC member manager. See "**Who Must Sign**" in the *Instructions for Form 1065* when the partnership is in bankruptcy and the return is made by a receiver or trustee.
- (5) The MFT is 06 and the tax class is 3. Use blocking series 00 when making adjustments when the original return is secured and blocking series 17 without the original return.
- (6) The name control of a partnership is the first four letters of the legal name of the partnership. See IRM 21.7.13.5.3.6, *CC ESIGN Input: Partnerships*, and *Document 7071-A, BMF Name Control Job Aid*, for more information on name control.
- (7) A married couple jointly owning and operating an unincorporated business and share in the profits and losses, are considered partners in a partnership and must file Form 1065. For tax years beginning after December 31, 2006, the Small Business and Work Opportunity Tax Act of 2007 (Public Law 110-28) provides that a "qualified joint venture", whose only members are a husband and a wife filing a joint return, can elect not to be treated as a partnership for Federal tax purposes. In addition, per the Instructions for Form 1065, if the taxpayer and their spouse materially participate as the only members of a jointly owned and operated business, and they file a joint return for the tax year, they can elect to be treated as a qualified joint venture instead of a partnership.
- (8) A qualified joint venture is a joint venture that conducts a trade or business where:
  - The only members of the joint venture are a husband and wife who file a joint return.
  - Both spouses materially participate in the trade or business.
  - Both spouses elect not to be treated as a partnership. A qualified joint venture, for purposes of this provision, includes only businesses owned



and operated by spouses as co-owners, and not in the name of a state law entity (including a general or limited partnership or limited liability company). The spouses must share the items of income, gain, loss, deduction, and credit in accordance with each spouse's interest in the business.

- (9) Beginning with 200712, these taxpayers make the election on a jointly filed Form 1040 by dividing all items of income, gain, loss, deduction, and credit between them in accordance with each spouse's respective interest in the joint venture. For more information, see the *Married Couples in Business* information on the IRS website.
- (10) For cases involving potential identity theft and RICS involvement, refer to IRM 25.23.11.6.3, *BMF Returns Selected for RICS Review*, for additional guidance.
- (11) For more information on potential BMF identity theft, see IRM 25.23.11.4, *Business Master File (BMF) ID Theft Research*.

21.7.4.4.2.1  
(10-01-2022)  
**Form 1065-B, U.S.  
Return of Income for  
Electing Large  
Partnerships**

- (1) For tax years beginning on or after January 1, 2018, Form 1065-B is no longer filed according to the Bipartisan Budget Act (BBA) of 2015. The BBA replaced the auditing and tax collection procedures for partnerships under the Tax Equity and Fiscal responsibility Act of 1982 (TEFRA) and the electing large partnership rules with the centralized partnership audit regime.

21.7.4.4.2.2  
(10-01-2022)  
**Publicly Traded  
Partnerships**

- (1) The Revenue Reconciliation Act of 1987 (1987 Act) enacted provisions relating to publicly traded partnerships (PTPs). A PTP is defined as any partnership whose partnership interests are (1) traded on an established securities market, or (2) readily tradable on a secondary market (or the substantial equivalent thereof). In general, a PTP is treated as a corporation, unless 90 percent or more of the gross income of such partnership for such taxable year consist of certain qualifying income.
- (2) The Taxpayer Relief Act of 1997 amended provisions of the 1987 Act and imposed for each taxable year on the income of each electing 1987 partnership a tax equal to 3.5 percent of such partnership's gross income for the taxable year from the active conduct of trades and businesses by the partnership. An "electing 1987 partnership" means any publicly traded partnership if:
  - Such partnership is an existing partnership (as defined in section 10211(c)(2) of the Revenue Reconciliation Act of 1987).
  - Section 7704(a) has not applied (and without regard to subsection 7704(c)(1) would not have applied) to such partnership for all prior taxable years beginning after December 31, 1987, and before January 1, 1998.
  - Such partnership elects the application of 7704(g)(3), for its first taxable year beginning after December 31, 1997.

A tax of 3.5 percent of such partnership's gross income receipts is imposed for the taxable year from the active conduct of trades and businesses of the partnership. Therefore, the TC 150 may be for a significant amount.

- (3) There are less than 10 electing partnerships in the country. These partnerships file returns in Ogden Submission Processing Center (OSPC).
- (4) The doc code for these returns is 67.

- (5) Programming is available to assess tax on original input in 2002. If a tax adjustment is required, use the following procedures:

- Input TC 290 or 291 to adjust to correct amount
- It is not necessary to input with a credit reference number

**Exception:** TCs 766/767 are the only other valid transaction codes. The credit reference number which posts on the transcript as TC 766 or 767 identifies the type of credit, e.g., fuel tax credit, or IRC 965 tax credits.

**Note:** If the TC 766 or TC 767 has a CRN 263, it relates to the IRC 965 Deferred Tax Amount. Generally, the TC 766 CRN 263 is generated to offset the TC 150 tax liability for the 965 deferred tax amount. Since partnerships are pass-through entities, most of them do not have a tax liability or TC 150. However, an Electing Large Partnership may have a TC 150 to report their income, gains, losses, deductions, etc., and related tax adjustments. See IRM 21.5.13, *IRC 965 Transition Tax*

for more information.

- Make credit transfers if necessary. However, credit elect is not available on these forms.

21.7.4.4.2.3  
(03-11-2024)

#### Form 1065 Return Due Dates

- (1) Partnerships are generally required to have a tax year that conforms to the majority of its partners. Most partnerships file Form 1065 on a calendar year end basis. Two exceptions to this rule include:

**Exception:** 1 The partnership can establish a business purpose for having a different tax year ending date. This is identified by TC 054 on cc ENMOD.

**Exception:** 2 The partnership elects under IRC 444 to have a tax year other than a required tax year by filing Form 8716, *Election to Have a Tax Year Other Than a Required Tax Year*. This is identified by TC 055 on cc ENMOD. Partnerships who make the Section 444 election must make the payments required by section 7519 and file Form 8752, *Required Payment or Refund Under Section 7519*. See IRM 21.7.4.4.7 for more information on filing Form 8752.

- (2) **For taxable years beginning before January 1, 2016**, Form 1065 is due on or before the 15th day of the fourth month following the close of the tax year.

If Year End is:	Then Due Date is:
December	April 15th
January	May 15th
February	June 15th
March	July 15th
April	August 15th

If Year End is:	Then Due Date is:
May	September 15th
June	October 15th
July	November 15th
August	December 15th
September	January 15th
October	February 15th
November	March 15th

- (3) **For taxable years beginning before January 1, 2016**, the partnership can file Form 7004, *Application for Automatic Extension of time to File Certain Business Income Tax, Information, and Other Returns* to request an automatic 5-month extension of time to file. Taxpayers are required to file Form 7004 by the original return due date. For more information on extensions see IRM 21.7.4.4.2.5 IRM 21.7.4.4.2.6, *Extensions of Time to File Form 1065*.

**Example:** If the Form 7004 is filed by April 15th for a calendar year end partnership, the return is due on or before September 15th.

- (4) **For taxable years beginning after December 31, 2015**, Section 2006(a)(1) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P.L. 114-41 (the Act) changed the Form 1065 return due date. The Form 1065 is filed on or before the 15th day of the third month following the close of the tax year. This is the date the partnership tax year ended, as shown on the top of Form 1065.

If Year End is:	Then Due Date is:
December	March 15th
January	April 15th
February	May 15th
March	June 15th
April	July 15th
May	August 15th
June	September 15th
July	October 15th
August	November 15th
September	December 15th
October	January 15th
November	February 15th

- Example:** If the Form 7004 is filed by March 15th for a calendar year end partnership, the return is due on or before September 15th.

- 21.7.4.4.2.3.1  
(10-01-2021)  
**Form 1065 Short Period  
Final Returns with Tax  
Period Beginning After  
December 31, 2015**

- (1) The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P.L. 114-41, changed the due date for filing Form 1065 partnership returns and is effective for taxable years beginning after December 31, 2015. See IRM 21.7.4.4.2.3, *Form 1065 Partnership Return Due Dates*, for more information.
- (2) The return due date for Form 1065 partnership returns with a taxable year beginning after December 31, 2015 has changed from the 15th day of the fourth month (April 15th for calendar year filers) to the 15th day of the third month (March 15th for calendar year filers) following the close of the tax year.
- (3) Form 1065 partnerships filing short period or short period technical terminations under IRC 708(b)(1)(B) (see IRM 21.7.4.4.2.9, *Form 1065 and Form 1065X, Amended Return, Administrative Adjustment Request (AAR) and Bipartisan Budget Act (BBA)*), or final returns with tax years beginning after December 31, 2015, may not be processed correctly during 2016. Short period partnership returns are assigned computer condition code (CCC) "Y." Partnership returns marked final are coded with CCC "F." Partnership returns coded CCC Y or F are manually reviewed to ensure correct processing.

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21.7.4.4.2.3.2

(06-04-2018)

**Form 1065 for Tax  
Period 201512 – Return  
Received Date Problem**

- (1) A problem was identified during the processing of some Form 1065, *U.S. Return of Partnership Income Tax Returns*, which resulted in late return received dates being recorded for some timely filed partnership returns. Returns postmarked April 18, 2016 may have an assessed TC 166 Failure to File Penalty (FTF).
- (2) The 2015 calendar year (201512) Form 1065 filing date was due on April 15, 2016. However, Friday, April 15, 2016 was a legal holiday in the District of Columbia (Emancipation Day) and April 16, 2016 was a Saturday and April 17, 2016 was Sunday. IRC 7503 provides the filing (the postmark date) on April 18, 2016 is considered timely if April 15, 2016 is a Saturday, Sunday, or legal holiday in the United States or District of Columbia, and April 18, 2016 is the next day that isn't a Saturday, Sunday, or legal holiday in the United States or District of Columbia.

- (3) If an inquiry is received from a taxpayer or their representative stating that the

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taxpayer's statement and abate any late filing penalty assessed by inputting Penalty Reason Code 045 and Hold Code 0. This will result in a CP 210 Notice being issued when the FTF penalty is abated.

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the taxpayer states that the return was mailed on or before 4/18/2016, then request the return from files to review the postmark date. If the postmark is on or before 4/18/2016, but privately metered (not US Post Office or designated private delivery service), and:

- If the return was received within 14 days following the postmark date; abate the penalty with penalty reason code 045.
- If the return was received more than 14 days following the postmark date, inform the taxpayer that the postmark date is not accepted as proof of timely mailing because the return was not delivered within the normal delivery period following the postmark date.
- If the postmark is on or before 4/18/2016, **AND** it is a US Post Office post mark or designated private delivery service receipt, then abate the penalty with reason code 045 regardless of return received date.
- If the postmark is after 4/18/2016, do not abate the penalty. Explain that the return was filed late because it was mailed after the return due date.

21.7.4.4.2.4  
(10-01-2022)  
**Schedules K and K-1  
(Form 1065)**

- (1) Schedule K (Form 1065), **Partners' Distributive Share Items, and Schedule K-2 (Form 1065), Partners' Distributive Share Items—International**, contain the total amount for each applicable item. Schedule K-1 (Form 1065), **Partner's Share of Income, Deductions, Credits, etc.**, and Schedule K-3 (Form 1065), **Partner's Share of Income, Deductions, Credits, etc.—International**, contain the partner's distributive share of the total amount of each applicable item. Schedules K-1 and K-3 are attached to Form 1065. The partnership provides the partner its applicable Schedules K-1 and K-3.
- (2) For loose Schedules K-1 and K-3 received, determine if they were sent due to possible assertion of a missing information penalty. See IRM 20.1.2.4.3, *Penalty Relief*, and IRM 21.7.4.4.2.7. Follow the table directly below.

If	Then
A Missing Information Penalty (TC 246 or TC 240 with no reference number) was assessed	Adjust the penalty per IRM 20.1.2.4.3, <i>Penalty Relief</i> .
No penalty was assessed	Associate the Schedule(s) K-1 and K-3 with the return using Form 9856, Form 10023, or any other locally approved form/procedure. Input a TC 290 for \$.00 if associating the document with an electronic return. See IRM 21.5.1.4.4, <i>Processing of Loose Forms or Schedules</i> , for CII images. Do not use blocking series 18 whenever inputting TC 290 \$.00 to associate a loose form or schedule with the TC 150.
TC 150 is not posted	Input TC 930 to have document returned to you when the return posts to assure a Missing Information Penalty was not assessed in error. See IRM 21.5.1.5.7, <i>CII Push Codes</i> , if this is a CII case.

21.7.4.4.2.4.1  
(11-07-2022)  
**Schedule K-2 and  
Schedule K-3**

- (1) Schedule K-2, *Partners' Distributive Share Items-International*, and Schedule K-3, *Partner's Share of Income, Deductions, Credits, etc.-International*, are new for the 2021 tax year. These schedules replace, supplement and clarify the former line 16, *Partners' Distributive Share Items, Foreign Transactions*, of Schedule K, Form 1065, and line 16, *Foreign Transactions*, of Schedule K-1 (Form 1065). They also replace, supplement and clarify reporting of certain amounts formerly reported on Form 1065, Schedule K, Line 20c, *Other items and amounts*, and Schedule K-1, Part III, line 20, *Other information*.
- (2) The new schedules assist partnerships in providing partners with the information necessary for the partners to complete their returns with respect to the international tax provisions of the Internal Revenue Code. For example, the new Schedule K-3 provides information necessary for corporate and individual partners to figure their foreign tax credit on Form 1118, Foreign Tax Credit - Corporations, and Form 1116, Foreign Tax Credit (Individual, Estate or Trust).
- (3) Schedule K-2 is an extension of Schedule K of Form 1065 and is used to report items of international tax relevance from the operation of a partnership.
- (4) Schedule K-3 is an extension of Schedule K-1 (Form 1065) and is generally used to report to partners their share of items reported on Schedule K-2. Partners generally use the information reported on Schedule K-3 to complete their tax or information returns.



- (5) Any partnership required to file Form 1065 that has items relevant to the determination of the U.S. tax or certain withholding tax or reporting obligations of its partner under the international provisions of the Internal Revenue Code must complete the relevant parts of Schedules K-2 and K-3. The partnership need not complete this schedule if the partnership does not have items of international tax relevance.
- (6) *Notice 2021-39* announces transition relief for taxable years that begin in 2021 with respect to Schedules K-2 and K-3 required for Forms 1065. Section 2 provides background on the new schedules and the penalties that may apply for failure to file or show information on a partnership return, failure to file correct information returns, and failure to furnish complete payee statements. Section 3 provides transition relief from the penalties described in Section 2 if the filer establishes to the satisfaction of the Commissioner that it made a good faith effort to comply with the filing requirements. See the *Schedules K-2 and K-3 Frequently Asked Questions (Forms 1065, 1120S, and 8865)* for more information regarding clarification and additional exceptions for tax year 2021.
- (7) See *Partnership Instructions for Schedules K-2 and K-3 (Form 1065)* for additional information needed to complete Schedules K-2 and K-3.

21.7.4.4.2.5  
(10-01-2019)  
**Extensions of Time to  
File Form 1065**

- (1) Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information and Other Returns*, is used to request an automatic extension of time to file certain business income tax, information, and other returns. An extension of time to file Form 1065 is granted if the taxpayer completes Form 7004 properly and files the form by the due date of the Form 1065.
- (2) Beginning January 1, 2009, the extension of time to file partnership returns granted an automatic five-month extension and is only effective until tax years ending on, or before December 31, 2015.
- (3) Section 2006(a) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P. L. 114-41, changed the due date for filing the tax return of a partnership, and the date by which a partnership must file Form 7004 for partnership returns have changed. Additionally, section 2006(b) allowed for a six-month extension of time to file Form 1065. The provisions are effective for tax years beginning after December 31, 2015:
  - The due date of a partnership return, in which Form 7004 is filed, for a partnership return is the 15th day of the third month following the close of the partnership's tax year.
  - The duration of the automatic extension of time to file Form 1065 has increased to six months.
- (4) Due to the late date that the legislation was passed, interim guidance was developed to handle extension requests received in 2016.

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- (5) For more general information see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns, Tax Periods Beginning on or Before December 31, 2015*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns, Tax Periods Beginning After December 31, 2015*.

21.7.4.4.2.5.1  
(10-01-2016)

**Taxpayers Abroad**

- (1) Partnerships are entitled to an automatic 2 - 3-month extension to file and pay under certain conditions outlined in IRM 20.1.2.2.3.3, *Taxpayers Abroad*. When a partnership return is identified during processing as qualifying for the extension, Code and Edit will enter Computer Condition Code (CCC) "R" on the return if the return is filed by the extended return due date, and it will also enter CCC "D" on the return if the tax shown on the return is paid by the extended return due date.
- (2) CCC "R" is **not** entered on returns that were filed after the extended return due date, nor is CCC "D" entered on returns where the tax shown on the return is not paid by the extended return due date. This presents a problem since BMF does not recognize the automatic extension without manual intervention.
- (3) A partnership may respond to a penalty notice by indicating that it qualifies for the extension under 26 CFR 1.6081-5 or 26 CFR 1.6081-5T. Before taking any action verify that it does qualify (see IRM 20.1.2.2.3.3, *Taxpayers Abroad*). If the partnership qualifies, input TC 460 to allow an extension to the 15th day of the sixth month following the end of the tax period. This will cause the Failure to File penalty to recompute.
- (4) Since there is no way to input an extension of time to pay, the Failure to Pay penalty for paying late needs a manual adjustment if the Form 1065 reported tax and the partnership did not pay the tax on the return due date.
- If the automatic extension is a three-month extension, multiply the unpaid tax on the original return due date by 1.5 percent (0.015).
  - If the automatic extension is a two-month extension, multiply the unpaid tax on the original return due date by 1.0 percent (0.010).
- (5) Input TC 271 for the computed amount as a negative number. Use reason code 062 (so as not to restrict the FTP penalty) and penalty reason code 030. Use hold code 0 to allow issuance of an adjustment notice.

21.7.4.4.2.6  
(01-01-2005)

**Publication 541,  
Partnerships**

- (1) Use Publication 541, *Partnerships*, to determine the various forms and schedules required as attachments to Form 1065.

21.7.4.4.2.7  
(10-01-2024)  
**Partnership Penalties**

- (1) Partnerships may be assessed a penalty under IRC 6698(a)(1) for failure to timely file a return, including extensions (TC 160/TC 166) or a failure to provide information penalty (TC 240/246) under IRC 6698(a)(2), when Form 1065 is lacking the required information such as Schedules K-1, or a balance sheet. See IRM 20.1.2.4, *Failure to File Partnership Return - IRC 6698*, for more information. However, if the taxpayer supplies the information in a specified time period or states they are not required to file the form for which the penalty is charged, they may qualify for penalty abatement. See IRM 20.1.2.4.3, *Penalty Relief*, for more information. See IRM 3.12.15.4.41, *Field 01MSC, Missing Schedule Code*, for additional information on missing schedule codes:

Missing Schedule Code	Code Number
Schedules K-1	33
Schedule L (Balance Sheet)	34
Schedules K-1 and Schedule L	36
Schedule K	45
Schedule K and Schedules K-1	46
Schedule K and Schedule L	47
Schedule K, Schedules K-1 and Schedule L	49

- (2) The penalty is computed by multiplying the rate by the number of months or portions of a month late by the number of persons who were partners in the partnership for that year.
- (3) Beginning in 2022, the Form 1065 late and missing information penalties are assessed using the TC 240/246 PRN 722/723. After December 31, 2021, TC 16X will no longer be used to assess IRC 6698/6699 penalties. The penalties are assessed as follows:
- TC 24X and PRN 722 = Late Filing Penalty
  - TC 24X and PRN 723 = Missing/Incomplete Information Penalty

These will include IRN 851, 852 and 853 as outlined in the table below:

	IRN 851 Meaning	IRN 852 Meaning	IRN 853 Meaning
PRN 722	Number of partners for MFT 06  Number of residual interest holders for MFT 07	Number of months	N/A

	IRN 851 Meaning	IRN 852 Meaning	IRN 853 Meaning
PRN 723	Number of partners for MFT 06	Number of months	Missing Schedule

**Note:** See IRM 20.1.2.4.3, *Penalty Relief*, for more information to process penalty relief requests for the above penalties.

- (4) Small partnerships, i.e., a partnership that has 10 or fewer partners, may qualify for a statutory exception. See IRM 20.1.2.4.3.1, *Revenue Procedure 84-35*, for details. Also, see IRM 20.1.1.3, *Criteria for Relief from Penalties*, for more information on penalty relief, including reasonable cause.
- (5) For information on penalties involving the requirement for large partnerships to file electronically, see IRM 21.7.4.4.2.8.1.1.
- (6) Section 8, Modification of Penalty for Failure to File Partnership Returns; Limitation on Disclosure, of the Mortgage Forgiveness Debt Relief Act of 2007, P.L. 110-142, increased the failure to file penalty and failure to file a complete return penalty on Form 1065 Partnership returns from \$50 a month per partner to \$85 per month per partner. The provision also increased the time period for calculating the penalty from five months to 12 months. The changes are effective for returns that are due on or after January 15, 2008 and before January 1, 2009. See the 10/01/2015 and prior revision of this IRM for the penalty rate for tax periods 200808 and prior.
- (7) Per Chief Counsel, the Failure to File Penalty increases to \$200 per partner, per month, for a maximum of 12 months, for returns due after December 31,

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below:

Tax Periods	Base Penalty Amount	For a Maximum of
For returns <b>due</b> after December 31, 2009, and on or before December 31, 2017 - Tax periods ending 201001 through 201709	\$195	12 Months

<b>Tax Periods</b>	<b>Base Penalty Amount</b>	<b>For a Maximum of</b>
For returns <b>due</b> between January 1, 2018, and December 31, 2019 (without regard to extensions) - Tax periods ending 201710 through 201909	\$200	12 Months
For returns <b>due</b> between January 1, 2020, and December 31, 2020 (without regard to extensions) - Tax periods 201910 through 202009	\$205	12 Months
For returns <b>due</b> between January 1, 2021 and December 31, 2022 (without regard to extensions) - Tax periods 202010 through 202209	\$210	12 Months
For returns <b>due</b> between January 1, 2023 and December 31, 2023 (without regard to extensions) - Tax periods 202210 through 202309	\$220	12 Months
For returns <b>due</b> after January 1, 2024 and subsequent (without regard to extensions) – Tax periods ending 202310 through 202409	\$235	12 Months

**Example:** The following examples show how the penalty is calculated:

Example 1 - A fiscal year return that begins November 1, 2016 and ends October 31, 2017 is due January 15, 2018. Because the return is due in 2018, the penalty increases to \$200 per partner, per month, for a maximum of 12 months.

Example 2 - A fiscal year return that begins October 1, 2016 and ends September 30, 2017 is due December 15, 2017. Because the return is due in 2017, the penalty remains at \$195 per partner, per month, for a maximum of 12 months.

**Note:** Penalty rates as adjusted for inflation are published at least annually via Internal Revenue Bulletin and in return instructions before they take effect.

- (8) For more information regarding the penalty computation, see IRM 20.1.2.4.2, *Penalty Computation*, and the instructions for Form 1065.

21.7.4.4.2.7.1  
(04-28-2017)

**Form 1065 Failure to File  
Penalty and CP 575  
Notice**

- (1) When taxpayers apply for an Employer Identification number they receive a CP 575 Notice. Taxpayers with Form 1065 filing requirements receive a CP 575B Notice or a CP 575D Notice which instructs them of the return due date (RDD) for that form. New partnerships who failed to file on time may request penalty abatement while stating that they filed late because of an incorrect return due date on the CP 575B/D. The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 changed the RDD for partnerships and is effective for tax years beginning after December 31, 2015. Per the Act, the RDD for partnerships changed from the 15th day of the fourth month to the 15th day of the third month. However, CP 575B/D notices that were printed before programming was updated (July 2016) to print the new due date would have stated that the return was due by the 15th day of the fourth month when in fact the RDD changed to the 15th day of the third month.
- (2) If you receive contact from a taxpayer stating that they received a CP 575B or CP 575D Notice with the incorrect information, request a copy of the notice from the taxpayer. If the taxpayer can send/fax us a copy of the notice, abate the FTF penalty with PRC 044 for written advice, and if they can't produce a copy, then abate the FTF penalty with PRC 018 for first-time abatement. Apologize for the inconvenience.

**Note:** A CP 575B/D for a tax period beginning before 1/1/2016 is not taken into consideration. The Form 1065 instructions for 2015 returns clearly stated that the return due date would change to the 15th day of the 3rd month for tax periods beginning after 12/31/2015.

21.7.4.4.2.7.2  
(10-01-2022)

**Form 5471 Penalties for  
Partnerships**

- (1) Beginning January 2009, master file systemically assesses IRC 6038 penalties on Form 5471, *Information Return of U.S. Persons With Respect to Certain Foreign Corporations*, attached to a late filed Form 1065. The penalty is \$10,000 per Form 5471 attached to the late filed Form 1065.
- (2) The systemically assessed Form 5471 penalty appears on MFT 13 as a TC 240 with Penalty Reference Number (PRN) 623 for 2009 and as PRN 599 for 2010 and subsequent years. See IRM 20.1.9.3, *IRC 6038 - Information Reporting With Respect to Foreign Corporations and Partnerships*, for more information. See IRM 20.1.9.5, *IRC 6038A(d) - Information Reporting for Certain Foreign-Owned Corporations*, for more information. Both penalties carry doc code 54, and 00 as the first two digits of the blocking series.
- (3) Manually assessed penalties by Exam will post as TC 240 with PRN 623 for failure to file Form 5471. The doc code is 54 (or 51, if it's a quick or prompt assessment). BMFOLA will show that the input employee is in one of the Exam CCP teams in Cincinnati, Memphis, or Ogden. Accounts Management (AM) does not consider penalty abatement requests for the penalties assessed by Exam. Exam will consider all penalty abatement requests for Exam (manually) assessed Form 5471 Failure to File (FTF) penalties.

- (4) A CP 215 Notice, Civil Penalty - 500 and 600 Series, generates as a result of the TC 240 penalty assessment on the MFT 13 module. The CP 215 notice instructs the taxpayer to send penalty abatement requests to Accounts Management's International Unit in the Ogden campus. Ogden and Cincinnati International work the requests using instructions in IRM 21.8.2.20.2, *Form 5471 Penalties Systemically Assessed from Late-Filed Form 1120 Series or Form 1065*.

21.7.4.4.2.8  
(10-01-2024)

**Modernized e-file (MeF) -  
Electronic Filing of  
Partnership Returns and  
Mandatory e-Filing  
Requirements**

- (1) For returns required to be filed during calendar years ending on or before December 31, 2023, all calendar year Form 1065 filers with 100 partners or less can file on paper or can voluntarily file their returns electronically. Certain partnerships with more than 100 partners must file electronically. See IRM 21.7.4.4.2.8.1, *Partnerships with More Than 100 Partners*, for information on partnerships with more than 100 partners.
- (2) Revised Treas. Reg. 301.6011-3, which is applicable to partnership returns that are required to be filed during calendar years beginning after December 31, 2023, requires a partnership to electronically file its return if:
- It is required to file at least 10 returns of any type during the calendar year ending with or within the taxable year of the partnership, or
  - The partnership has more than 100 partners during the partnership's taxable year.
- (3) The revised Treasury Regulation. 301.6011-3 authorizes the Commissioner to provide hardship waivers for partnerships that would experience hardship in complying with the e-filing requirements and administrative exemptions from the e-filing requirements to promote effective and efficient tax administration. Notice 2024-18, Section III provides guidance on these hardship waivers and administrative exemptions.
- (4) In the case of undue hardship, the IRS may waive the electronic filing rules if the partnership demonstrates that a hardship would result if it were required to file its return electronically. A partnership interested in requesting a waiver of the mandatory electronic filing requirement must file a written request in advance in accordance with the procedures in the Form 1065 instructions.
- (5) The revised regulations also grant an administrative exemption from the requirement to electronically file returns to partnerships whose use of the technology required to file electronically conflicts with their religious beliefs. Advance approval of an electronic filing administrative exemption is not required to file paper forms 1065 due to a religious exemption. Taxpayers must print in bold letters "**Religious Exemption**" at the top of page one of the return they file in paper form. See *Topic no. 803, Electronic filing waivers and exemptions and filing extensions*, for additional information.
- (6) Publication 4163, *Modernized e-file (MeF) Information for Authorized IRS e-file Providers for Business Returns*, is designed to provide Authorized IRS e-file Providers and Large Taxpayers specific requirements and procedures for electronic filing through the Modernized e-file System.
- (7) IRS e-file providers and applicants must submit their IRS e-file applications online. To register for e-Services, users navigate to the e-Services page *Become an Authorized e-file Provider* New users must also register by creating a profile with an IRS Credential Service Provider. The IRS uses ID.me, a tech-



## 21.7 Business Tax Returns and Non-Master File Accounts

nology provider, to provide identity verification and sign-in services, which allow access to e-Services. More information is available on IRS.gov at *Register for IRS Online Self Help Tools*.

- (8) Participating transmitters and software developers **MUST** successfully pass the Acceptance Assurance Testing System (ATS) in order to file Form 1065 electronically. Only those entities developing software or transmitting returns directly to the IRS go through the testing process. The ATS process tests hypothetical scenarios to ensure the participants computer program has the correct file specifications to file returns electronically, that required fields will post to master file correctly and that providers understand the mechanics of IRS *e-file*. All Transmitters must perform a Communications Test and be accepted. No further communications testing is required when adding additional forms to MeF and they are not required to test each year.
- (9) See Publication 3112, *IRS e-file Application and Participation*, Publication 5078, *Modernized e-file Test Package, Business Submissions, Assurance Testing System (ATS)*, and *Rev. Proc 2007-40* for more information on the testing process. Testing for Form 1065 is generally available in ATS by the start of November each year.
- (10) The MeF system will accept partnership returns for all years beginning with TY 2019. MeF also accepts amended returns for these tax years if the original return is filed via MeF. See IRM 21.7.9.4.1.2.2, *MeF Filed Amended Returns*, for more information. Taxpayers must complete an amended return on paper if they filed their original return on paper.
- (11) Ogden processes electronically filed partnership returns. The tax class is 2. The file location code (FLC) for e-filed returns is either 93, 92, or 88. Forms 1065 (except publicly traded partnerships) use doc code 65 if processed prior to 2007, and use doc code 69 if processed in 2007 and subsequent. Use doc code 67 for publicly traded partnerships. (See IRM 3.42.4.9.2, *Identifying e-file BMF Identification Codes*, for more information.)
- (12) Publication 4163, *Modernized e-file (MeF) Information for Authorized IRS e-file Providers for Business Returns*, for a complete listing of the forms and schedules accepted electronically. If a form cannot be filed electronically with the partnership return, taxpayers can attach it as a PDF document.
- (13) All returns filed through the MeF system must have signatures. If the return does not have a valid signature, the e-help Desk unit requests a signature. The MeF system requires taxpayers and Providers to use one of the two signature options:
  - a. The Practitioner PIN (Personal Identification Number) method.
  - b. The scanned Form 8453 method.
- (14) The Practitioner PIN (Personal Identification Number) method (Form 8879) can only be used if the taxpayer uses an ERO. A paper copy of the signed Form 8879 is retained by the ERO and provided to the partnership but is not mailed to the IRS. Form 8879-PE is for Form 1065.
- (15) With the scanned Form 8453 method, Form 8453-PE, *U.S. Partnership Declaration and Signature for Electronic Filing*, is scanned and submitted with the e-filed return as a Portable Document Format (PDF) file. Form 8453-PE is not mailed to the IRS.



- (16) Use CFOL command codes to research the account. Request the original return only when necessary. Returns filed through the MeF system are stored immediately after the returns are processed on the Modernized Tax Return Database (MTRDB). The Employee User Portal (EUP) allows access to these returns through the Return Request and Display (RRD) subsystem. For more information on how to gain access to EUP, see IRM 3.42.4.5.1, *Employee User Portal (EUP)*.
- (17) **DO NOT** attach information (e.g., loose forms, schedules, and correspondence) to an electronically filed return. To identify an electronic DLN, see Document 6209, Section 4, Document Locator Number, Part 3 Campus and Filing Location Codes, or IRM 3.42.4.9.2.1, *Researching e-file BMF Identification Codes*. Use the following procedures when adjusting a return using a non-refile DLN: File the information using TC 290 \$.00 with the applicable blocking series for the type of return/situation. **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.

21.7.4.4.2.8.1  
(10-01-2011)

**Partnerships with More Than 100 Partners**

- (1) The Taxpayer Relief Act of 1997 authorized the issuance of regulations mandating the filing of partnership returns with more than 100 partners (large partnerships) on magnetic media. The regulations also provide that the Commissioner may mandate one form of magnetic media on which the returns must be filed. As a result, the Commissioner determined these returns must be filed electronically. Final regulations were published in Internal Revenue Bulletin 1999-48 and are effective for tax years ending on or after December 31, 2000.
- (2) Large partnerships filing Common Trust Fund returns are excluded from the mandate to file electronically. If a taxpayer contacts the *e-help* Desk (see IRM 3.42.7.2.1, *Hours of Operation*) and states they are a common trust fund partnership with over 100 partners, grant an automatic waiver from the requirement to e-file. See IRM 21.7.4.4.2.8.1.2, for more information on waivers.

21.7.4.4.2.8.1.1  
(10-01-2024)

**Large Partnership Penalty for Failing to File Electronically**

- (1) Regulations under IRC 6011(e) provide for an assessment of a penalty if large partnerships fail to file their return electronically for tax years ending December 31, 2000 and subsequent. See IRM 20.1.2.5, *Failure to File Partnership Return Using Electronic Media*, for additional information.
- Taxpayers may request a waiver from the requirement to file electronically if the taxpayer can establish hardship. See IRM 21.7.4.4.2.8.1.2, *Waiver Requests by Large Partnerships Required to File Electronically*, and Treas. Reg. 301.6011-3 for more information.
- (2) The penalty rate has changed over the years. The penalty is:
- For returns due on or before December 31, 2010 the penalty is \$50 per partner over 100. For example, if a partnership has 120 partners and does not file electronically, a penalty of \$1,000 (\$50 X 20 partners) is assessed. It is assessed as TC 246 with reference number 688.

- For returns due on or after January 1, 2011, the penalty was increased to \$100 per partner over 100. Therefore, in the above example, the penalty is \$2,000 (\$100 X 20 partners).
  - Per section 208(f), Division B, Title II, of the Tax Increase Prevention Act of 2014, P.L. 113-295, amends the Internal Revenue Code to require an annual inflation adjustment to the penalty amount for failure to file partnership return using electronic media and is effective for returns due after 12/31/2014.
  - Per section 806, of the Trade Preferences Extension Act of 2015, P.L. 114-27, the penalty is increased to \$250 per partner over 100 with a maximum penalty of \$3,000,000 for returns requiring filing after December 31, 2015.
  - Adjusted for inflation, the \$250 amount is inflation adjusted to \$260 per partner with a maximum penalty of \$3,178,500 for returns due in 2017 (see Rev. Proc. 2016-11).
  - Adjusted for inflation, the penalty remains at \$260 per partner, but the maximum penalty is increased to \$3,218,500 for returns due in 2018 (see Rev. Proc. 2016-55).
- (3) For returns due in 2016 and subsequent years, the table below reflects the inflation adjusted penalty per partner over 100, the lower maximum penalty, and the higher maximum penalty amount. See IRM 20.1.2.5, *Failure to File Partnership Return Using Electronic Media*, for more information.

For returns due in	The penalty per partner in excess of 100 is	With a lower maximum penalty of	With an upper maximum penalty of
2016	\$260	\$1,059,500	\$3,178,500
2017	\$260	\$1,064,000	\$3,193,000
2018	\$260	\$1,072,500	\$3,218,500
2019	\$270	\$1,091,500	\$3,275,500
2020	\$270	\$1,113,000	\$3,339,000
2021	\$280	\$1,142,000	\$3,426,000
2022	\$280	\$1,142,000	\$3,426,000
2023	\$290	\$1,777,500	\$3,523,500
2024	\$310	\$1,261,000	\$3,783,000

- (4) If after the penalty is assessed, a taxpayer believes they can establish that the partnership qualified for a waiver of the e-file requirement, they must write to Accounts Management at the Ogden campus at the address in paragraph (5) directly below. **Penalty abatement requests CANNOT be worked by phone or correspondence at other sites.** Exception: If the module contains an unreversed TC 971 AC 320 (penalty assessed in error), abate the penalty using PRN 688, with the penalty as a negative amount, using PRC 045.
- (5) Erroneous penalty assessments may be abated in any functional area whenever identified. If a taxpayer calls or corresponds regarding where to file the request, instruct him to file the request at the address below. If an

abatement request is received at another site and it is a CII case, reassign to 0445160144. OAMC employees should not reassign to this number but work these cases per the procedures in paragraphs 7 - 10 below. If not in CII, forward all other requests to OAMC:

Internal Revenue Service  
1973 N. Rulon White Blvd.  
Mail Stop 6552  
Ogden, UT 84404

- (6) Taxpayers should not file returns on paper and wait for a penalty assessment before requesting abatement. They should request a waiver (if they meet the criteria) as detailed in IRM 21.7.4.4.2.8.1.2, *Waiver Requests by Large Partnerships Required to File Electronically*. Ogden Accounts Management campus works requests for abatement of FTF Electronically Penalty only, and/or inquiries requesting both FTF Penalty and FTF Electronically Penalty. Accounts Management in Cincinnati and Ogden both work requests for FTF Penalty abatement only.
- (7) Taxpayers must establish reasonable cause due to hardship based on economic reasons or reasons out of their control such as equipment breakdown, destruction of magnetic media filing equipment, etc. If reasonable cause due to hardship is established, a TC 241 is generated when a TC 290 \$.00 with Reference Number 688 with a minus sign is input on IDRS.
- (8) If hardship is established:
  - a. Input TC 290 \$.00 in blocking series 17 with Reference Number 688 with a minus sign.
  - b. Use RC 062 in the first position and the correct RC in the fourth position, usually RC 022.
  - c. Inform the partnership (by letter) the request for penalty abatement was accepted. Also, inform the partnership the request is allowed for this tax period only, and if they believe they meet the hardship criteria in future years, they must request a waiver each year. Also, inform them they must try to meet the electronic filing requirement in future years. The fact that their reason is accepted this year, does not necessarily mean it is accepted in future years.
- (9) If hardship is not established:
  - a. Input TC 290 \$.00 in blocking series 98.
  - b. Input RC 062 in the first position.
  - c. Do not input Reference Number 688.
  - d. Send Letter 854C, *Penalty Waiver or Abatement Disallowed/ Appeals Procedure Explained*.
- (10) If a taxpayer's request for penalty abatement is denied (unlike waiver requests), the taxpayer has the option to follow normal penalty appeals procedures.
- (11) If a request for penalty abatement is received when the partnership files a paper Form 1065, Code and Edit faxes a copy to OSPC at 877-477-0575. **These requests must be worked by OSPC within three working days of receipt.** OSPC follows the instructions below.

If	Then
The partnership establishes hardship	1. Input TC 971 Action Code 320. 2. Follow the procedures in IRM 21.7.4.4.2.8.1.1(8), Step 3 of the first then box which reads "Inform the partnership (by letter) the request"
The partnership does not establish hardship	1. Input TC 971 Action Code 321. 2. Send Letter 854C, <i>Penalty Waiver or Abatement Disallowed/ Appeals Procedure Explained</i>

- (12) If a large partnership files a Form 1065 electronically, but it is systemically rejected and the partnership files the return on paper, the partnership should attach a copy of the rejection notification to the paper Form 1065. If the postmark is within 10 days of notification from the IRS that the electronic return was rejected, Code and Edit enters Computer Condition Code (CCC) "R" to suppress the FTF penalty. (See IRM 3.11.15.15, *Computer Condition Codes*, for additional information on Code and Edits usage of CCCs.) They also fax a copy of page 1, Form 1065 and a copy of the ELF rejection notification (indicating "rejection notification from ELF") to OSPC at 877-477-0575. OSPC must:
- Work these cases within three working days of receipt.
  - Input TC 971 Action Code 320.
- (13) If a large partnership is erroneously assessed a penalty for failure to file electronically (TC 246 with Reference Number 688) due to IRS error, the penalty must be abated. Examples of this include, but are not limited to, returns where the number of partners were transcribed incorrectly (partnership has less than 100 partners but the number transcribed was more than 100) or the penalty was assessed for a tax period prior to period ending December 31, 2000. OSPC must:
- Input TC 290 \$.00 in blocking series 17 with Reference Number 688 (for the amount of the penalty abatement) with a minus sign.
  - Use PRC 045 in the fourth position.
  - Inform the partnership by letter that the penalty was abated. Include an apology for the erroneous assessment.
- (14) See IRM 20.1.2.5.1, *Penalty Relief*, for more information on the criteria for abating the penalty for failure to file a partnership return on electronic media due to reasonable cause.

21.7.4.4.2.8.1.2  
(10-01-2024)

**Waiver Requests by  
Large Partnerships  
Required to File  
Electronically**

- Regulations provide for waiver of the requirement to file electronically if the taxpayer can establish hardship. A major factor in the decision is whether the taxpayer will incur undue economic hardship. See Treas. Reg. 301.6011-3(b).
- Per *Announcement 2002-3*, requests must be in writing with the notation on the envelope and at the top of the actual request "Form 1065 e-file Waiver Request - IRC 6011(e)(2)", and must sign the request and include a statement; "Under penalties of perjury, I declare that the information contained in this

waiver request is true, correct, and complete to the best of my knowledge and belief.” It must contain a **detailed** explanation as to why the partnership is unable to file electronically, including:

- a. What steps they took to comply.
  - b. Why the steps were unsuccessful.
  - c. The hardship that would result, including any incremental costs to the partnership of complying with the electronic filing requirements. Incremental costs are those costs that are above and beyond the costs to file on paper. The incremental costs must be supported by a detailed computation. The detailed computation must include a schedule detailing the cost to file on paper and the costs to file electronically.
  - d. An explanation of the steps they will take to comply next year.
- (3) In addition to a detailed explanation, the waiver request must also contain: T
- Name of partnership.
  - EIN of partnership.
  - Mailing address of partnership.
  - Tax year for which waiver is being requested.
- (4) Taxpayers should see *Announcement 2002-3* which was issued to provide information on the waiver request procedures. It is found on page 305 of Internal Revenue Bulletin 2002-2. Also, see IRM 3.42.4.17.4, *Form 1065 MeF Penalties and Waiver Information*, for the matrix that is followed to determine when to approve or deny a waiver request for the Form 1065 MeF return.
- (5) Taxpayers must file all waiver requests with OSPC at the address below. Waiver requests should be filed at least 45 days prior to the due date of the return, including extensions. **Waiver requests cannot be attached to extensions of time to file requests (Form 7004) or to the partnership’s paper tax return.** Requests from the partnership’s tax advisor/preparer must be accompanied by a valid power of attorney if one is not already on file.

Sent via United States Postal Service	Sent via Private Delivery Service (e.g., UPS, FedEx, etc.)
Internal Revenue Service Ogden Submission Processing Center e-file Team, Mail Stop 1057 Attn.: Form 1065 e-file Waiver Request Ogden, UT 84201	Internal Revenue Service 1973 Rulon White Blvd. e-file Team, Mail Stop 1056 Attn.: Form 1065 e-file Waiver Request Ogden, UT 84404

- (6) A waiver can only be requested for a specific tax period. Acceptance of the waiver does not waive the requirement for future tax periods. (See IRM 21.7.4.4.2.8.1.1.) Partnerships should receive written notice of the determination of their request within 30 days from the date the request was received. Unlike penalty abatement requests, denial of waiver requests cannot be appealed.
- (7) After considering a waiver request, a TC 971 Action Code 320 is input, if the request is accepted. This prevents the assessment of the penalty for failure to file electronically. If a request is denied, a TC 971 Action Code 321 is input. (If

both TC 971 Action Code 320 and 321 appear on the module, the latest TC 971 Action Code 320/321 takes precedence.) Letter 4118C, *Request for a Waiver From Filing Partnership Return Electronically*, informing the taxpayer of the decision, must be sent.

21.7.4.4.2.8.2  
(05-08-2019)

**Small Partnership  
Penalty Abatement**

- (1) IRC 6031(a), requires a partnership to file a federal tax return (Form 1065). IRC 6698 imposes a penalty against a partnership that does not file a timely tax return or a complete tax return as required by IRC 6031(a) Rev. Proc. 84-35, provides for a procedural exception to the penalty for small partnerships.
- (2) Revenue Procedure 84-35 allows for the reasonable cause abatement of the penalty for filing a late or incomplete return for certain "Small Partnerships." See IRM 20.1.2.4.3.1, *Revenue Procedure 84-35*, for the definition of a small partnership as defined by Revenue Procedure 84-35, and for the criteria that must be met for an abatement.

21.7.4.4.2.8.3  
(10-01-2021)

**Known e-file Issues and  
Solutions - Form 1065**

- (1) Periodically, problems arise that prevent taxpayers from being able to file electronically through the Modernized e-file (MeF) System. When this occurs, e-File Services (eFS), Large Business and International (LB&I), or Submission Processing will issue a workaround to taxpayers by posting information on the IRS Web site. Go to *Tax Information For Businesses*, click on e-file and look for the header, Corporations. Click on the link and then click on the link to e-file for Large Business and International (LB&I).
- (2) See *Known Issues and Solutions*, for links to the Known e-file Issues and Solutions webpages. When taxpayers contact the e-help unit with processing problems, taxpayers are directed to this site. In addition, Accounts Management will issue SERP Alerts or IPU's if the situation warrants. For example, an Alert was issued due to a problem with name control mismatches on Form 1065 and Form 1120 accounts.
- (3) If you receive a call from a taxpayer stating that they are having problems e-filing, research the webpage. If unable to find any information, refer the caller to the e-help desk unit, toll-free at 866-255-0654. See IRM 3.42.7.2.1, *Hours of Operation* for the hours of operation.

21.7.4.4.2.9  
(10-01-2024)

**Form 1065 and Form  
1065X, Amended Return,  
Administrative  
Adjustment Request  
(AAR) and Bipartisan  
Budget Act (BBA)**

- (1) Form 1065X, *Amended Return or Administrative Adjustment Request (AAR)*, is available for both Form 1065 and Form 1066 filers to amend their federal tax return. Form 1065X is available for use by partnerships and REMICs that file paper returns. Taxpayers may use Form 1065X to amend prior years where the statute is open.
- (2) Form 1065X will not be available in the e-file system for at least a year and possibly much longer. Partnerships required to file electronically will use the old Form 1065 in the electronic filing system, mark the amended box, and attach an electronic Form 8082, *Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR)*.
- (3) The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) allows for the filing of an Administrative Adjustment Request (AAR) by a flow-through entity (partnership or LLC). Form 8082, *Notice of Inconsistent Treatment or Amended Return (Administrative Adjustment Request (AAR))*, was designed to alert IRS to this condition.



- (4) To correct errors on partnership-related items, partnerships under the Bipartisan Budget Act (BBA) must file an **Administrative Adjustment Request** (AAR) instead of an **amended return**. This applies to partnerships for taxable years beginning after December 31, 2017 and partnerships that elect into the BBA regime for taxable years beginning after November 2, 2015 and before January 1, 2018. Partnerships cannot file an AAR to only change a partnership representative (PR) designation.
- (5) The Bipartisan Budget Act of 2015 (BBA) centralized partnership audit regime generally provides for determination of adjustments, and assessment and collection of tax attributable to such adjustments at the partnership level unless the partnership made certain elections. After January 1, 2018, if the partnership is filing an AAR to elect into BBA for a partnership taxable year beginning after November 2, 2015 and before January 1, 2018, see the instructions to the Form 8082 for more information.

**Note:** A partnership with a short period tax year that begins and ends in 2018 may file a BBA AAR as long as the partnership did not elect out of the centralized partnership audit regime.

- (6) Form 8082 is used by partners, S corporation shareholders, beneficiaries of estates or trusts, owners of a foreign trust, or residual interest holder in real estate mortgage investment conduit (REMIC) to notify the IRS of inconsistencies between the tax treatment of an item on their returns vs. the way the pass-through entity treated and reported the item on its return.
- (7) Since Form 8082 is not consistently being attached as required, the amended/corrected/superseding Form 1065 returns that meet any of the criteria below must be routed to Examination as CAT-A criteria:
- Follow procedures in IRM 21.5.3-2, *Examination Criteria (CAT-A) - General*, for returns claiming Research and Development Credits.

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- (8) Partnerships that file amended returns on Form 1065X, must be routed to Exam as CAT-A criteria if any of the following conditions below are met:

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- (10) Action required on the amended/corrected/superseding returns that meet the criteria in paragraphs ( 7), (8) or (9)) directly above:
- Ensure any imputed underpayment received with a BBA AAR has been applied accordingly.
  - Retain an open control in background (B) status on all cases referred to Examination and update the activity code to "CAT-A". If a CII case, the case is systemically re-controlled to Exam in suspend status until returned from Exam or systemically purged from the Exam queue. See IRM 21.5.3.4.7, *Processing Claims and Amended Returns With Examination Involvement*, for more information.
  - When the case is returned, follow Exam's instructions and notify the taxpayer accordingly. See IRM 21.5.3.4.7.2, *Examination, "Disallows", "Accepts", or "Selects"*, for more information.
  - If the case is selected or Exam does not return the case, close your base using Activity Code "AAREXAM". Input a TC 971 Action Code 013 to show that the amended return is forwarded to the Examination Branch.
  - Recharge the amended and original return (if received with TRNS 193) to Examination, unless the document is a CII return.
  - Exam forwards the returns to Files if not needed for their case.
  - Do not release the -A freeze, Examination releases the freeze.
- (11) Form 1065 claims and/or amended returns involving Ponzi Scheme issues (including language discussing removal of phantom or fraudulent income), may

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21.5.3-2, *Examination Criteria (CAT-A) - General*, for more information.

- (12) For Forms 1065/1065X, stating "**Microcaptive**", see IRM 21.7.4.4.4.20, *Micro-Captive Insurance Amended Returns*, for processing instructions.
- (13) Follow procedures in IRM 21.7.9.4.1, *Resolving TRNS 193 and Amended/Corrected/Supplemental Returns*, along with the instructions above, if a TRNS 193 is generated and the returns are secured and routed to Accounts Management for processing. For specific items to compare on Form 1065. See IRM 21.7.4.4.2.9.1, *Items to Compare on TRNS 193s (Form 1065)*.
- (14) See IRM 21.7.9.4.1.6, *Duplicate Filing Conditions Involving Returns Prepared Under IRC Section 6020(b)*, when the TC 150 is a 6020(b) and the TC 976 is the taxpayers original return or when the TC 150 is the taxpayers return and the TC 976 is the 6020(b).

21.7.4.4.2.9.1

(03-15-2022)

**Items to Compare on Transcript (TRNS) 193s (Form 1065)**

- (1) Compare the items listed below on each return to determine if the TC 976 return is a true duplicate, amended, supplemental, or belongs to another tax period or entity.
  - TIN
  - Tax period
  - Names and number of partners
  - Income and deduction figures
  - Balance sheet
  - Schedules K-1
  - Signature and signature dates
- (2) If the amended return is not received with the TRNS 193, follow the procedures in IRM 21.7.9.4.1.2, *TRNS 193 Received Without Duplicate Return*.
- (3) Action required:

If	Then
TC 976 return is a true duplicate, amended, or supplemental	<ol style="list-style-type: none"> <li>1. Input TC 290 \$.00 blocking series 00 (with original) or 17 (without original).</li> <li>2. Adjust penalties as appropriate. See IRM 20.1.1, <i>Introduction and Penalty Relief</i>.</li> </ol>
Partners' names are the same, but the percentage of ownership on Schedules K-1 has changed by 50 percent or more	It is no longer necessary to route the case to Entity for determination if another partnership exists.
TC 976 return belongs on another TIN or tax period	<ol style="list-style-type: none"> <li>1. Input TC 290 \$.00 using blocking series 00 or 17.</li> <li>2. Correct the information on the TC 976 return.</li> <li>3. Prepare, attach, and route Form 13596, <i>Reprocessing Returns</i>, for reprocessing to the correct tax period or TIN. See IRM 21.7.9.4.1.1, <i>TRNS 193s Involving Reprocessing Returns</i>, for more information.</li> <li>4. Input TC 971 as appropriate, per instructions in IRM 21.5.1, <i>General Adjustments</i>. (Do not reprocess a TC 976 return to an account which contains a TC 150. Input a TC 290 \$.00 to the account and attach the TC 976 return to the adjustment document.)</li> </ol>
One of the returns is a 6020(b) and the taxpayer filed an original return	<ol style="list-style-type: none"> <li>1. Check the received date on the taxpayer's return. (If prior to the 6020(b) return, the FTF penalty may need adjusting. See IRM 20.1.2.3.10, <i>Substitute for Return - IRC 6651(g)</i>, for more information.</li> <li>2. Verify the taxpayer's return is complete and the number of partners involved. (If the information differs, penalties may need adjusting.)</li> <li>3. Input TC 290 \$.00 in blocking series 00 or 17 and adjust penalties as appropriate.</li> </ol>

21.7.4.4.2.9.2

(10-01-2024)

**Partnership****Terminations for****Partnership Tax Years****Beginning on or Before****December 31, 2017, Only**

- (1) Following the, *Tax Cuts and Jobs Act of 2017(TCJA)*, *Section 13504 Repeal of Technical Termination of Partnerships*, a partnership is considered terminated only if no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in the partnership.
- (2) Special Rules:
  - Merger or consolidation of two or more partnerships is considered the continuation of any merging or consolidating partnership whose members own an interest of more than 50 percent in the capital and profits
  - Division of a partnership into two or more partnerships which the resulting partnership (other than any resulting partnership where the members had a 50 percent or less interest in the capital and profits of the prior partnership) is considered a continuation of the prior partnership.
- (3) This amendment applies to partnership taxable years beginning after December 31, 2017.
- (4) For partnership tax years beginning on or before December 31, 2017 only, a partnership is considered terminated under former section 708(b)(1)(B) if within a 12-month period there is a sale or exchange of 50 percent or more of the total interest in partnership capital and profits.
- (5) The tax return for a partnership that terminates under IRC 708(b) is due on the 15th day of the third month following the month that a partnership terminates. For example, the due date for Form 1065 of a partnership that terminates under former IRC 708(b)(1)(B) on August 8, 2017, is November 15, 2017. If a new partnership continues in operation with the same EIN, then two short year returns would need to be filed for the year. One return for the period ending August 8th, and one return for the period beginning August 9th. The return for the first short period (201708) is due November 15, 2017, while the return for the second short period (201712) is due on the normal return due date of March 15, 2018.
- (6) If multiple returns are filed under the same EIN citing former IRC 708(b)(1)(B) or the technical termination box is checked on the Form 1065 tax return (through 2017 revisions), and one of the returns is a short period return, reprocess the short period return to the proper tax period and release the -A freeze. When reprocessing a short period return that is filed late, research CC BMFOLT to determine if the taxpayer qualifies for First-Time Abatement (FTA). If the taxpayer does qualify for FTA, edit computer condition code (CCC) "R" to suppress the FTF penalty. If the taxpayer does not qualify for FTA, do not edit CCC "R" and allow the systemic assessment of the penalty.

21.7.4.4.2.9.3

(10-01-2021)

**Amended Returns for****Bipartisan Budget Act****(BBA) Partnerships for****Taxable Years Beginning****in 2018 and 2019, Rev.****Proc. 2020-23**

- (1) The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136, 134 Stat. 281 (March 27, 2020), provides retroactive tax relief that affects partnerships, including relief for the taxable years ending in 2018, 2019, and in some cases 2020. Without the option to file amended returns, as granted in the revenue procedure, Bipartisan Budget Act (BBA) partnerships might not be able to take advantage of CARES Act benefits.
- (2) Rev. Proc. 2020-23 allows eligible partnerships to file amended partnership returns for taxable years beginning in 2018 and 2019 using a Form 1065, *U.S. Return of Partnership Income (Form 1065)*, with the "Amended Return" box

checked, and issue an amended Schedule K-1, *Partner's Share of Income, Deductions, Credits, etc. (Schedule K-1)*, to each of its partners. Eligible partners must file amended returns pursuant to the Revenue Procedure before September 30, 2020.

- (3) An amended return filed under this Revenue Procedure has no impact on the IRC 6235(a)(1) statute of limitations for making partnership adjustments (unlike an Administrative Adjustment Request (AAR), which extends the IRC 6235(a)(1) date to 3 years from the date that the AAR is filed). Rev. Proc. 2021-29 allows some partnerships that filed a partnership return and all required Schedules K-1 for tax years beginning in 2018, 2019, or 2020 to file amended returns with corresponding Schedules K-1 before October 15, 2021.
- (4) Notwithstanding the filing relief pursuant to the Revenue Procedure, a BBA partnership that files an amended return pursuant to the Revenue Procedure is still subject to the centralized partnership audit procedures enacted by the BBA. Therefore, BBA original returns as well as amended returns filed under Revenue Procedure 2020-23 are subject to the centralized audit procedures under BBA.
- (5) Amended returns may take into account tax changes brought about by the CARES Act as well as any other tax attributes to which the partnership is entitled by law.
- (6) This guidance applies to partnership amended returns filed (paper or electronic) no earlier than April 8, 2020 and before September 30, 2020 for tax periods beginning in 2018 and 2019, including both calendar and fiscal years.
- (7) Revenue Procedure 2020-23 instructs the partnership to file Form 1065, U.S. Return of Partnership Income, with "FILED PURSUANT TO REV PROC 2020-23", clearly shown at the top of the Form 1065, with the "Amended Return" box checked, and amended Schedules K-1 (Partner's Share of Income, Deductions, Credits, etc.) attached for each of its partners.
- (8) If the partnership files an amended return that does not adhere to these specific instructions (i.e., uses a Form 1065X or Form 8082, or does not check the correct box on a Form 1065), the IRS will accept the amended return as long as:
  1. "FILED PURSUANT TO REV PROC 2020-23" is clearly shown, and
  2. Amended Schedules K-1 are attached.

Examples:

- If partnership files using Form 1065X (instead of Form 1065 with "Amended Return" box checked), as long as amended Schedules K-1 are attached and "FILED PURSUANT TO REV PROC 2020-23" is clearly shown at the top of the Form 1065X.
- If partnership files using Form 8082 with Form 1065 (with the "Amended Return" box checked), as long as amended Schedules K-1 are attached and "FILED PURSUANT TO REV PROC 2020-23" is clearly shown at the top of the Form 1065.
- If partnership files a duplicate Form 1065 (without checking the "Amended Return" box), with amended Schedules K-1 attached and "FILED PURSUANT TO REV PROC 2020-23" is clearly shown at the top of the Form 1065.

- (9) Process amended returns without regard to open examination activity (if any of the following apply):
- a. If a TC 420 is on the module, Post TC 290 for zero (.00).
    - If AIMS status is greater than (>) 08, forward the amended return or copy to the controlling Examination group/function according to existing procedures. Input TC 971 action code 013.
    - If AIMS status is equal to, or less than (<) 08, send to files.
  - b. If no TC 420, Post TC 290 for zero (.00)

**Note:** Forward any amended partnership return filed with “FILED PURSUANT TO REV PROC 2020-23” at the top, attached to Form 8985, *Pass -Through Statement - Transmittal/Partnership Adjustment Tracking Report*, and Form 8986, *Partner’s Share of Adjustment(s) to Partnership-Related Item(s)*, (instead of Amended Schedules K-1) to the Ogden BBA Unit, Mail Stop 4705.

**Note:** Administrative Adjustment Requests (AARs) filed without any statement at the top should be processed in the usual manner.

21.7.4.4.2.10  
(01-01-2005)  
**Multiple Filed Form 1065**

- (1) Banks acting as managers for underwriting syndicates to issue bonds are permitted to use the same EIN when filing partnership returns on behalf of each syndicate.
- (2) TRNS 193s are suppressed on these cases. The first return posts as a TC 150 and subsequent returns as TC 976s. A “Consolidated Transcript” is generated when overflow conditions are reached. Action required:
  - a. Input TC 290 \$.00 to have the transcript of the TC 976 posting and the original return re-filed under the adjustment DLN.
  - b. Use blocking series 00 (with original) or 17 (without original).

21.7.4.4.2.11  
(12-08-2023)  
**CP 282 Notice,  
Notification of Possible  
Additional Partnership  
Filing Requirements  
(Withholding Tax on  
Foreign Partners)**

- (1) A CP 282 Notice, **Notification of Possible Additional Partnership Filing Requirements**, is issued to Form 1065 filers who marked the “YES” checkbox next to question 14 on tax year 2018 forms and subsequent (question 16 on prior year forms), Foreign Partners, on Schedule B, Form 1065. This shows that the partnership had foreign partners (for purposes of IRC 1446) during the tax year. Both the Cincinnati and Ogden campuses work these responses.
- (2) Generally, when a foreign person engages in a trade or business in the United States, which can occur if a nonresident alien individual, or foreign corporation is a partner in a partnership so engaged, income, gain, or loss arising from the activities of that trade or business, is considered as effectively connected to such trade or business (known as Effectively Connected Income (ECI)). **It is the partnership’s (CPA, attorney, accountant) responsibility to determine if the partnership has ECI allocable to a foreign partner.** More information on ECI see IRM 21.8.1.12.10, *Effectively Connected Income (ECI)*, and also see *Effectively Connected Income (ECI)*.
- (3) A partnership that has partnership items which are effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States, must report to the IRS under IRC 1446 effectively connected gross income allocable to foreign partners (without regards to distributions) on Form 8804 , **Annual Return for Partnership Withholding Tax (Section**



**1446).** In addition, they must pay a withholding tax on the effectively connected taxable income (ECTI) that is allocable to one or more partners, and file Form 8804, Form 8805, *Foreign Partner's Information Statement of section 1446 Withholding Tax* and Form 8813, *Partnership Withholding Tax Payment Voucher*.

- (4) For information on reporting and paying the Section 1446 withholding tax as well as the general reporting obligations, see Form 8804 and the *Instructions for Form 8804, Annual Return For Partnership Withholding Tax*, Form 8805, and Form 8813. See also Publication 515 , **Withholding of Tax on Nonresident Aliens and Foreign Entities**.
- (5) Special rules apply to publicly traded partnerships. Unlike all other partnerships which withhold in the year the ECTI is allocated to a foreign partner, publicly traded partnerships withhold in the year there is a distribution to a foreign partner. Also, instead of filing Form 8804, Form 8805, or Form 8813, publicly traded partnerships must file Form 1042 and Form 1042-S.
- (6) If the taxpayer contacts IRS and states:

If	And	Then
Not liable	Taxpayer incorrectly checked the yes box or if an input error was made by IRS	<ul style="list-style-type: none"> <li>Acknowledge receipt of the issue.</li> <li>Apologize, if our error.</li> <li>Advise TP you will notate their file. Use TP correspondence or if telephone inquiry, prepare Form 4442/ Form 4442 DI/AMS, as source document and in the remarks field, state TP not liable.</li> <li>Associate the above document to Files by inputting TC 290 \$.00 in blocking series 17 or follow local procedures.</li> </ul>
Not liable	Taxpayer correctly checked the yes box and had effectively connected gross income allocable to foreign partners (without regards to distributions) but had no ECTI allocable to any foreign partners	Tell Taxpayer they still must file Form 8804, but not Form 8805 or Form 8813.

If	And	Then
Liabe	Needs forms	<ul style="list-style-type: none"> <li>• Send necessary forms to TP or give toll-free forms number.</li> <li>• Instruct TP to file at OIRSC Ogden, UT, 84201</li> </ul>
Liabe	Original return(s) attached	<ul style="list-style-type: none"> <li>• Route to Ogden</li> </ul>
Liabe	TP states that they have already filed and sends clearly marked copy of return(s)	<ul style="list-style-type: none"> <li>• Destroy as classified waste, respond only if TP asks question.</li> </ul> <p><b>Note:</b> Classified waste is documentation containing taxpayer entity or account information that is not part of the case and is not needed for audit trail purposes. Refer to IRM 21.5.1, <i>General Adjustments</i>, for guidance on handling classified waste to prevent inadvertent/unlawful destruction of records.</p>

**Note:** If the taxpayer states they had no taxable income, it is not a valid response. Advise the taxpayer they either marked the checkbox next to question 14 on tax year 2018 forms and subsequent (question 16 on prior year forms), Foreign Partners, on Schedule B, Form 1065, indicating that the partnership had foreign partners (for purposes of IRC 1446). Ask the taxpayer if this is correct and if they are liable or not liable, follow the chart above based on their response.

21.7.4.4.2.12  
(10-01-2019)  
**Form 1065 Filed under  
Rev. Proc. 2003-84**

- (1) *Rev. Proc. 2003-84*, 2003-48 I.R.B. 1159, allows certain partnerships that invest in tax-exempt obligations to make an election that enables the partners to take into account monthly inclusions required under IRC 702 and IRC 707(c) of the IRC and provides rules for partnership income tax reporting. Thus, a partnership that has a monthly closing election in effect for the entire taxable year and meets the other requirements in section 8 of this revenue procedure, is not required to file a Form 1065 or issue Schedules K-1 (Form 1065).
- (2) An eligible partnership makes a monthly closing election by providing in the entity's governing documents that the partnership is making a monthly closing election that is effective as provided under section 5.02 of this revenue procedure and all partners consent to the election.
- (3) The monthly closing election is effective on the later of:

- a. The start-up date of the partnership (as defined by section 4.05(1) of this revenue procedure), **or**
  - b. The first day of the month in which the provisions described in section 5.01 of this revenue procedure is first included in the entities governing documents.
- (4) A partnership must file an abbreviated return (considered abbreviated because only certain information is required and completed on the form) for the first taxable year during which the monthly closing election is in effect. The abbreviated return is filed by the date the partnership's income tax return is ordinarily due and must be signed by a person with the authority to sign the partnership's Form 1065 return. Taxpayers must type or write the words "Filed in Accordance with Rev. Proc. 2003-84" across the top of the form.
- (5) See *Rev. Proc. 2003-84* for the specific information that is included on the abbreviated return.
- (6) Action required: If a taxpayer states they previously filed a Form 1065 under *Rev. Proc. 2003-84*, conduct account research to look for a copy of the abbreviated return for the first taxable year for which the election is in effect. Check the filing requirements to see if they are still active. If so, delete them by inputting TC 591 closing code 025 via command code FRM49. If a taxpayer is penalized for failing to file Form 1065 for a tax period **AFTER** they have filed the required abbreviated return, abate the penalty using penalty reason code 045, Service Error. Either contact the taxpayer by phone or send Letter 3012C, *Partnership Return Filing Requirements: Form 1065*, and advise the taxpayer that, based on the information provided they are not required to file future partnership returns. Apologize for any inconvenience.

21.7.4.4.2.13  
(10-01-2018)  
**Schedule M-3 (Form 1065), Net Income (Loss) Reconciliation for Certain Partnerships**

- (1) Beginning with tax year 2006 returns, any entity that files Form 1065 or Form 1065-B must complete and file Schedule M-3 in lieu of Schedule M-1, *Reconciliation of Income (Loss) per Books With Income (Loss) per Return*, if any of the following applies (See the *Instructions for Form 1065* for more information):
- a. The amount of total assets at the end of the tax year reported on Form 1065, Schedule L, line 14, column (d), is equal to \$10 million or more.
  - b. The amount of adjusted total assets for the year is equal to \$10 million or more.
  - c. The amount of total receipts (as defined in the instructions for "Codes for Principal Business Activity and Principal Product or Services" in the Instructions for Form 1065), for the taxable year is equal to \$35 million.
  - d. An entity that is a reportable entity partner with respect to the partnership owns or is considered to own, directly or indirectly, interest of 50 percent or more in the partnership's capital, profit, or loss, on any day during the tax year of the partnership.

21.7.4.4.2.14  
(10-14-2009)  
**Payment by Credit or Debit Card (Pay by Phone or Internet)**

- (1) Form 1041 and Form 1065 filers may pay their taxes by phone or internet using a credit or debit card. Service providers accept payments made using an American Express Card, Discover Card, MasterCard, or VISA Card. The IRS does not determine which credit cards the service providers accept.
- (2) Taxpayers have the option to either use an IRS e-pay service provider or an integrated IRS e-file and e-pay service provider. The service providers offer these options to taxpayers who file on paper or electronically. The payment options are available 24 hours a day, 7 days a week. The service providers

charge convenience fees for the services. See IRM 21.2.1.48.5, *Credit or Debit Card Payments (Pay by Phone or Internet)*, for more specific information.

- (3) Also see IRM 21.2.1.48.4, *Payment by Credit or Debit Card (Integrated e-file and e-pay)*, for other payment options.

21.7.4.4.2.15  
(10-01-2021)  
**Substantial Built-In Loss  
in the Case of Transfer  
of Partnership Interest**

- (1) The Tax Cuts and Jobs Act of 2017 (TCJA), *Section 13502 Modify Definition of Substantial Built-In Loss in the Case of Transfer of Partnership Interest*, amended the definition of a substantial built-in loss with respect to a transfer of a partnership interest. Under section 743(d), a partnership has a substantial built-in loss if:
- The partnership's adjusted basis in the partnership property exceeds the fair market value (FMV) of the property by more than \$250,000, or
  - The transferee partner is allocated a loss of more than \$250,000 if the partnership assets were sold for cash equal to their FMV immediately after the transfer occurred.
- (2) This applies to transfers of partnership interests after December 31, 2017. See IRC 743(d).
- (3) If the partnership is required to adjust the basis of partnership assets under IRC 743(b) or IRC 734(b) because of a substantial built-in-loss (as defined under IRC 743(d)) or substantial basis reduction (as defined under IRC 734(b)) they must mark yes in question 10(c) of the Form 1065.

21.7.4.4.3  
(01-01-2005)  
**Form 1066, U.S. Real  
Estate Mortgage  
Investment Conduit  
(REMIC) Income Tax  
Return**

- (1) Form 1066 is used to report income, deductions, gains and losses from the operation of a REMIC. In addition, the form is used to report and pay the taxes on net income from prohibited transactions, foreclosure property, and contributions after the start-up day.
- (2) Form 1066 is filed at the Ogden Submission Processing Center (including International forms). The MFT is 07, Tax Class 3, and Document Code 60.

21.7.4.4.3.1  
(05-08-2020)  
**Form 1066 Due Dates,  
Payments, and  
Extensions to File**

- (1) Form 1066 is a calendar year return. For taxable years beginning before January 1, 2016, the federal income tax return of a REMIC is due on or before the 15th day of the fourth month following the close of the taxable year as shown on the top of the return. If the REMIC ceases to exist before the end of the calendar year, a short period return is due on the 15th day of the fourth month following the date the entity ceased to exist.
- (2) Section 2006(a)(1) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the Act), P. L. 114-41, changed the income tax return due date for REMICs and is effective for taxable years beginning after December 31, 2015. Taxpayers must file the federal income tax returns of REMICs under section 6031 made on the basis of the calendar year on or before the 15th day of March following the close of the calendar year. Taxpayers filing such returns made on the basis of a fiscal year must file on or before the 15th day of the third month following the close of the fiscal year. Therefore, TY 201612 calendar year Form 1066 REMIC returns are due March 15, 2017.
- (3) A REMIC must pay the tax in full by the due date of the return. No estimated tax payments are required. REMICs must use electronic funds transfer to

make all federal tax deposits (such as deposits of employment tax, excise tax, and income tax). Electronic fund transfers are made using the Electronic Federal Tax Payment System (EFTPS).

- (4) When tax is reported on a late filed Form 1066, the return is subject to the Failure to Pay Penalty under IRC 6651(a)(2), and the Failure to File Penalty under IRC 6651(a)(1). If no tax is reported on the return, the REMIC is subject to the Failure to File penalty under IRC 6698. See IRM 20.1.2.4.3.4, *REMIC Special Considerations*, for information on working penalty abatement requests.
- (5) Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information and Other Returns*, is used to request an automatic extension of time to file certain business income tax, information, and other returns. An extension of time to file Form 1066 is granted if the taxpayer completes Form 7004 properly and files the form by the due date of the Form 1066 to which it applies.
- (6) For tax year 2008 and prior, Form 7004 granted an automatic 6-month extension period for most BMF business returns. However, beginning January 1, 2009, to reduce the burden on recipients of Schedules K-1, the extension of time to file REMIC returns was shortened from six months to five months.
- (7) Section 2006(a) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P. L. 114-41, changed the due date for filing the tax return of a REMIC, and thus the date by which a REMIC must file Form 7004 has changed. Additionally, section 2006(b) changed the duration of the extension of time to file Form 1066. The provisions are effective for tax years beginning after December 31, 2015:
  - The due date of a REMIC return, by which Form 7004 is filed, is the 15th day of the third month following the close of the REMICs tax year.
  - The duration of the automatic extension of time to file Form 1066 has increased to six months.
- (8) See IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns, Tax Periods Beginning on or Before December 31, 2015*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns, Tax Periods Beginning After December 31, 2015*, for more general information.

21.7.4.4.3.2  
(10-01-2021)  
**Amended Form 1066  
and Form 1065X,  
Amended Return or  
Administrative  
Adjustment Request  
(AAR)**

- (1) Taxpayers can file amended Form 1066. They are "G" coded and routed to Ogden Accounts Management. Form 1065X is available for use by REMICs that file paper returns. The 1065X is not available in the e-file system for at least a year and possibly much longer. Taxpayers may use Form 1065X to amend prior year Form 1066 returns where the statute is open.
- (2) Route all amended returns and correspondence by a real estate mortgage investment conduit (REMIC, Form 1066) to Ogden Accounts Management Campus, Mail Stop 6740. For CII cases, do not select "Reroute." Update the CII case page to Form 1066, MFT 07, and reassign to IDRS number 0441605253. If the amended return or correspondence involves "foreclosure property," see IRM 21.7.4.4.3.4, *Foreclosure Property Extension Requests*.
- (3) Action required:

- Use blocking series 15 when adjusting
- Amended Form 1066 are not Cat-A criteria

21.7.4.4.3.3  
(01-01-2005)

**Schedule Q (Form 1066),  
Quarterly Notice to  
Residual Interest Holder  
of REMIC Taxable  
Income or Net Loss  
Allocation**

- (1) A copy of Schedule Q is sent to each residual interest holder by the last day of the month following the end of the calendar quarter. Schedule Q notifies the taxpayer of their share of the REMICs quarterly taxable income (or net loss), the excess inclusion with respect to their interest, and their share of the REMICs IRC 212 expenses for the quarter.
- (2) The original Schedules Q (Copy A) for all quarters are attached and filed with Form 1066.

21.7.4.4.3.4  
(11-20-2023)

**Foreclosure Property  
Extension Requests**

- (1) Route all amended returns and correspondence by a real estate mortgage investment conduit (REMIC, Form 1066) to Ogden Accounts Management Campus, Mail Stop 6715. Also, route all requests for extension of “foreclosure property” grace period pursuant to IRC 856(e) to Ogden Accounts Management, Mail Stop 6740. If CII case re-control to 0441605253.
- (2) If the correspondence includes a Form 2848, *Power of Attorney and Declaration of Representative*, or Form 8821, *Tax Information Authorization*, **the form**

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- (3) An extension request is timely if it is filed more than 60 days before the grace period would expire.
  - The grace period expires as of the close of the third taxable year following the taxable year in which the REMIC acquired the foreclosure property (the second taxable year for qualified health care properties).
  - Accordingly, if the grace period would expire on December 31 of a particular year, the extension request must be dated and filed by October 31 of that year for consideration of timely filing. See IRM 3.11.212.5, *Determination of Timely Filing – General Instructions*, for more information.
- (4) If the request is timely filed, Ogden Accounts Management will send the taxpayer a Letter 96C, *Acknowledgment Letter for General Use/Inquiry*. In addition, Ogden will input a CII history statement that an extension request was received and that a Letter 96C was issued. Capture the screen of the Letter 96C for a record of the paragraphs used.
- (5) In the 96C letter, use the open paragraphs and the enclosure option to address extension requests. Input the two open paragraphs per the first two of the following bullets and follow the instructions in the third bullet:
  - If your extension request for foreclosure property described in IRC 856(e) or IRC 860G(a)(8) is timely filed (i.e., more than 60 days before the grace period expires), then the grace period shall be automatically



- extended: (1) in the case of qualified health care property, for 4 years less the term of any prior grace period extension, **and** (2) in other cases, for three years.
- However, if your extension request is timely filed and the IRS subsequently reviews your request and determines that it shall not be granted, then the automatic extension of the grace period set out in the preceding paragraph shall end after the 30th day after you are notified by certified mail that the request was not granted. (See Treas. Reg. Section 1.856-6(g)(5).)
  - Attach a copy of the extension request that contains the taxpayers name, their EIN, date of request, and property description (the address) of each property that the taxpayer is requesting a foreclosure extension for.
- (6) If the request is not timely filed, Ogden Accounts Management will send the taxpayer a Letter 3064C, *IDRS Special Letter*. In addition, Ogden will input a CII history statement that an extension request was received and that a Letter 3064C was issued. Capture the screen of the Letter 3064C, for a record of the paragraphs used.
- (7) In the Letter 3064C, use the open paragraphs and the enclosure option to address extension requests. Input the two open paragraphs per the first two of the following bullets and follow the instructions in the third bullet:
- An extension request for foreclosure property described in IRC 856(e) or IRC 860G(a)(8) must be filed more than 60 days before the grace period would otherwise expire. Your request is untimely since it was filed after this deadline. The property is also ineligible for the automatic extension provided for a timely filed request. See Treas. Reg. Sections 1.856-6(g) (3), (5).
  - While your extension request was untimely filed, you may make a separate request for the IRS to treat it as timely filed, pursuant to Treas. Reg. Section 1.856-6(g) (6), by establishing that (1) there was reasonable cause for failure to file the extension request within the prescribed time and (2) you filed the separate request within a reasonable time under the circumstances.
  - Attach a copy of the extension request that contains the taxpayer's name, its EIN, date of request, and property description (the address) of each property that the taxpayer is requesting a foreclosure extension for.
- (8) If a subsequent inquiry is received "AFTER" a Letter 96C or Letter 3064C is sent (check ENMOD), advise the taxpayer that they may call the non-toll-free numbers below if they have any questions and may speak to one of the: Subject Matter Experts RICs, REITs, and REMICs  
Internal Revenue Service  
LB&I, Financial Services  
847-737-6666  
Between 8:30 AM and 5:00 PM (CST)
- (1) Corporations use Form 1120 series returns to report income, gains, losses, deductions, and credits of U.S. corporations. Corporations must file an income tax return regardless of the amount of their income.

- (2) For federal income tax purposes, the term “corporation” includes associations, joint stock companies, and partnerships that are treated as corporations under section 7704 or elect the classification as corporations. An officer of the corporation must sign the Form 1120.
- (3) The MFT is 02 and the tax class is 3. See Document 6209 for codes and filing requirement codes. Use blocking series 00 when making adjustments when the original return is secured and blocking series 15 without the original return.
- (4) Form 1120, Form 1120-F, and Form 1120-S can be filed electronically along with various forms and schedules. See IRM 21.7.4.4.4.15 , *Modernized e-file (MeF) - System Functionality Overview*, for more information.

21.7.4.4.4.1  
(03-18-2020)  
**Types of Form 1120**

- (1) Corporations can file several types of Form 1120 depending on its business. Listed below are the types in the sequence they appear in this section:
  - Form 1120, *U.S. Corporation Income Tax Return*
  - Form 1120-S, *U.S. Income Tax Return for an S Corporation*
  - Form 1120-H, *U.S. Income Tax Return for Homeowners Associations*
  - Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations*
  - Form 1120-PC, *U.S. Property and Casualty Insurance Company Income Tax Return*
  - Form 1120-L, *U.S. Life Insurance Company Income Tax Return*
  - Form 1120-IC-DISC, *Interest Charge Domestic International Sales Corporation Return* (processed as NMF)
  - Form 1120-ND, *Return for Nuclear Decommissioning Funds and Certain Related Persons*
  - Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*
  - Form 1120-FSC, *U.S. Income Tax Return for Foreign Sales Corporation*
  - Form 1120-SF, *U.S. Income Tax Return for Settlement Funds*
  - Form 1120-REIT, *U.S. Income Tax Return for Real Estate Investment Trusts*
  - Form 1120-RIC, *U.S. Income Tax Return for Regulated Investment Companies*
  - Form 1120-X, *Amended U.S. Corporation Income Tax Return*
  - Form 1120-C, *U.S. Income Tax Return for Cooperative Association*

21.7.4.4.4.2  
(05-09-2016)  
**Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016**

- (1) A newly organized corporation, except a Subchapter S or personal service corporation, can elect any accounting period (Fiscal Year Month (FYM)). Generally, an S corporation must file on the calendar year unless it meets certain criteria as outlined in the Instructions for Form 1120-S or makes a section 444 election (See IRM 21.7.4.4.7, *Form 8752, Required Payment or Refund Under Section 7519*, for information on the tax year of section 444 filers).
- (2) For taxable years beginning before January 1, 2016, most Form 1120 corporation returns (except Form 1120-C filers who meet the requirements of section 6072(d) and Form 1120-IC-DISC) are due on or before the 15th day of the third month after the end of the tax year. A corporation filing a short period return must file by the 15th day of the 3rd month following the end of the short tax year. A dissolving corporation is required to file a final return for the short period that begins on the first day of its normal accounting period and ends on

the date of dissolution. The return is due on or before the 15th day of the 3rd month following the close of the short tax year.

- (3) In addition, for taxable years beginning before January 1, 2016, the corporation could request an automatic 6-month extension of time to file on Form 7004. For example, Form 1120 returns for tax year 201512 are due on or before March 15, 2016 and if an extension of time to file is requested timely the return is due on or before September 15, 2016.
- (4) If the due date of a Form 1120 series return falls on a Saturday, Sunday, or legal holiday, the corporation can file on the next day that is not a Saturday, Sunday, or legal holiday. See IRM Exhibit 3.11.16-2, *Due Date Charts*, for Form 1120 series due dates.

21.7.4.4.4.2.1  
(03-01-2020)

**Form 1120 Corporate  
Series Return Due Dates  
– Tax Years Beginning  
after December 31, 2015**

- (1) Section 2006(a)(1) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P. L. 114-41, changed the return due date for C corporations and is effective for taxable years beginning after December 31, 2015. The federal income tax return for the Form 1120 family of returns (except Form 1120-C, Form 1120-S and Form 1120-IC-DISC) is due on or before the 15th day of the fourth month following the close of the C corporation's tax year, with one exception as follows:
  - The income tax return of a C corporation that ends its tax year on June 30 remains due on or before the 15th day of the third month following the close of the fiscal year for tax years beginning after December 31, 2015 and before January 1, 2026.
- (2) See IRM 3.11.16-2, *Due Date Chart*, for Form 1120 series due dates.
- (3) Section 2006(c) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P. L. 114-41, also changed the duration of the extension of time to file income tax returns for most C corporations. For taxable years that end on December 31 and begin before January 1, 2026, the statutory automatic extension of time to file is five months. However, Regulation 1.6081-3 provides that Form 1120 filers, including calendar year filers, are allowed a six-month automatic extension. If the corporation files for a fiscal year that ends on June 30 and ends before January 1, 2026, the duration of the automatic extension is seven months.
- (4) It is possible to receive short period final returns for periods that began after December 31, 2015 and ended prior to January 1, 2017. Due to the late date that the legislation was passed, IDRS programming was not completed until January 2017. Therefore, interim guidance was developed to handle Form 1120 returns received in 2016. See IRM 21.7.4.4.4.2.1, *Form 1120 Short Period Final Returns with Tax Period Beginning After December 31, 2015*, for more information.
- (5) The return due date for Form 1120-S has not changed. Form 1120-S is due on or before the 15th day of the third month after the end of the tax year. For calendar year filers, Form 1120-S is due on or before the 15th day of March.
- (6) The return due date for Form 1120-C remains the same for taxpayers who meet the requirements of section 6072(d), and the return due date for Form 1120-IC-DISC also remains the same (See IRM 21.7.4.4.4.11.6, *Form 1120-IC-DISC, Interest Charge Domestic International Sales Corporation Return* and IRM 21.7.4.4.4.11.14, *Form 1120-C, U.S. Income Tax Return for Cooperative*

*Associations*, for more information on the due date of each return).

- (7) If the due date of a Form 1120 series return falls on a Saturday, Sunday, or legal holiday, the corporation can file on the next day that is not a Saturday, Sunday, or legal holiday.

21.7.4.4.2.1.1  
(02-10-2020)

**Form 1120 Short Period  
Final Returns with Tax  
Period Beginning After  
December 31, 2015**

- (1) The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P.L. 114-41, changed the due date for filing certain Form 1120 corporate returns for taxable years beginning after December 31, 2015. See IRM 21.7.4.4.2.1, *Form 1120 Corporate Series Return Due Dates – Tax Years Beginning after December 31, 2015*, for more information.
- (2) For taxable years beginning after December 31, 2015, the return due date for the Form 1120 family of returns (except Form 1120-C, Form 1120-S, and Form 1120-IC-DISC) changed from the 15th day of the third month (March 15th for calendar year filers) to the 15th day of the fourth month (April 15th for calendar year filers) following the close of the tax year with one exception:
  - The income tax return of a C corporation that ends its tax year on June 30 remains due on or before the 15th day of the third month following the close of the fiscal year for tax years beginning after December 31, 2015 and before January 1, 2026.
- (3) Work requests to update programming were not implemented until January 2017. Therefore, IRS computer systems did not consider returns with the new due date that were processed before 2017 late by one month, as incorrect penalties and interest would have been assessed if the IRS did not take action to prevent the assessment.
- (4) C corporations filing short period final returns with tax years beginning after December 31, 2015, that were previously due by the 15th day of the third month are now due by the 15th day of the fourth month, except for those C corporations with a taxable year ending on June 30 and beginning prior to January 1, 2026, which continue to be due the 15th day of the third month. These short period returns may not have been processed correctly during 2016. Corporate returns marked final are assigned computer condition code (CCC) “F” and/or short period returns assigned CCC “Y” that end on or before November 30, 2016, and charged penalties and interest, will have the notice fall out to Notice Review (NR) to determine if it is correct or needs adjusting.
- (5) IRM 3.14.2.11, *1120 Workaround – Short Period Return with Tax Period Beginning Date of 201601 and Subsequent (Processing Year 2016 Only)*, was updated to include guidance for Submission Processing for a workaround in Notice Review (NR) who will review affected notices via NRPS selection criteria and will abate or recalculate penalties and/or interest when necessary on corporate returns.

**Note:** IRM subsection 3.14.2.11 was removed from the IRM located on SERP. If you need to view subsection 3.14.2.11, see the January 1, 2017 revision on the Electronic Publishing Website.

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**Note:** If the tax period ends on June 30, 2016, then the penalty is correct and no action is necessary.

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- (8) If an inquiry is received from a taxpayer stating they believe the return was not late, determine whether it meets the criteria in paragraph (7) above. Follow the procedures in the paragraph if they meet the criteria. Input penalty reason code 043 when adjusting. Also, input hold code 0 and allow the adjustment notice to generate.

21.7.4.4.2.1.2  
(10-01-2020)

**Correcting the Form  
1120 Return Due Date**

- (1) For taxable years beginning before January 1, 2016, most Form **1120** series corporation returns (except Form 1120-C filers who meet the requirements of section 6072(d) and Form 1120-IC-DISC) are due on or before the 15th day of the **third** month after the end of the tax year. A corporation filing a short period return must file by the 15th day of the 3rd month following the end of the short tax year. A dissolving corporation is required to file a final return for the short period that begins on the first day of its normal accounting period and ends on the date of dissolution. The return is due on or before the 15th day of the 3rd month following the close of the short tax year.
- (2) For taxable years beginning after December 31, 2015, the Return Due Date (RDD) for the Form 1120 family of returns (except Form 1120-C, Form 1120-S, and Form 1120-IC-DISC) has changed from the 15th day of the third month (March 15th for calendar year filers) to the 15th day of the **fourth** month (April 15th for calendar year filers) following the close of the tax year with one exception:
- The income tax return of a C corporation that ends its tax year on **June 30th** which remain due on or before the 15th day of the third month following the close of the fiscal year for tax years beginning after December 31, 2015 and before January 1, 2026.

**Note:** If the parent corporation of a newly acquired corporation elects to file a consolidated return, the newly acquired corporation must file a return for the short period that ends on the date of the acquisition. The due date for that short period return is the earlier of the normal return due date for the acquired corporation if it had not filed a short period return, or the due date of the parent corporation including extensions. Because the computer cannot know the correct return due date for this type of short period return, the due date shown on IDRS may be incorrect. See IRM 21.7.4.4.4, *Consolidated Returns*, paragraph 5, for rules regarding the due date of that short period return.



- (3) If it is determined that IDRS has the incorrect RDD for a Form 1120 case, employees can update it and the computer will systemically adjust the penalty(s) and/or interest (if charged) to the correct amount. The return due date field is found on TXMOD and on page 1 of Command Code (CC) BMFOLT. The field represents the RDD without regard to any extensions.
- (4) For modules without a TC 766, the process is very simple: the only action needed is to use CC REQ77 /CC FRM77 to input TC 971 with Action Code (AC) 358. Enter the correct return due date as the transaction date of the TC 971.
- (5) Follow the instructions below for modules with an unreversed TC 766. Use **Hold Code (HC 4)** when reversing the transactions below.
- (6) If the TC 766 does not contain a Credit Reference Number (CRN), review the return on CC TRDBV and on CC BMFOLA and:
  - a. Determine whether the credit is from Form 4136, *Credit for Federal Taxes Paid on Fuel*. If CRN(s) are found, reverse the TC 766 and input the correct CRN for a negative amount. This will generate TC 767 with CRN 450 and will not unpost.
  - b. Determine if the credit is from other than Form 4136. If so, reverse the TC 766 with TC 767 for negative amount. For example, the Form 2439, *Credit for Tax Paid on Undistributed Capital Gains of RICs or REITs* does not have a CRN.

**Note:** CC BMFOLA may also reflect CRN 450 with an amount. The amount of CRN 450 is the sum of the other CRN(s) amounts listed under CC BMFOLA. Input the individual CRNs that make up the sum of the CRN 450.

- (7) If the TC 766 contains a CRN 450 with:
  - a. The same DLN as the return, review the return (Form 4136 on CC TRDBV) to identify the credit reference number(s) and amount(s) that made up the CRN 450. Input the applicable CRN(s) and amount(s) as negative amounts to reverse the TC 766 with CRN 450. For example: CRN 359 for 10 percent Gasohol and CRN 369 for Aviation Fuel.
  - b. Doc code 54 or doc code 47, review CC BMFOLA to identify the CRN(s) and **amount(s) that made up the CRN 450 amount. Input the applicable CRN(s) and amount(s)** as negative amounts to reverse the TC 766 with CRN 450. For example: CRN 360 for Non-taxable Use of Undyed Diesel Fuel and CRN 362 for Gasoline.
- (8) If the TC 766 contains a CRN other than 450, input that CRN with a negative amount to reverse the TC 766. For example: CRN 793, Form 8827, Credit For Prior Year Minimum Tax – Corporations.
- (9) After the reversal transactions are input for all posted TC 766 transactions in the module, use CC REQ77 / FRM77 to input TC 971 with AC 358. Enter the correct return due date as the transaction date of the TC 971. Input Posting Delay Code (PDC) 1 to ensure that all of the TC 767 transactions have posted before TC 971 attempts to post. If any unreversed TC 767 transactions remain on the module, the TC 971 will go unpostable with UPC 354 Reason Code 9.



- (10) After the TC 971 AC 358 is input, re-input all of the TC 766 transactions that were reversed using the same CRN as that with which they were reversed. (If the TC 766 was reversed with no CRN, re-input without a CRN.) Input PDC 2 with the adjustment and with HC 3.
- (11) See IRM 21.7.4.4.5, *Estimated tax Overpayment, Credit Elect - General*, if a credit elect is involved.

21.7.4.4.4.3  
(10-01-2022)

**Personal Service Corporations (PSC)**

- (1) A personal service corporation, as defined in Regulations Section 1.441-3(c), must use the calendar year, unless it meets one of the criteria below:
  - a. The corporation can establish to the satisfaction of the Commissioner that there is a substantial business purpose for having a different tax year. (TC 054 identifies approved business purposes.)
  - b. The corporation elects under Section 444 to have a tax year other than its required tax year. (These corporations must file Form 8716, *Election to Have a Tax Year Other Than a Required Tax Year*. An approved election is identified by TC 055.)
- (2) Corporations with fiscal tax periods beginning before January 1, 2018, and ending after December 31, 2017, figure and apportion their tax by blending the 35 percent rate in effect before January 1, 2018 with the 21 percent rate in effect after December 31, 2017 (e.g., blended rate). See IRM 3.12.251.32, *Form 1120, Tax Rates*, for more information on figuring blended rates.

21.7.4.4.4.3.1  
(10-01-2022)

**CP 224 Notice, Notice of Potential Qualification as a Personal Service Corporation**

- (1) The CP 224, Notice of Potential Qualification as a Personal Service Corporation, was obsoleted effective 02/01/2021.
- (2) The CP 224 was issued to businesses which, based on the business activity described on the Form 1120 they filed, qualified as a personal service corporation. The notice was an informational notice to alert them to a potential issue that may affect their tax return. It further stated that a corporation is a qualified personal service corporation if it met **both** of the tests described in IRM 21.7.4.4.4.3(2) (a) and (b) above.
- (3) Taxpayers were instructed to consider the information in the notice and review their income tax return. If they had a practitioner or other third-party prepare their return, they would contact them for assistance. The notice also stated that no further action is necessary if their return is correct as filed, or to File Form 1120-X, *Amended U.S. Corporation Income Tax Return*, if necessary.

21.7.4.4.4.4  
(01-28-2008)

**Consolidated Returns**

- (1) An affiliated group of corporations can elect to file a consolidated income tax return.
- (2) The consolidated return is filed on the basis of the common parent's corporate annual accounting period.
- (3) The consolidated return must include all the income of the parent corporation plus the income of each subsidiary for the portion of such taxable year during which it was a member of the group.
- (4) Form 851, *Affiliations Schedule*, is filed to identify the common parent corporation and each member of the affiliated group, and for making the determination that each subsidiary corporation qualifies as a member of the affiliated group. See the General Instructions for Form 851, for the requirements to qualify as

an affiliated group. An affiliated group is one or more chains of includible corporations connected through stock ownership with a common parent corporation. See IRC 1504(a) and (b) for more information. Form 851 is filed with the consolidated tax return for the group. See IRM 21.3.3.5.2, *Loose Forms/Schedules*, for procedures for working loose Form 851.

- (5) Income not included in the consolidated return by a corporation, because it is not in the group for its complete taxable year, is reported on a separate return. See the table below.

If	Then
The group has filed a consolidated return by the due date for filing a subsidiary's separate return (including extensions of time)	The separate return must be filed no later than the due date of such consolidated return (including extensions of time). See the <b>Example</b> below this table.
The group has not filed a consolidated return by the due date for filing a subsidiary's separate return (including extensions of time)	Such subsidiary must file a separate return no later than the due date of such subsidiary return (including extensions of time). See Reg 1.1502-76(c)(2).

**Example:** The scenario below describes the situation when a group has filed a consolidated return by the due date for filing of a subsidiary's separate return (including extensions of time).

- Corporation A has a FY 03.
- Corporation Z has a FY 12.
- Corporation Z acquires all of the stock of Corporation A at the close of September 30, 2016.
- Corporation Z files a consolidated return for the group for calendar year 2016 on April 15, 2017.
- Since Corporation Z filed a consolidated return by the due date for Corporation A (July 15, 2017), the return of Corporation A for the short taxable year beginning April 1, 2016 and ending September 30, 2016 must be filed no later than April 15, 2017 (the due date for Corporation Z's return).
- No penalty or interest is due for the period January 15, 2017 (normal due date for a return with period ending September 30, 2016) through April 15, 2017.

**Note:** Code and Edit has procedures for identifying and coding this type of return. However, sometimes these returns are not coded properly, especially if e-filed. In order to correct the account, a manual adjustment to interest and/or penalties is possible.

21.7.4.4.4.5  
(10-01-2020)

**Extensions to File Form  
1120 Series Returns**

- (1) Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*, is used to request an automatic extension of time to file certain business income tax, information, and other returns. An extension of time to file Form 1120 is granted if the taxpayer completes Form 7004 properly, makes a proper estimate of the tax (if applicable), files the form by the due date of the return to which the Form 7004 applies, and pays any tax that is due.
- (2) Form 7004 is filed on or before the due date of the Form 1120. Form 7004 does not extend the time for payment of tax. Therefore, to avoid interest charges and a late payment penalty, payment of any balance due on line 8 of Form 7004 is required by the due date of the return for which the request for extension is filed.
- (3) For tax years beginning before January 1, 2016, a taxpayer could obtain a six-month extension period for most Form 1120 series returns by filing Form 7004. Section 2006(c) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P. L. 114-41, changed the due date for filing the tax return of most C corporations, and thus the date by which a C corporation must file Form 7004 for the Form 1120 family of corporate returns (except Form 1120-C, Form 1120-S, and Form 1120-IC-DISC) has changed. Section 2006(c) changed the duration of the automatic extension of time to file. The effective provisions for tax years beginning after December 31, 2015 show the following:
  - The due date of a C corporation return (except Form 1120-C, Form 1120-S and Form 1120-IC-DISC), by which Form 7004 is filed, will be the 15th day of the fourth month following the close of the C corporation's tax year, with one exception. The income tax return of a C corporation that ends its tax year on June 30 remains due on or before the 15th day of the third month following the close of the fiscal year for tax years beginning before January 1, 2026.
  - The due date for an S corporation return is due by the 15th day of the third month after the year end.
  - For tax years that end on June 30 and begin before January 1, 2026, the duration of the automatic extension is seven months.
  - For all other tax years beginning after December 31, 2015, the duration of the automatic extension is six months.

**Note:** The return due dates for Form 1120-C filers who meet the requirements of section 6072(d) and Form 1120-IC-DISC filers have not changed. Form 1120-S is a return of an S corporation. Therefore, there is no change to the extension process for filers of these returns.

- (4) Due to the late date that the legislation was passed, IDRS programming was not completed until January 2017. Therefore, interim guidance was developed to handle extension requests received in 2016.
- (5) **Timely filed calendar year Form 7004 is no longer date stamped and the envelope is no longer retained.** However, the first document within a block of these forms will contain a received date. If the form is delinquent but the postmark on the envelope is timely, Code and Edit circles the received date. Consider timely any calendar year (200312 and subsequent) Form 7004 that is not date stamped. Follow IRM 20.1.2.2.3, *Extension of Time to File and Pay*, for penalty abatement procedures.

- (6) The taxpayer shows on line 6, Form 7004, the tentative amount of tax for the taxable year. The amount is identified by TC 620 and is for reference purposes only.
- (7) Even though a corporation has an extension of time to file, a failure to pay penalty may be assessed if the amount paid on or before the un-extended due date of the return, is not at least 90 percent of the total tax shown on the relevant Form 1120. See IRM 20.1.2.2.3, *Extension of Time to File and Pay*, for more information.
- (8) The filing of Form 7004 does not affect the amount of interest assessed. Interest is assessed on any unpaid liability from the original due date of the return until the balance is paid in full.
- (9) When correspondence is received requesting an explanation of the interest and/or penalties:
  - a. Phone or send Letter 219C, *Corporate Penalty and Interest Explained (Form 7004)*.
  - b. If the taxpayer states Form 7004 was timely filed, research to locate the form. Follow IRM 20.1.2.2.3, *Extension of Time to File and Pay*, for penalty abatement procedures.
  - c. If Form 7004 posted to an incorrect period or TIN, make any necessary credit transfers and re-input Form 7004 using REQ77 to input TC460/462.
- (10) See IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*, for additional information.

21.7.4.4.4.5.1  
(10-01-2020)  
**Form 1120 Short Period  
Final Returns with Tax  
Period Beginning After  
December 31, 2015  
Filing Extension  
Requests**

- (1) The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P.L. 114-41, changed the due date for filing certain Form 1120 corporate returns for taxable years beginning after December 31, 2015. See IRM 21.7.4.4.4.2.1, *Form 1120 Corporate Series Return Due Dates – Tax Years Beginning after December 31, 2015*, for more information.
- (2) For short tax periods beginning after December 31, 2015, the federal income tax return for the Form **1120** family of returns (except Form **1120-C**, Form **1120-S** and Form **1120-IC-DISC**) and therefore, the date by which a corporation may request an automatic extension of time to file the return using Form 7004, is the 15th day of the fourth month following the close of the corporation's tax year with one exception as follows:
  - The income tax return of a C corporation that ends its tax year on June 30 remains due on or before the 15th day of the third month following the close of the fiscal year for tax years beginning after December 31, 2015 and before January 1, 2026.
- (3) The duration of the extension of time to file is based on the month that the corporation's tax year ends. For tax years beginning after December 31, 2015, and before January 1, 2026, see paragraph 3 in IRM 21.7.4.4.4.5, *Extensions to File Form 1120 Series Returns*, for the duration of the automatic extension period.

- (4) If it is determined that the Form 7004 is for a tax period beginning after December 31, 2015, and the corporate return is other than Form 1120-C, Form 1120-S or Form 1120-IC-DISC, and the extension of time to file is filed:
  - By the 15th day of the fourth month, a six-month extension is granted. October 15th for a calendar year filer.
  - After the 15th day of the fourth month the extension request is denied.
- (5) If an inquiry is received for a tax period beginning after December 31, 2015, stating that the taxpayer filed an extension request for a corporation for the Form 1120 family of returns (other than Form 1120-C or Form 1120-IC-DISC or for tax years ending on June 30) by the 15th day of the fourth month, and if research:
  - Verifies the claim, input TC 460 and allow an extension of the duration shown in paragraph (3) above, calculated from the due date of the applicable Form 1120.
  - Shows that the request for extension was filed after the 15th day of the fourth month, 15th day of the third month for Form 1120-S, advise the taxpayer that the request for extension was filed late and do not abate the penalty.

**Note:** When necessary, the tax period beginning date is determined by looking at the tax period end date of the previous tax period, if a return was previously filed for that period. If the tax period began before January 1, 2016, then the extension is late if it is filed after the 15th day of the 3rd month following the close of the tax period.

21.7.4.4.4.5.2  
(10-01-2016)

#### Taxpayers Abroad

- (1) Corporations are entitled to an automatic 2 - 3 month extension to file and pay under certain conditions outlined in IRM 20.1.2.2.3.3, *Taxpayers Abroad*. When a corporate return is identified during processing as qualifying for the extension, Code and Edit will enter Computer Condition Code (CCC) "R" on the return if the return is filed by the extended return due date, and it will also enter CCC "D" on the return if the tax shown on the return was paid by the extended return due date.
- (2) CCC "R" is **not** entered on returns that were filed after the extended return due date, nor is CCC "D" entered on returns where the tax shown on the return was not paid by the extended return due date. This presents a problem since BMF does not recognize the automatic extension without manual intervention.
- (3) A corporation may respond to a penalty notice indicating that it qualifies for the extension under 26 CFR 1.6081-5. Before taking any action verify that it does qualify see IRM 20.1.2.2.3.3, *Taxpayers Abroad*. If the corporation qualifies, input TC 460 to allow an extension to the 15th day of the sixth month following the end of the tax period. This will cause the Failure to File penalty to recompute.
- (4) Since there is no way to input an extension of time to pay, the Failure to Pay penalty for paying late will need a manual adjustment if the Form 1120 reported tax and the corporation did not pay the tax by the original return due date.
  - If the automatic extension is a three-month extension, multiply the unpaid tax on the original return due date by 1.5 percent (0.015).

- If the automatic extension is a two-month extension, multiply the unpaid tax on the original return due date by 1.0 percent (0.010).

- (5) Input TC 271 for the computed amount as a negative number. Use reason code 062 (so as not to restrict the FTP penalty) and penalty reason code 030. Use hold code 0 to allow issuance of an adjustment notice.

21.7.4.4.4.6  
(10-01-2024)  
**Change in Accounting  
Period (Corporations)**

- (1) Under certain conditions, corporations (other than Subchapter S or personal service corporations and as defined in Revenue Procedure 2006-45 as clarified and changed by Revenue Procedure 2007-64) may obtain automatic approval to adopt, change, or retain its annual accounting period under IRC 442. See *Rev. Proc. 2006-45*, 2006-45 I.R.B. 851, In addition, see *Rev. Proc. 2007-64*, 2007-42 I.R.B. 818, which changes a scope provision and one of the terms and conditions under which IRS grants approval under *Rev. Proc. 2006-45*. If a taxpayer does not qualify to make the change under the automatic procedures of *Rev. Proc. 2006-45*, the taxpayer must make the change under *Rev. Proc. 2002-39*, I.R.B. 2002-22, (as clarified and modified by Notice 2002-72 and modified by *Rev. Procs. 2003-34*, 2003-79, and 2018-17).
- (2) Generally, to request a ruling to adopt, change or retain a tax year, the taxpayer must file its Form 1128 by the due date (not including extensions) of the federal income tax return for the first effective year. To request automatic approval to change a tax year under *Rev. Proc. 2006-45*, the taxpayer must file by the due date of the return (including extensions) for the short period required to effect the change. Under Pub. L. No. 114-41, section 2006(a), 129 Stat. 443, the due date for filing C corporation returns under IRC 6072 (a), the due date for filing C corporation returns was changed from March 15 to April 15 for calendar year taxpayers and from the 15th day of the third month following the close of the taxable year to the 15th day of the fourth month following the close of the taxable year for fiscal year taxpayers. For a C corporation with a taxable year ending on June 30, the change in due date begins in 2026. This change applies for taxable years beginning after December 31, 2015, except for a corporation with a year ending on June 30, in which case the new rule applies for tax years beginning after December 31, 2025. Pub. L. No. 114-41, section 2006(a).
- (3) Entities other than corporations may also obtain automatic approval to adopt, change, or retain its annual accounting period under IRC 442. See *Rev. Proc. 2006-46*, 2006-45 I.R.B. 859.
- (4) See Publication 538, *Accounting Periods and Methods*, for more information on accounting periods and the Instruction to Form 1128.
- (5) A change in accounting period is identified by TC 053 or 054 on cc ENMOD.

21.7.4.4.4.6.1  
(10-01-2024)  
**Taxpayer Requests  
Ruling on Accounting  
Period**

- (1) Form 1128, *Application To Adopt, Change, or Retain a Tax Year*, is used by taxpayers in determining their tax accounting periods. Ordinarily a taxpayer adopts a tax year simply by filing the taxpayer's first tax return on that year, without also filing Form 1128. However, if the taxpayer either needs permission to adopt its first year, or a taxpayer is changing its tax year, the taxpayer must file both the relevant tax return (normally a short-period return) and a Form 1128.

**Example:** To illustrate, assume a newly formed corporation of individuals, all of whom use the calendar year, purchased a ski club that operates



between September and March. Under IRC 706(b)(1)(B), the corporation could adopt the calendar year simply by filing its first tax return using that year. However, to adopt a tax year that is not the calendar year (for example, a tax year ending in March), the corporation must submit a ruling request to the National Office in Washington D.C., along with a user fee, a Form 1128, and its proposed first-year tax return, and ask the National Office to approve its request to adopt a tax year ending in March, under the seasonal business test. See *Rev. Proc. 2002-39*, 2002-1 C.B. 1046, section 5.03(b)(2)(b) (c).

- (2) Certain changes to a tax period made under “automatic procedures”, are found in various revenue procedures. If a taxpayer is within the scope of an automatic procedure, the Commissioner of Internal Revenue is considered to have consented to the taxpayer’s request and no user fee is charged. See, for example, *Rev. Proc. 2006-45*, 2002-37 C.B. 442, or *Rev. Proc. 2006-46*, 2002-38 C.B. 442. A taxpayer making a change under an automatic procedure submits the Form 1128 and a short-period tax return effecting the change to the designated IRS office/processing center. Automatic procedures are under the exclusive jurisdiction of the designated IRS offices; thus, taxpayers should not send Form 1128 requesting an automatic procedure to the National Office.
- (3) If the adoption, change, or retention of an accounting period is not covered by an automatic procedure, then the taxpayer’s request falls within the jurisdiction of the National Office. A taxpayer who requests a ruling must submit not only the request itself, but also a legal argument made under penalties of perjury, provide other information and affidavits as required and pay a user fee.
- (4) IRS charges a user fee when the taxpayer requests a ruling from the National Office on an accounting period.
- (5) If the taxpayer does not qualify for the automatic approval provisions, they are instructed to file Form 1128, *Application to Adopt, Change, or Retain a Tax Year*, with the Commissioner of the Internal Revenue Service in Washington, D.C.
- (6) In the event the taxpayer sends Form 1128 to a campus with the payment:
  - a. Receipt and Control returns the payment to the taxpayer with a Letter 2340C, *Accounting Period User Fee (F1128, F2553) Received*, letter of explanation.
  - b. Form 1128 is sent to Entity annotated “UFR” (User Fee Returned).
  - c. If the taxpayer’s check also included a tax payment, the full amount is applied to their account and the taxpayer notified via Letter 2340C, *Accounting Period User Fee (F1128, F2553) Received*.
- (7) Any correspondence received from the taxpayer requesting a refund of the user fees is sent to CAS:AM on Form 3465. Action required:
  - a. If unable to locate the payment, contact the taxpayer via phone or correspondence.
  - b. Once the payment is located, issue a manual refund for the portion of the payment applicable to the user fee.
- (8) If correspondence is received from the taxpayer as a result of Form 1128 being denied because it was filed late and the taxpayer requests relief under

Regulations section 301.9100, cites *Rev. Proc. 2023-1* or any successor, or otherwise requests granting of an extension:

- a. Forward the request to Associate Chief Counsel (Procedure and Administration):

Sent via US Postal Service	Sent via Private Delivery Service (e.g., UPS, FedEx, etc.)
Internal Revenue Service Attn.: CC:PA:LPD:TSS, Room 7604 P.O. Box 7604 Ben Franklin Station Washington, D.C. 20044	Internal Revenue Service Attn.: CC:PA:LPD:TSS, Room 4516 1111 Constitution Avenue N.W. Washington, D.C. 20224

- b. Advise the taxpayer of the referral via Letter 86C, *Referring Taxpayer Inquiry/Forms to Another Office*.

**Note:** Such requests are considered requests for letter rulings under *Rev. Proc. 2002-39* and considered by the National Office. The taxpayer is charged a user fee for these types of requests.

21.7.4.4.4.7  
(10-01-2022)  
**Tax Computation  
(Corporations)**

- (1) Section 13001 of P.L. 115-97, Tax Cuts and Jobs Act (TCJA), replaced the graduated corporate tax structure with a flat rate of 21 percent tax rate effective for taxable years beginning after December 31, 2017. A corporation's tax is computed by multiplying taxable income by 21 percent,
- (2) Form 1120 filers compute tax on Schedule J using the *Instructions for Form 1120*. Most corporations figure their tax by using the tax rate schedule below. Follow the Schedule J submitted by the taxpayer, for consideration of other credits or taxes as applicable. The total tax on Schedule J is entered on the "Total tax" line on Form 1120.

If taxable income is over	But not over	Tax is	Of the amount over
\$0	\$50,000	15 percent	\$0
50,000	75,000	\$7,500 + 25 percent	50,000
75,000	100,000	13,750 + 34 percent	75,000
100,000	335,000	22,250 + 39 percent	100,000
335,000	10,000,000	113,900 + 34 percent	335,000
10,000,000	15,000,000	3,400,000 + 35 percent	10,000,000
15,000,000	18,333,333	5,150,000 + 38 percent	15,000,000
18,333,333	-----	35 percent	0

**Exception:** Mutual savings banks (conducting life insurance business), Subchapter L (relating to insurance companies) and Subchapter M (relating to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs)).

- (3) Corporations with a fiscal year beginning before January 1, 2018, and ending after December 31, 2017, will pay federal income tax using a blended pro-rated tax and not the flat 21 percent tax rate. To calculate the pro-rated tax, corporations must calculate their tax for the entire year twice: first using the pre-TCJA tax rates, and then using the new 21 percent rate. Then, they multiply each of these tax amounts by the fraction of the fiscal year during which the corresponding rate was in effect, and add the amounts together to produce the federal income tax for the fiscal year. For additional information on computing the corporation's blended rate, see the table in IRM 3.12.251.33, *Form 1120, Tax Rates*.
- (4) If the taxpayer needs further guidance refer them to the Form 1120 Instructions and *Notice 2018-38*, 2018-18 I.R.B. 522, for more information.
- (5) For computing tax on **short period returns (annualizing tax)**, see Publication 538, *Accounting Periods and Methods*. Do not annualize tax on short period initial or final returns.

21.7.4.4.4.7.1  
(10-01-2019)

**Exceptions to the  
Standard Tax Rate  
(Corporations)**

- (1) For tax years beginning before January 1, 2018, exceptions apply to the use of the standard tax rates for qualified personal service corporations and members of a controlled group.
- (2) For tax years beginning before January 1, 2018, the corporation should check the correct box and complete the lines on Schedule J if the exceptions apply.

21.7.4.4.4.7.1.1  
(10-01-2022)

**Qualified Personal  
Service Corporations**

- (1) TCJA Section 12001(b)(11), amended IRC 11(b) eliminating the graduated corporate tax structure. For tax years beginning after December 31, 2017, corporations are subject to a flat tax of 21 percent of taxable income. The TCJA does not provide a special rate for QPSCs. Accordingly, they are also taxed at a flat rate of 21 percent. Prior to TCJA, a qualified personal service corporation (QPSC) (as defined in IRC 448(d)(2)) was taxed at a flat rate of 35 percent (for taxable years beginning on or after January 1, 1993) on taxable income.
- (2) IRC 448(a) prohibits the use of the cash method by C corporations, partnerships that have C corporations as partners, and tax shelters. Exceptions exist for farmers, qualified personal service corporations and entities that meet the gross receipts test defined in IRC 448(c). A corporation is a Qualified Personal Service Corporation (QPSC) if:
  1. Substantially all of its activities involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial sciences, performing arts, or consulting, and
  2. Substantially all of the stock (by value) is held directly (or indirectly through one or more partnerships, S-corporations, or QPSCs) by employees performing qualified personal services, retired employees who had performed such services, the estate of any employee who had performed such services, or any other person who acquired such stock by reason of the death of an employee who performed such services --

but only for the two-year period beginning on the date of death of such individual. See IRC 448(d)(2)(A) and (B).

- (3) For tax years after December 31, 2017, tax is computed at 21 percent. Tax Cuts and Jobs Act of 2017 - P.L. No. 115-97 (H.R. 1), Section 13001, provides for a 21 percent corporate rate effective for taxable years beginning after December 31, 2017. For fiscal filers (tax periods 201801 through 201811) tax is figured at a blended rate. See IRM 21.7.4.4.3, *Personal Service Corporations*, for more information on personal service corporations.

21.7.4.4.7.1.2  
(10-01-2022)

**Members of a Controlled Group**

- (1) A controlled group is defined as a group of two or more corporations treated as one for determining the group's tax rates.
- (2) For purposes of computing the accumulated earnings credit, per the Tax Cuts and Jobs Act (TCJA) of 2017, for taxable years beginning after December 31, 2017, controlled groups are subject to a flat tax rate of 21 percent and can use only one \$250,000 amount.
- (3) For tax periods ending December 31, 1993 (199312), through December 31, 2017 (201712):
- a. Members of the controlled group must pay total tax in the following amounts:

If taxable income is over	But not over	Tax is	Of the amount over
\$0	\$50,000	15 percent	\$0
50,000	75,000	\$7,500 + 25 percent	50,000
75,000	100,000	13,750 + 34 percent	75,000
100,000	335,000	22,250 + 39 percent	100,000
335,000	10,000,000	113,900 + 34 percent	335,000
10,000,000	15,000,000	3,400,000 + 35 percent	10,000,000
15,000,000	18,333,333	5,150,000 + 38 percent	15,000,000
18,333,333	-----	35 percent	0

- b. In addition to paying their regular tax, members of a controlled group with total income over \$100,000 will pay an additional 5 percent tax on taxable income in excess of \$100,000 (not to exceed \$11,750 in tax).
- c. In addition to paying their regular tax, members of a controlled group with total income over \$15,000,000 will pay an additional tax of 3 percent of its taxable income in excess of \$15,000,000 (not to exceed \$100,000 in tax).

- d. Corporations who are members of a controlled group must attach Schedule O (Form 1120) *Consent Plan and Apportionment Schedule*, to apportion tax among the members of the group.

**Note:** Schedule O and the instructions for Schedule O were revised to reflect the replacement of the graduated corporate tax structure with the flat 21 percent corporate tax rate and the repeal of the corporate alternative minimum tax.

- (4) Members of a controlled group must check the box on line 1 of Schedule J and attach Schedule O, *Consent Plan and Apportionment Schedule for a Controlled Group*, to report the apportionment of taxable income, income tax, and certain benefits between the members of a controlled group.
- (5) Schedule O is also used to show that all members of the control group:
- Are not adopting an apportionment plan
  - Are adopting an apportionment plan
  - Already have an apportionment plan
  - Are amending a previously adopted apportionment plan
  - Are terminating the existing apportionment plan

**Note:** The taxpayer should show which of the conditions listed above apply.

- (6) For tax years prior to January 1, 2018, members of a controlled group are entitled to one of each of the taxable income bracket amounts on Part II, Taxable Income Apportionment, of the Schedule O (Rev. 12-2012) in the order listed below:
- a. \$50,000
  - b. \$25,000
  - c. \$9,925,000

**Note:** The Schedule O was revised for TY 2018. See Part II Apportionment (Rev. 12-2018); Part II, Taxable Income Apportionment no longer applies.

- (7) When a controlled group adopts or later amends an apportionment plan each member must attach to its tax return a copy of its consent plan. The copy (or attached statement) must show the part of the amount in each taxable income bracket apportioned to that member. See Treas. Reg. 1.1561-3 for additional requirements.
- (8) T.D. 9476 contains final regulations that provide guidance to members of a controlled group of corporations for determining the apportionment of tax benefit items and the amount and the type of information required to submit with their returns.
- (9) Below is the tax computation worksheet for members of a controlled group. Utilize the Accounts Management Services (AMS) worksheet or the instructions for the Schedule O for the tax computation for controlled group members. In addition, use the information from IDRS and not from the taxpayers copy of the Schedule O and Schedule J. That is, back into the new numbers by taking figures from the original return, plus or minus the changes from the amended return.

**Note:** Each member of a controlled group (except a qualified personal service corporation) must compute the tax using the worksheet below. For tax periods

201801 through 201811, the tax rate percent is pro-rated. If the taxpayer needs further guidance refer them to the Form 1120 Instructions, and *Notice 2018-38, 2018 Fiscal -Year Blended Tax Rates for Corporations*, for more information. This worksheet does not apply to tax returns for taxable years beginning after December 31, 2017.

<b>Worksheet for Members of a Controlled Group (keep for your records)</b>	
1. Enter taxable income (line 30, page 1, Form 1120) .....	1. _____
2. Enter line 1 or the corporation's share of the \$50,000 taxable income bracket, whichever is less in Part II, Column C .....	2. _____
3. Subtract line 2 from line 1 .....	3. _____
4. Enter line 3 or the corporation's share of the \$25,000 taxable income bracket, whichever is less in Part II, Column D .....	4. _____
5. Subtract line 4 from line 3 .....	5. _____
6. Enter line 5 or the corporation's share of the \$9,925,000 whichever is less in Part II, Column E .....	6. _____
7. Subtract line 6 from line 5 .....	7. _____
8. Multiply line 2 by 15 percent .....	8. _____
9. Multiply line 4 by 25 percent .....	9. _____
10. Multiply line 6 by 34 percent .....	10. _____
11. Multiply line 7 by 35 percent .....	11. _____
12. If the taxable income of the controlled group exceeds \$100,000, enter this member's share of the smaller of 5 percent of the taxable income in excess of \$100,000 or \$11,750 in Part III, Column F	12. _____
13. If the taxable income of the controlled group exceeds \$15,000,000 enter this member's share of the smaller of 3 percent of the taxable income in excess of \$15,000,000, or \$100,000 in Part III, Column G	13. _____
14. Add lines 8 through 13. Enter here and on line 2, Schedule J, Form 1120.....	14. _____
Members of controlled groups should attach a statement to their tax return (or amended return), showing their tax computation.	

21.7.4.4.4.7.2  
(05-23-2024)  
**Form 4626, Alternative  
Minimum Tax -  
Corporations**

- (1) TCJA Section 12001 repealed the corporate AMT for tax years beginning after 2017. See IRM 21.7.4.4.9.3.2, *Repeal of Alternative Minimum Tax (AMT), and Repeal of Corporate AMT Sequestration*, for more information. For additional information on corporate AMT prior to 2018, see previous revisions of this IRM.
- (2) The Inflation Reduction Act of 2022 amended IRC 55 to create a new Corporate Alternative Minimum Tax (CAMT) which imposes a 15% minimum tax on the adjusted financial statement income (AFSI) of applicable large cor-



porations under IRC 59(k) for taxable years beginning after Dec. 31, 2022. Form 4626, Alternative Minimum Tax – Corporations, is used to determine whether a corporation is an applicable corporation under IRC 59(k) and to calculate CAMT under IRC 55 for applicable corporations.

**Note:** S corporations, regulated investment companies (RIC), and real estate investment trusts (REIT) are not subject to CAMT.

- (3) An applicable corporation under IRC 59(k) is any corporation that satisfies the AFSI test for one or more tax years which are prior to the current tax year and which end after December 31, 2021. A corporation meets the general AFSI test for that tax year when the corporation's average annual AFSI for the 3-tax-year period ending with the tax year exceeds \$1 billion.

**Note:** All AFSI of members of a controlled group is included in the AFSI of the corporation for AFSI test purposes.

- (4) For the first tax year beginning after December 31, 2022, a corporation may choose to apply the safe harbor method (simplified method) for purposes of determining whether it is an applicable corporation. See Notice 2023-7, section 5, for additional information. If a corporation has been in existence for less than 3 tax years of the 3-tax-year period, the AFSI test is applied by averaging the tax years of the 3-tax-year period during which the corporation existed. AFSI for any tax year of fewer than 12 months shall be annualized by multiplying the AFSI for the short period by 12 and dividing the result by the number of months in the short period.

**Note:** See Form 4626 Instructions for additional information on ASFI and the ASFI test applicable to Foreign-Parented Multinational Groups (FPMG) (FPMG AFSI Test).

- (5) CAMT applies if the tentative minimum tax for the tax year exceeds the sum of the regular income tax plus the base erosion minimum tax (imposed under IRC 59A). The tentative minimum tax for the tax year is the excess of 15% of AFSI for the tax year, over the CAMT Foreign Tax Credit (FTC) for the tax year. For any corporation that is not an applicable corporation, the tentative minimum tax for the tax year is zero. See Form 4626 and the Form 4626 instructions for additional information on calculating CAMT.
- (6) A corporation may take a credit against regular tax for alternative minimum tax (including CAMT) incurred in prior years. See Form 8827, Credit for Prior Year Minimum Tax—Corporations, for details.
- (7) Item Reference Number (IRN) 905 is input to adjust CAMT on the master file. A new field on entity module BMFOLE and ENMOD display TCAMT for a sum total of CAMT, which updates anytime a new return with CAMT or an adjustment with IRN 905 is input.
- (8) Action:
- Math verify Form 4626
  - Input IRN 905 to increase or decrease CAMT

21.7.4.4.4.7.3  
(05-11-2022)

**CP 130 Notice, Potential Exemption from AMT**

- (1) CP 130 Notice, *Potential Exemption from AMT*, generates when taxpayer completes Form 4626, *Alternative Minimum Tax-Corporation*, and it appears they are not liable for the tax.
- (2) The Taxpayer Relief Act of 1997 provided an exemption from AMT for certain small corporations. See IRM 21.7.4.4.4.7.2, *Form 4626, Alternative Minimum Tax (Corporations)*, for criteria.
- (3) Taxpayers should check their records to see if they meet the requirements to be considered a small corporation, and therefore, exempt from AMT. For aggregation rules and other special rules that may apply in figuring gross receipts, see IRC 448(c)(2) and (3). Taxpayer should also check prior years to determine if they were truly liable.
- (4) If it is determined (by the taxpayer) they are exempt from the AMT, they should prepare a Form 1120-X to delete the AMT reported on their original return. They should mark Form 1120-X "**AMT - EXEMPT**" at the top of the form and mail it to the campus where the original Form 1120 was filed. See the *Instructions for Form 1120*, for the address for the taxpayer to send to the Kansas City or Ogden campus. Reassign Correspondence Imaging Inventory (CII) cases with the original return filed in Ogden to employee number 0445105039 or 0444105039.

21.7.4.4.4.8  
(01-18-2022)

**Schedules, Form 1120 Series**

- (1) Taxpayers must complete the Form 1120 schedules as part of the 1120 tax package. The taxpayer is also required to submit various forms to substantiate credits or tax items applicable to the return. See the schedules and forms listed below:
  - Schedule A, *Cost of Goods Sold*. This is only applicable through tax year 2010. For 2011 and forward, use Form 1125-A, *Cost of Goods Sold*, for reporting cost of goods sold
  - Schedule C, *Dividends, Inclusions, and Special Deductions*
  - Schedule D, *Capital Gains and Losses*
  - Schedule G, *Information on Certain Persons Owning the Corporation's Voting Stock*
  - Schedule H, *Section 280H Limitations for a Personal Service Corporation (PSC)*
  - Schedule J, *Tax Computation*
  - Schedule K, *Other Information*
  - Schedule K-1, *Shareholder's Share of Income, Credits, Deductions, etc.* (Form 1120-S)
  - Schedule K-2, *Shareholder's Pro Rata Share Items - International*, and Schedule K-3, *Shareholder's Share of Income, Deductions, Credits, etc. - International* (Form 1120-S)
  - Schedule L, *Balance Sheets per Books*
  - Schedule M-1, *Reconciliation of Income (Loss) per Books With Income (Loss) per Return* - is a simplified version of Schedule M-3. A taxpayer files M-1 or M-3, but not both
  - Schedule M-2, *Reconciliation of Income (Loss) and Analysis of Unappropriated Retained Earnings per Books*
  - Schedule M-3, *Net Income (Loss) Reconciliation for Corporations with Total Assets of \$10 Million or More*
  - Schedule N, *Foreign Operations of U.S. Corporations*
  - Schedule PH, *U.S. Personal Holding Company (PHC) Tax* (Every PHC must attach this schedule to its income tax return.)

- Schedule O, *Consent Plan and Apportionment Schedule for a Controlled Group*
- Schedule UTP, *Uncertain Tax Positions - Statement*

21.7.4.4.4.9  
(10-01-2009)  
**Credits, Form 1120  
Series Returns**

- (1) Taxpayers claim credits by submitting the required forms for substantiation. See IRM 21.7.4.4.8, *Non-refundable Credits, Income Tax Returns*, and IRM 21.7.4.4.9, *Refundable Credits, Income Tax Returns*, for more information on non-refundable and refundable credits.

21.7.4.4.4.9.1  
(10-01-2022)  
**Investment Credit,  
General Business Credit  
— Missing or Incomplete  
Schedules**

- (1) When the original return in the Form 1120 series is processed, it is analyzed for the proper schedules to support the tax credits claimed. When a form is missing or incomplete:
- A letter is issued to the taxpayer requesting the information needed.
  - If the proper form is received within the suspense period, the credit is allowed.
- (2) Accounts Management receives the late replies and takes the following actions:
- Reviews the forms and/or information received from the taxpayer and verifies the credits claimed.
  - If you do not have a copy of the return, use CC BRTVU. (Do not request the original return unless absolutely necessary.)

If	And	Then
Credit forms/ schedules are correct	The credit has not previously been allowed	1. Input TC 291 to decrease the tax for the amount of credit. 2. Adjust penalties (see IRM 20.1.2.2.5, <i>Manual Penalty Adjustments</i> ) and interest (see IRM 20.2.5.6, <i>Restricted Interest</i> ) if re- stricted. 3. Notify the taxpayer of the action taken.
Credit forms/ schedules are correct	The credit was pre- viously allowed	Attach the information to the TC 150 return.

**Note:** If the requested forms were not received, or are incomplete, disallow the credit following disallowance procedures in IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures*.

21.7.4.4.4.9.1.1  
(01-01-2005)  
**Investment Credit  
Erroneously Computed  
or Claimed**

- (1) A taxpayer may receive and return an erroneous refund which was generated due to either:
- The taxpayer recomputed investment credit from the prior year and included the credit amount in the remittance submitted with the return.

- b. The taxpayer claimed unused investment credit carryover, however, the return was filed and no tax due. The refund was generated because the unused investment credit was reported on the incorrect credit line.

(2) Action required:

- a. Determine where the error occurred. (Use CFOL command codes for research. Do not request the original return unless necessary.)
- b. Review the account for the returned refund check (TC 841) and monitor until the TC 841 posts.
- c. Input TC 290 for the amount of the tax increase.

21.7.4.4.4.10  
(01-25-2018)  
**Payment of Tax  
(Corporations)**

- (1) Taxpayers required to electronically deposit all income, employment, excise, and corporate depository taxes use the Electronic Funds Transfer (EFT). See IRM 21.7.1.4.8.1, *Electronic Federal Tax Payment System*, for information on EFTPS.
- (2) Some taxpayers remit payments for their employment or excise taxes with their tax return. See IRM 20.1.4.6, *De Minimis Exception to Deposit Requirements*, for employment taxes and IRM 20.1.4.10.5, *De Minimis Exception to Deposit Requirements Form 720*, for more information. Corporate taxpayers can also remit payment when filing Form 7004, *Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*. Foreign corporate taxpayers without a U.S. office can also remit through electronic funds transfer such as EFTPS.
- (3) See IRM 21.7.11.4.8, *CP 234 - Processing Potential ES Penalty Notices*, regarding the postponement of certain corporate ES payments due to disasters or terrorist attacks. Also see the *IRS Disaster Assistance Program* website for the postponement due to disasters.

21.7.4.4.4.10.1  
(11-13-2020)  
**Estimated Tax Payments  
- Due Dates**

- (1) A corporation's estimated tax payments for a full 12-month period are due on #  
#  
filer, this is the 15th day of April, June, September and December. The payment due dates for periods less than 12 months are determined by the number of months in the short period. For more information, see IRM Exhibit 20.1.3-2, *Installment Due Dates and Percentages of Estimated Taxes for Short Period Returns*.
- (2) Section 2006(a)(1) of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, P. L. 114-41, changed the return due date for most C corporations and is effective for taxable years beginning after December 31, 2015. The federal income tax return for the Form 1120 family of returns (except Form 1120-C, Form 1120-S, Form 1120-IC-DISC), is due on or before the 15th day of the fourth month following the close of the corporation's tax year, with one exception as follows: The income tax return of a C corporation that ends its tax year on June 30 remains due on or before the 15th day of the third month following the close of the fiscal year for tax years beginning after December 31, 2015 and before January 1, 2026. The due date for S corporation return is due on the 15th day of the third month after the year end.
- (3) A possible estimated tax penalty is charged when a corporation does not pay estimated taxes when due. See IRM 20.1.3, *Estimated Tax Penalties*, for more information.

- (4) A corporation can file Form 8842, *Election To Use Different Annualization Periods for Corporate Estimated Tax*, to elect different annualization periods for estimated tax. Upon receipt of Form 8842, Code and Edit inputs a TC 971 with Action Code 047 and routes the form to the Alpha File.
- (5) Per Chief Counsel, the IRS will not transfer or re-designate an estimated tax payment or a portion of an estimated tax payment that was applied to a taxpayer's account to satisfy a different liability of the taxpayer if the payment is applied according to the taxpayer's instructions. For example, taxpayer requests that we transfer an estimated tax payment from their Form 1120 account to their Form 941 account because the taxpayer believes they will have no tax liability when the Form 1120 is filed. The IRS will not transfer these payments. However, if the taxpayer designated an estimated tax payment to the incorrect form or tax period, or if the IRS applies a payment contrary to a taxpayer's instructions, the IRS will, upon request by the taxpayer, transfer the payment to the intended account.
- (6) A corporation that believes it will have overpaid its estimated tax for the tax year may apply for a quick refund on Form 4466, *Corporation Application for Quick Refund of Overpayment of Estimated Tax*, before the 16th day of the 3rd month after the end of the tax year at issue, but before it files its income tax return, if the overpayment is at least 10 percent of the expected tax liability and at least \$500. A corporation should not file Form 4466 before the end of its tax year. Form 4466 is worked in Accounting. See IRM 21.7.1.4, *Business Master File (BMF)/Non-Master File (NMF) Adjustment Procedures* and IRM 3.17.79.3.11, *Form 4466, Corporation Application for a Quick Refund of Overpayment of Estimated Tax*, for more information on the processing of Form 4466.

21.7.4.4.4.10.2  
(01-01-2005)  
**Large Corporate Underpayments**

- (1) A possible 2 percent increased rate of interest may be imposed on large corporate underpayments, see IRM 20.2.5.8, *Large Corporate Underpayments (LCU)*. A large corporate underpayment is defined as any underpayment of tax by a C corporation for any taxable period after January 1991, if the amount of the underpayment exceeds \$100,000 and is not paid within 30 days of the earliest: 30-day letter, 90-day letter, or a Notice of Demand (bill). For purposes of determining if the additional 2 percent interest applies for periods after December 31, 1997, any letter or notice is disregarded if the following is \$100,000 or less, not taking into consideration interest, penalties, or additions to tax:
  - a. The amount of deficiency; or
  - b. The proposed deficiency; or
  - c. The assessment; or
  - d. The proposed assessment
- (2) A C corporation indicator is set in the entity section of corporations defined as "C" corporations.
- (3) See IRM 20.2.5.8(1), *Large Corporation Underpayment (LCU)* for information on determining the 2 percent start (trigger date) and computing interest. C Corporation includes corporate income, employment and excise tax returns.
- (4) Restricted interest specialists must perform computations of interest on large corporate underpayments because the system cannot always determine the

start date. The 30-day or 90-day letter date should be annotated on Form 3198 or correct closing document and in the file when the tax is over \$100,000.

21.7.4.4.4.11  
(01-01-2005)

**Other Form 1120 Series  
Returns**

- (1) There are various types of Form 1120 series returns filed dependent upon the type of corporation involved.

21.7.4.4.4.11.1  
(05-23-2024)

**Form 1120-S, U.S.  
Income Tax Return for  
an S Corporation**

- (1) A domestic corporation can elect under IRC 1362(b)(1) to be taxed under provisions of Subchapter S of the IRC by filing Form 2553, *Election by a Small Business Corporation*. See the *Instructions for Form 2553* for more information on filing Form 2553. An approved election is identified by TC 090 on CC ENMOD. The filing requirement code (FRC) is 02 (1120-02) and the document code is 16.
- (2) Generally, an S corporation must file Form 1120-S by the 15th day of the third month after the end of its tax year. For calendar year corporations, the tax year Form 1120-S is due on or before March 15th following the end of the tax year. A corporation that has dissolved must file by the 15th day of the third month after the date it dissolved. If the due date falls on a Saturday, Sunday, or legal holiday, the corporation can file on the next day that is not a Saturday, Sunday, or legal holiday. See IRM 3.11.217-2 , *Due Date Chart*, for Form 1120-S due dates.
- (3) If a corporation qualifies as an S corporation, its income is **generally** taxed to the shareholders. Shareholders are required to report their share of income

- Follow procedures in IRM 21.5.3-2, *Examination Criteria (CAT-A) - General*, for returns claiming research and development credits.

- Claims and/or amended returns involving Ponzi Scheme issues (including language discussing removal of phantom or fraudulent



**Note:** For more information on fraudulent arrangements (aka “ponzi schemes”) see *Revenue Ruling 2009-09, Rev. Proc. 2009-20*, and *Rev. Proc. 2011-58* which modifies *Rev. Proc. 2009-20*.

- (4) The new Schedule K-2, *Shareholder's Pro Rata Share Items - International*, is an extension of Schedule K of Form 1120-S and is used to report items of international tax relevance from the operation of an S corporation. . The new Schedule K-3, *Shareholder's Share of Income, Deductions, Credits, etc. - International*, is an extension of Schedule K-1 (Form 1120-S) and is generally used to report the shareholders share of items reported on Schedule K-2. If applicable, shareholders must include the information reported on Schedule K-3 on their tax or information returns. See the *S Corporation Instructions for Schedules K-2 and K-3 (Form 1120-S)*.
- (5) Any person that is required to file Form 1120-S, and has items relevant to the determination of U.S. tax or reporting obligations of its shareholders under the international provisions of the Internal Revenue Code must complete the relevant parts of Schedule K-2 and Schedule K-3. For more information regarding Schedules K-2 and K-3, see IRM 21.7.4.4.2.4.1, *Schedule K-2, Shareholder's Pro Rata Share Items - International and Schedule K-3, Shareholder's Share of Income, Deductions, Credits, etc. - International*.
- (6) *Notice 2021-39* announces transition relief for taxable years that begin in 2021 with respect to Schedules K-2 and K-3 required for Forms 1120-S. Section 2 provides background on the new schedules and the penalties that may apply for failure to file or show information on an S corporation return and failure to furnish correct payee statements. Section 3 provides transition relief from the penalties described in Section 2 if the filer establishes to the satisfaction of the Commissioner that it made a good faith effort to comply with the filing requirements. See *Schedules K-2 and K-3 Frequently Asked Questions (Forms 1065, 1120S, and 8865)* for more information regarding clarifications and additional exceptions for tax year 2021.
- (7) See IRM 21.7.9.4.1.6, *Duplicate Filing Conditions Involving Returns Prepared Under IRC Section 6020(b)*, when the TC 150 is a 6020(b) and the TC 976 is the taxpayer's original return or when the TC 150 is the taxpayer's return and the TC 976 is the 6020(b).
- (8) Corporations electing consideration as an S corporation should mail their original election or fax a photocopy to the campus listed in the table below based on the taxpayer's geographical location.

Business Location	IRS Center Address or Fax Number
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	Department of the Treasury Internal Revenue Service Kansas City, MO 64999  Fax Number 855-887-7734
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming	Department of the Treasury Internal Revenue Service Ogden, UT 84201  Fax Number 855-214-7520

- (9) The campus notifies the corporation if its election is accepted and when it takes effect. The corporation is also notified if its election is not accepted. See IRM 3.13.2.23.10, *Chief Counsel Referrals*, for a list of the CP Notices sent to the taxpayer. The corporation should receive notification of acceptance or non-acceptance of the election within 60 days if mailed or faxed. If Box Q1 in Part II on page 3 is checked, a ruling letter from the IRS in Washington, DC, may take an additional 90 days for acceptance of the Form 2553.
- (10) If the corporation is not notified of denial or acceptance within 120-days of the date mailed or faxed, or within 130-days if box Q1 is checked, view CC ENMOD and look for the following codes and advise the taxpayer accordingly (either by correspondence, Letter 385C, *S Corporation Election (F2553) Acknowledged/ Accepted*, or by telephone):
- TC 090 - Small Business Election accepted
  - TC 093 - Application for Sub-Chapter S-Election Form 2553
  - TC 094 - Sub-Chapter S-Election denied
- (11) Review the account to determine the reason the election has not posted. Research CC ENMOD for a Letter 312C, *S Corporation Election (F2553), Revocation, or Termination Incomplete for Processing and/or Not Timely Filed*. Instruct the taxpayer to fax the requested missing information listed in the Letter 312C. If the account shows an unpostable condition related to the processing of the election, determine what is needed to complete the processing of Form 2553. Request a copy of Form 2553 from the taxpayer if necessary and prepare a Form e-4442/4442, *Inquiry Referral*, to the BMF Entity unit listed in paragraph (8), including any faxed information received from the taxpayer.
- (12) Although the time frames in paragraph (9) above may not have passed, if either of the time frames in paragraph (10) above has passed and no information is available, or the transaction code on the account is TC 093, prepare

Form e-4442/4442, *Inquiry Referral*. Request a copy of the previously submitted Form 2553 from the taxpayer to attach to the referral. Mark the date the Form 2553 was faxed or mailed and advise the taxpayer they will be contacted by the end of the time period mentioned in paragraph (9) above.

**FAX** to BMF Entity Unit in the proper campus:

- Ogden - 855-214-7520
- Kansas City - 855-887-7734

- (13) Due to filing requirement mismatches, certain taxpayers cannot file Form 1120-S electronically. In these cases, the taxpayer has filed Form 2553 and an un-reversed TC 090 is on ENMOD. However, the filing requirements have not been updated to 1120-02. Therefore, the return is rejected. If you receive a call from a taxpayer who states that they tried to file Form 1120-S electronically but were rejected, check for an un-reversed TC 090 on the account for the tax period in question and follow the chart below:

If	Then
If the taxpayer has a valid S Corporation election (TC 090) but their filing requirement code is 01	<p>Inform the taxpayer of the valid election.</p> <p>Tell them to follow the instructions provided by their ERO/e-file provider to file their return.</p> <p><b>Note:</b> If their ERO/e-file provider has not contacted the e-help desk unit, advise the caller that the ERO/e-file provider should call the e-help desk toll-free at 1-866-255-0654 for instructions. See IRM 3.42.7.1.1, <i>Background</i>.</p>
If the taxpayer has already contacted the e-help desk and they were unable to help them	<p>Tell the taxpayer to file their Form 1120-S on paper and request abatement if and when they receive a penalty notice from the IRS. Apologize for the inconvenience. Also, prepare a Form 4442 and route to Entity. Entity will input a TC 092 and then a TC 090 (a cycle later) in an attempt to re-instate the 1120-02 filing requirement.</p>

21.7.4.4.4.11.1.1  
(10-01-2024)

#### Relief for Late S Corporate Elections

- (1) IRC 1362(b)(1) provides that a small business corporation may make an election to be an "S" corporation for any taxable year:

- At any time during the preceding taxable year, or
- At any time during the taxable year and on or before the 15th day of the third month of the taxable year.

- (2) Under IRC 1362(b)(3), if an S corporation election is made after the 15th day of the third month of the taxable year and on or before the 15th day of the third month of the following taxable year, then the S corporation election is treated as made for the following taxable year.
- (3) If an election is made after the date prescribed in IRC 1362(b) or no election is made for any taxable year, the Secretary may determine whether there is reasonable cause to treat the election as timely.
- (4) IRC 1362(b)(5) provides that if:
  - a. An election under IRC 1362(a) is made for any taxable year (determined without regard to IRC 1362(b)(3)) after the date prescribed by IRC 1362(b) for making the election for the taxable year, or no election is made for any taxable year, and
  - b. The Secretary determines that there was reasonable cause for the failure to timely make the election. The Secretary may treat the election as timely made for the taxable year (and IRC 1362(b)(3) shall not apply).
- (5) *Rev. Proc. 2013-30*, 2013-36 I.R.B. 173, provides the exclusive simplified methods for taxpayers to request relief for late S corporation elections, electing small business trust (ESBT) elections, qualified subchapter S trust (QSST) elections, qualified subchapter S subsidiary (QSub) elections, and late corporate classification elections which the taxpayer intended to take effect on the same date that the taxpayer intended that an S corporation election for the entity should take effect. Generally, relief is available when all the following conditions are met:
  - The Requesting Entity (as defined in *Rev. Proc. 2013-30*) intended to be classified as an S corporation, intended the trust to be an ESBT, intended the trust to be a QSST, or intended to treat a subsidiary corporation as a QSub as of the Effective Date (as defined in *Rev. Proc. 2013-30*).
  - The Requesting Entity requests relief under this revenue procedure within 3 years and 75 days after the Effective Date (except in the case of corporations requesting relief where all returns filed as an S corporation).
  - The failure to qualify as an S corporation, ESBT, QSST, or QSub as of the Effective Date was solely because the Election Under **Subchapter S** (as defined in *Rev. Proc. 2013-30*) was not timely filed by the Due Date of the Election Under **Subchapter S** (as defined in *Rev. Proc. 2013-30*).
  - In the case of a request for relief for a late S corporation or QSub election, the Requesting Entity has reasonable cause for its failure to make the timely Election Under *Subchapter S* and has acted diligently to correct the mistake upon its discovery.
  - In the case of a request for relief for an inadvertently invalid S corporation election or an inadvertent termination of an S corporation election due to the failure to make the timely ESBT or QSST election, the failure to file the timely Election Under *Subchapter S* was inadvertent and the S corporation and the person or entity seeking relief acted diligently to correct the mistake upon its discovery.
- (6) *Revenue Procedure 2013-30* facilitates the granting of relief to taxpayers that request relief previously provided in numerous other revenue procedures by consolidating the provisions of those revenue procedures into one revenue

procedure and extending relief in certain circumstances. Rev. Proc. 2013-30 modifies and supersedes Rev. Proc. 2003-43, 2003-1 C.B.998; Rev. Proc. 2004-48, 2004-2 C.B. 172; and Rev. Proc. 2007-62, 2007-2 C.B. 786. See IRM 3.13.2.8.5.1, *ERS Action Code 347 - Revenue Procedure 2013-30*, for Entity's procedures for processing returns requesting relief under Rev. Proc 2013-30.

- (7) Rev. Proc. 2013-30 provides procedures for situations within its scope that are in lieu of the letter ruling process. Accordingly, user fees do not apply to corrective actions under this revenue procedure.
- (8) Taxpayers may file the required forms under Rev. Proc. 2013-30 electronically through Modernized e-File (MeF) or on paper. Code and Edit (C and E) will edit Error Resolution System (ERS) Action Code (AC) 347 on paper returns and MeF will generate ERS AC 347 for electronically filed Form 1120-S citing Rev. Proc. 2013-30. See IRM 3.13.2.8.5.1, *ERS Action Code 347 - Revenue Procedure 2013-30*, for more information.
- (9) An entity that does not meet the requirements for relief or is denied relief under Rev. Proc. 2013-30 may seek relief by requesting a letter ruling. The procedural requirements for requesting a letter ruling are described in *Rev. Proc. 2013-1*, 2013-1 I.R.B. 1, (or its successors).

21.7.4.4.4.11.1.2  
(10-01-2021)

**Estimated Tax Payments  
(Subchapter S  
Corporations)**

- (1) Generally, the Subchapter S corporation must make estimated tax payments for the following taxes when the total of these taxes is \$500 or more:
  - Tax on built-in gains
  - Excess net passive income tax
  - Investment credit recapture tax

- (2) The estimated tax is payable in four equal installments.

**Note:** However, the S corporation may be able to lower the amount of one or more installments by using the annualized income installment method or adjusted seasonal installment method under section 6655(e).

- (3) For a calendar year corporation, the estimated tax payments are due by April 15, June 15, September 15, and December 15. For a fiscal year corporation, they are due by the 15th day of the 4th, 6th, 9th, and 12th months of the year. If any date falls on a Saturday, Sunday, or legal holiday, the installment is due on the next day that isn't a Saturday, Sunday, or legal holiday. See the *Instructions for Form 1120-S* for more information regarding the payment of tax.

21.7.4.4.4.11.1.3  
(01-01-2005)

**Required Tax Year  
(Subchapter S  
Corporations) and  
Exceptions**

- (1) Subchapter S corporations must generally use a calendar year.
- (2) An exception is made when a business purpose for having a different tax year is established. An approved exception is identified by TC 054.
- (3) The Subchapter S corporation can make a Section 444 election to have a tax year other than a required tax year.
  - a. The election is filed on Form 8716.
  - b. It is identified by TC 055.
  - c. See IRM 21.7.4.4.6, *Form 8716 Election to Have a Tax Year Other Than a Required Tax Year*, for more information.

21.7.4.4.4.11.1.4  
(01-05-2021)

**Refundable Credit (Form 1120-S)**

- (1) Form 4136, *Credit for Federal Tax Paid on Fuels*, is used to claim the refundable credit listed on Form 1120-S.
- (2) If the taxpayer files a nontaxable return and attaches Form 4136, the refund is allowed during initial processing.
- (3) If the credit is not claimed on the initial return and the taxpayer files an amended return with Form 4136 attached, follow procedures in IRM 21.7.4.4.9.1, *Form 4136, Credit for Federal Tax Paid on Fuels*.

21.7.4.4.4.11.1.5  
(01-01-2005)

**Item Reference Number (IRN) 886, Form 1120-S**

- (1) Adjust IRN 886 when there is a change to the ordinary income (taxable income) line.
- (2) See IRM 21.7.4.4.4.12, *Adjusting Tax and Item Reference Number (IRN) 886*, for more information on IRN 886.
- (3) See IRM 21.7.4.4.4.11.1.7, *Converting Form 1120 Back to Form 1120-S*, regarding adjusting taxable income when converting Form 1120 back to Form 1120-S.

21.7.4.4.4.11.1.6  
(10-01-2020)

**Form 8869, *Qualified Subchapter S Subsidiary Election (Under Section 1361(b)(3) of the Internal Revenue Code)***

- (1) Form 8869, *Qualified Subchapter S Subsidiary Election*, is used by a parent S corporation to elect to treat one or more of its eligible subsidiaries (see (2) below) as a qualified Subchapter S subsidiary (QSub). The QSub election results in a deemed liquidation of the subsidiary into the parent. Following the deemed liquidation, the QSub is not treated as a separate corporation; all of the subsidiary's assets, liabilities and items of income, deduction, and credit are treated as those of the parent.

**Note:** Because the liquidation is a deemed liquidation, it is not necessary to file Form 966, *Corporate Dissolution or Liquidation*. However, a final return for the subsidiary may be necessary if it was a separate corporation prior to the date of liquidation.

- (2) An eligible subsidiary is a domestic corporation whose stock is owned 100 percent by an S corporation and is **not** one of the following ineligible corporations:
  - A bank or thrift institution that uses the reserve method of accounting for bad debts under Section 585.
  - An insurance company subject to tax under the rules of Subchapter L of the Code.
  - A Domestic International Sales Corporation (DISC) or former DISC.
- (3) Taxpayers should file Form 8869 at the campus where the subsidiary filed its most recent return. However, if the parent S corporation forms a subsidiary, and makes a valid election effective upon formation, taxpayers should file Form 8869 at the campus where the parent S corporation filed its most recent return. Generally, a determination as to the acceptance of the election is sent within 60 days of receipt at the campus.
- (4) The election can be made at any time during the tax year. However, the effective date depends upon when it was filed. The effective date cannot be more than:
  - a. Two months and 15 days prior to the date of filing the election, or



b. 12 months after the date of filing the election.

- (5) Once the QSub election is made, it remains in effect until terminated. If the election is terminated, IRS consent is required for another election by the parent corporation (or its successor) on Form 8869 for any tax year before the fifth tax year after the first tax year in which the termination took effect. See regulation section 1.1361-5(c) for more details.
- (6) The following transaction codes on the entity module pertain to Form 8869.
  - TC 082 - Acceptance of Form 8869
  - TC 083 - Reversal of TC 082
  - TC 084 - Termination of Form 8869
  - TC 085 - Reversal of TC 084
  - TC 086 - Effective date of revocation
  - TC 087 - Reversal of TC 086
- (7) If a taxpayer contacts the IRS regarding the filing of Form 8869, research CC ENMOD for the transaction codes in paragraph (6) directly above and advise taxpayer of the status. If the account reflects that the Form 8869 is either accepted or denied and the taxpayer states they received no response from IRS, prepare Form 4442 and route to Entity. If it has been more than 60 days since the taxpayer submitted Form 8869 and they have not received a response, or the IRS has no record of receiving the form, advise the taxpayer to re-file Form 8869 at the location that they originally filed Form 8869. In addition, instruct the taxpayer to enclose an explanation regarding the re-filing of the form and to provide any proof they may have that shows they filed the form timely.
- (8) See the General Instructions for Form 8869 for additional information.

21.7.4.4.4.11.1.7  
(10-01-2024)

**Converting Form 1120  
Back to Form 1120-S**

- (1) When a taxpayer files a Form 1120-S (Document Code 16) and does not have a valid Small Corporation Business Election, Form 2553 (TC 090 on ENMOD) on file, the TC 150 goes Unpostable Code 310 RC 4. Per IRM 3.13.222.63, *Unpostable Code (UPC) 310 Reason Code 4*, Entity searches for a valid election. If a valid election is not found, Entity contacts/corresponds with the taxpayer. At this point, Entity inputs a TC 971 AC 375 to show that the 1120-S has failed to post and that a phone call has been made or a letter was issued to the taxpayer. See IRM 3.13.222.63, *Unpostable Code (UPC) 310 Reason Code 4*, for the action Entity takes based on the taxpayer's response.
- (2) If the taxpayer does not respond to Entity's contact, Entity converts the Form 1120-S to a Form 1120 (See IRM 3.11.16.5.2, *Conversion of Form 1120-S to Form 1120*). Entity inputs TC 971 AC 376 to identify the conversion from Form 1120-S to Form 1120 and that no reply was received. This action freezes the module from refunding or credit electing.
- (3) If the taxpayer contacts the IRS after the return is processed as a Form 1120 and claims that they have a valid election, follow the instructions in IRM 21.7.4.4.4.11.1 (9) and (10). If a valid election (TC 090) is found on the account, the freeze is released when the TC 090 posts. If the TC 971 AC 376 was input incorrectly, input TC 971 AC 377 to reverse the TC 971, which will release the credit.
- (4) When Entity determines that the taxpayer should have been classified as an S corporation and the previously converted Form 1120 should be converted back

to a Form 1120-S, they prepare a Form 3465 and route it to Accounts Management stating: **“REMOVE THE TAX FROM POSTED FORM 1120 – TC 150 SHOULD BE A FORM 1120-S.”** Entity ensures that the filing requirement of “02” is set.

- (5) Accounts Management removes the tax from the account as requested. Input the adjustment using blocking series 18 so that it becomes the controlling DLN and has the original return attached to it. Only adjust taxable income if the original return is secured, is filed electronically, or if the taxpayer sends a copy or faxes a copy of their return. It is not necessary to pull the original return to adjust the taxable income.
- (6) When a Form 1120 is converted back to a Form 1120-S, correct the return due date. See IRM 21.7.4.4.4.2.1.2, *Correcting the Form 1120 Due Date*, for the procedures to input TC 971 Action Code 358 to change the return due date on TXMOD.
- (7) In addition, remove any penalties that were manually assessed since they do not apply to Form 1120-S such as ES penalty, or penalties that were manually restricted. Also, address systemic penalties if necessary. FTF and FTP will systematically abate when the tax is fully abated. Determine whether a failure to file an S corporation return under IRC 6699 penalty, or failure to file a complete return penalty as required under IRC 6037 is necessary. The penalty is based on the number of shareholders reported on the original Form 1120-S return. Entity will notate the number of shareholders on the Form 3465. See IRM 21.7.4.4.4.11.1.9, *Failure to File S Corporation Return*, and IRM 20.1.2.6, *Failure to File S Corporation Return - IRC 6699*, for more information.
- (8) If the taxpayer never filed Form 8832, *Entity Classification Election*, and/or Form 2553, *Election by a Small Business Corporation*, and intends classification as an S corporation, advise them to see Rev. Proc. 2013-30, to request relief for a late S corporation election. See IRM 21.7.4.4.4.11.1.1, *Relief for Late S Corporate Elections*. However, if the taxpayer never intended classification as an S corporation, advise them to file a Form 1120.

21.7.4.4.4.11.1.8  
(10-01-2022)  
**Section 13543  
Modification of  
Treatment of S  
Corporation  
Conversions to C  
Corporation**

- (1) Effective on December 22, 2017, Section 13543(a) and (b) of the Tax Cuts and Jobs Act amended the Code to add subsection (d) to section 481, and subsection (f) to section 1371. In the case of an eligible terminated S corporation, any adjustment required by section 481(a)(2) attributable to such corporation’s revocation described in section 481(a)(2) is taken into account ratably during the 6-taxable year period beginning with the year of change.
- (2) Section 1371(f) provides that in the case of a distribution of money by an eligible terminated S corporation after the expiration of corporation’s post-termination transition period as defined in section 1377(b)(1), such distribution is allocated to the accumulated adjustments accounts (AAA) and chargeable to accumulated earnings and profits (AE&P) in the same ratio as the amount of the AAA bears to the amount of such AE&P.
- (3) Section 481(d)(2) defines eligible terminated S corporation as any C corporation that:
  - Is an S corporation on the day before December 22, 2017,
  - Revokes its S-election during the 2-year period beginning on December 22, 2017,

- Whose shareholders, determined on the date such revocation is made, are the same shareholders (and in identical proportions) as on December 22, 2017

21.7.4.4.4.11.1.9  
(03-15-2022)  
**Failure to File S Corporation Return Penalty**

- (1) Section 9, Penalty for Failure to File S Corporation Returns, of the Mortgage Forgiveness Debt Relief Act of 2007, P.L. 110-142, adds section 6699, Failure to File S Corporation Return to the IRC. See IRM 20.1.2.6, *Failure to File S Corporation Return - IRC 6699*, for more information.
- (2) An S Corporation is assessed a penalty under IRC 6699 for failure to file a timely and complete return as required under IRC 6037. The return is considered incomplete when Form 1120-S is lacking the information required by section 6037, such as Schedule(s) K-1, or a Schedule L, Balance Sheet. See IRM 3.12.217.3.15, *Field 01MSC - Missing Schedule Code*, for information on missing schedule codes. The incomplete return penalty is assessed with TC 240 or TC 246. The late filing penalty is assessed with TC 160 or TC 166.

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- (4) Beginning in 2022, the Form 1120-S late and missing information penalties are assessed using the TC 240/246 PRN 722/723. After December 31, 2021, TC 16X will no longer be used to assess IRC 6698/6699 penalties. The penalties will be assessed as follows:
- TC 24X and PRN 722 = Late filing penalty
  - TC 24X and PRN 723 = Missing/Incomplete Information Penalty

These will include IRN 851, 852 and 853 as outlined in the table below:

	IRN 851 Meaning	IRN 852 Meaning	IRN 853 Meaning
PRN 722	Number of shareholders for MFT 02	Number of months	N/A
PRN 723	Number of shareholders for MFT 02	Number of months	Missing schedule code

- (5) For the purpose of the penalty, a “shareholder” is any person who held any shares in the corporation during any part of the taxable year covered by the return in question.

- (6) The penalty for each month is calculated by multiplying the applicable base penalty rate by the number of persons who were shareholders in the S corporation at any time during the taxable year. For manual penalty adjustments, see IRM 20.1.2.6.2, *Penalty Computation*, for the applicable rate. See IRM 20.1.2.6.3, *Penalty Relief*, for additional abatement instructions.
- (7) A CP 162 Notice, *Filing Penalty - S Corporation*, is sent when there is **no tax owed** and the taxpayer is assessed a Failure to File Penalty or an Incomplete Return Penalty. A CP 161 Notice, *No Math Error, Balance Due (Except Form 1065)*, is issued if **tax is owed** and a Failure to File Penalty or an Incomplete Return Penalty was assessed.

**Note:** Programming problems were identified with the processing of Form 1120-S returns in processing cycles 201103 through 201106. Notice Review tried to stop the notices and correct the accounts. A recovery was performed. See the prior revisions of this IRM for instructions for these tax periods.

- (8) If you receive an inquiry from a taxpayer who has received a penalty notice for either filing late (TC 16X) or for filing an incomplete return (TC 24X) claiming that the number of shareholders is incorrect, perform the following research and confirm the number of Schedules K-1 filed matches number of Schedules K-1 claimed:

- Research IDRS command code BMFOLR, line 13, in the field that reads "1120-S SHRHLDRS" or
- For electronically filed returns, review the return via command code TRDBV or via the Employee User Portal (EUP).

- (9) If able to verify the number of shareholders claimed by the taxpayer matches

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penalty is computed at the dollar amount shown in IRM 20.1.2.6.2, *Penalty Computation*, multiplied by the number of persons who were shareholders (during any part of the taxable year) for each month or fraction thereof that such failure continues, but not to exceed 12 months. See prior revisions of this IRM for the penalty amount for returns due before January 1, 2018.

- (10) If unable to verify the accuracy of the oral statement:

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taxpayer to submit a written request for penalty abatement or to file an amended return (Form 1120-S with box H (4) checked) to correct the number of shareholders and (if applicable) the schedules K-1 attached to the return and request abatement.

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based on number of shareholders the taxpayer claimed.

- (11) If an amended return is received correcting the number of shareholders, adjust the penalty accordingly. See IRM 20.1.2.6.2, *Penalty Computation*, to compute the correct penalty amount. See IRM 20.1.2.6.3, *Penalty Relief*, for abatement guidelines.
- (12) See IRM 20.1.1.3.1, *Unsigned or Oral Requests for Penalty Relief*, for penalty relief guidelines if the request is received either orally or in writing, (but is unsigned) and does not exceed oral statement ceiling. See IRM 20.1.1.3.6.4, *Oral Statement Ceiling Exceeded*, when the amount exceeds the oral

statement ceiling. If the penalty is caused by IRS error, oral statement ceiling does not apply, see IRM 21.5.2.4.9.2, *Oral Statement and Penalty Relief Request*, for more information.

21.7.4.4.4.11.2  
(10-01-2023)  
**Form 1120-H, U.S.  
Income Tax Return for  
Homeowners  
Associations**

- (1) Homeowners associations elect to file Form 1120-H to take advantage of tax benefits provided by Section 528. These benefits allow the association to exclude exempt function income from its gross income. The filing requirement code is 10.
- (2) A homeowners association as defined in IRC 528(c)(1) that is a corporation may elect to file Form 1120 because the tax may be less than that figured on Form 1120-H. The taxable income of a homeowners association that files its tax return on Form 1120-H is taxed at a flat rate of:
  - a. Thirty percent (30%) for a condominium management association as defined in IRC 528(c)(2) or a residential real estate management association as defined in IRC 528(c)(3), and
  - b. Thirty-two percent (32%) for a timeshare association as defined in IRC 528(c)(4).

These rates apply to both ordinary income and capital gains.

- (3) The association makes the election to file Form 1120-H each year:
  - a. The election generally is made no later than the time, including extensions, for filing an income tax return for the year in which the election is to apply.
  - b. Once Form 1120-H is filed, taxpayers cannot revoke the election that year without the consent of the Commissioner.
- (4) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-H. Also, see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning After December 31, 2015*, for information regarding extensions for Form 1120-H.
- (5) Estimated tax, alternative minimum tax (AMT), Investment Credit, Work Opportunity Credit, Empowerment Zone Employment Credit, and Indian Employment Credit do not apply to Form 1120-H. However, a homeowners association which does **not** elect to file Form 1120-H may be required to make payments of estimated tax.

21.7.4.4.4.11.3  
(10-01-2023)  
**Form 1120-POL, U.S.  
Income Tax Return for  
Certain Political  
Organizations**

- (1) A political organization is a party, committee, association, fund (including a separate segregated fund described in IRC 527(f)(3) set up by a IRC 501(c) organization), or other organization. A political organization is organized and operated primarily for the purpose of accepting contributions or making expenditures, or both, to influence the selection, nomination, election, or appointment of any individual to any public office or office in a political organization, or the election of presidential or vice presidential electors.
- (2) The taxable income of a political organization is the excess of the gross income for the tax year (excluding exempt function income) over deductions



directly connected with that income. Taxable income also includes exempt function income (as defined in (4) below) for any period for which a political organization has not notified IRS that it is to be treated as such.

- (3) The net operating loss deduction is not allowed, as well as other special deductions for corporations.
- (4) The exempt function income is derived from:
  - Contributions of money or other property
  - Membership dues, fees, or assessments paid by members of a political organization
  - Proceeds from a political fund-raising or entertainment event or from the sale of political campaign material, not received in the ordinary course of any trade or business
  - Proceeds from conducting bingo games defined in Code Section 513(f)(2)
- (5) A political organization, whether or not it is tax-exempt, must file Form 1120-POL, *U.S. Income Tax Return for Certain Political Organizations*, if it has any political organization taxable income. An exempt organization that is not a political organization must file Form 1120-POL if it is treated as having political organization taxable income under IRC 527(f)(1). An organization that files Form 1120-POL can be required to file the following forms:
  - Form 8871, *Political Organization Notice of Section 527 Status*
  - Form 8872, *Political Organization Report of Contributions and Expenditures*
  - Form 990, *Return of Organization Exempt From Income Tax Return*
  - Form 8997, *Initial and Annual Statement of Qualified Opportunity Fund (QOF) Investments*
  - Form 8992, *U.S. Shareholder Calculation of Global Intangible Low-Taxed Income (GILTI)*
- (6) The return due dates, payment dates, and requests for extensions are the same as those for Form 1120. The filing requirement code is **09**.
- (7) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-POL. Also, see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning After December 31, 2015*, for information regarding extensions for Form 1120-POL.
- (8) Ogden Submission Processing Center processes all Form 1120-POL. See IRM 21.7.7.6.5, *Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations*, for more information on Form 1120-POL, Form 8871, *Political Organization Notice of Section 527 Status*, and Form 8872, *Political Organization Report of Contributions and Expenditures*. Also see the General Instructions for Form 1120-POL for more specific information.



21.7.4.4.4.11.4  
(10-01-2022)  
**Form 1120-PC, U.S.  
Property and Casualty  
Insurance Company  
Income Tax Return**

- (1) Form 1120-PC is filed by domestic non-life insurance companies subject to tax under section 831 and by foreign corporations carrying on an insurance business within the U.S. which would qualify as a nonlife insurance company subject to tax under section 831, if they were U.S. corporations. See the *Instructions for Form 1120-PC* for more specific information.
- (2) The return due dates, payment dates, and requests for extensions are the same as those for Form 1120. The filing requirement code is **04**.
- (3) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-PC. Also, see IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns - Tax Years Beginning After December 31, 2015* and IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning Before January 1, 2016*, and, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns*, for tax years beginning before January 1, 2016, for information regarding extensions for Form 1120-PC.

21.7.4.4.4.11.4.1  
(10-01-2019)  
**IRC Section 847  
Payments and  
Requirements (Prior to  
January 1, 2018)**

- (1) For taxable years beginning after December 31, 2017, the Tax Cuts and Jobs Act of 2017 (TCJA), Section 13516, repealed IRC 847. The new law eliminated the election to apply IRC 847 additional deduction, special loss discount account, special estimated tax payment and refundable amount rules.
- (2) For tax periods prior to January 1, 2018 Section 847(2) requires insurance companies to make a special estimated tax payment in an amount equal to the tax benefit derived from the additional deduction permitted under Section 847. Section 847(3) requires companies allowed the deduction to establish a special loss discount account.
- (3) Form 1120-PC and Form 1120-L filers claim the credit for special estimated tax payments on a specific line. Other Form 1120 filers (consolidated Form 1120 filers with insurance companies as subsidiaries) electing the provisions under this section, write in the margin near Schedule J, Part II, line 13, "**Form 8816**" and the amount. Taxpayers must attach a schedule showing their computation of estimated tax payments. See the Form 8816 instructions for more specific information.
- (4) The area performing the credit transfer (determined by campus management) receives a copy of the return showing the credit, from Code and Edit.
- (5) The special estimated tax payment(s) is not subject to the estimated tax penalty. The payment(s) is applied over a 15-year period against a portion of the corporation's tax liability. In the 16th year, treat any amounts which remain in a corporation's 15-year account as estimated tax payments for that year. Refer to IRM 3.17.243, *Miscellaneous Accounting*, for processing instructions.
- (6) Loose Form 8816 is associated with the taxpayer's Form 1120, Form 1120-L or Form 1120-PC. Refer any issues involving Form 8816 to the Accounting Branch in Ogden Submission Processing.

21.7.4.4.4.11.4.2  
(02-27-2019)

**Repeal of Special  
Estimated Tax Payments**

- (1) *Tax Cuts and Jobs Act of 2017(TCJA), Section 13516, Repeal of Special Estimated Tax Payments*, repealed Section 847 for the treatment of special loss discount accounts and special estimated tax payments for tax years beginning after December 31, 2017.
- (2) An insurance company with an existing special loss discount account (SLDA) balance must report the entire balance in income for the insurance company's first taxable year beginning after December 31, 2017. The additional tax is offset by the existing special estimated tax payments. If the special estimated tax payments exceed the additional tax, the overpayment is treated as an estimated tax payment for the first quarter of 2018 tax year.
- (3) Form 1120-L, Form 1120-PC and Form 1120 filers will include the SDLA balance in income and report on specific lines on the return.

21.7.4.4.4.11.5  
(10-01-2019)

**Form 1120-L, U.S. Life  
Insurance Company  
Income Tax Return**

- (1) Form 1120-L is filed by domestic life insurance companies subject to tax under section 801, and foreign corporations which would qualify as life insurance companies subject to tax under section 801 if they were U.S. corporations. See the *Instructions for Form 1120-L* for additional information.
- (2) The return due dates, payment dates, and requests for extensions use the same due date as those for Form 1120. The filing requirement code is **03**.
- (3) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-L. Also, see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning After December 31, 2015*, for information regarding extensions for Form 1120-L.
- (4) A foreign corporation which does not maintain an office or place of business in the U.S. has until the 15th day of the sixth month after the end of the tax year to file.

21.7.4.4.4.11.6  
(10-01-2024)

**Form 1120-IC-DISC,  
Interest Charge  
Domestic International  
Sales Corporation  
Return**

- (1) Form 1120-IC-DISC, *Interest Charge Domestic International Sales Corporation Return*, is an informational return and is filed by domestic corporations that have elected treatment as an IC-DISC and have satisfied the requirements under IRC 992. It is also filed by a domestic corporation that is a former DISC or former IC-DISC. Generally, an IC-DISC is not taxed on its income. Shareholders of an IC-DISC are taxed on their income when the income is actually (or deemed) distributed.
- (2) Form 1120-IC-DISC is due on or before the 15th day of the ninth month after its tax year ends. No extensions are allowed.
- (3) To be an IC-DISC, a corporation must be organized under the laws of a state or the District of Columbia and meet certain requirements, including but not limited to having an election in place and meeting income and assets tests. See IRC 992 and the Instructions for Form 1120-IC-DISC for information on the requirements. Also, see IRC 992(d) for a list of the corporations ineligible for treatment as a DISC.

- (4) To elect to be treated as an IC-DISC, a corporation files Form 4876-A , Election To Be Treated as an Interest Charge DISC. In the case of a corporation making an election to be treated as a DISC for its first taxable year, such election shall be made within 90 days after the beginning of such taxable year. For any other taxable year, the election shall be made during the 90-day period immediately preceding the first day of such taxable year. See Regulations section 1.992-2 and the Instructions for Form 4876-A for more information about the election.
- (5) Form 4876-A is worked in Code and Edit. If you receive an inquiry regarding Form 4876-A follow the instructions in the if and then table of IRM 21.7.12.7.2, *Form 1120-IC-DISC, Interest Charge Domestic International Sales Corporation Return and Form 4876-A, Election to be Treated as an Interest Charge DISC*.
- (6) Form 1120-IC-DISC is processed as NMF. The MFT is 23 and the tax class is 6. See IRM 21.7.12.7.2 through IRM 21.7.12.7.2.3, for more information on Form 1120-IC-DISC. Route loose Form 1120-IC-DISC to the Cincinnati Campus, Stop 6111G. If CII case, reassign to 0244374812. Instruct taxpayers to file Form 1120-IC-DISC at the Kansas City campus at the following address:

Department of the Treasury  
Internal Revenue Service  
Kansas City, MO 64999

21.7.4.4.4.11.7  
(10-01-2016)

**Form 1120-ND, Return  
for Nuclear  
Decommissioning Funds  
and Certain Related  
Persons**

- (1) Form 1120-ND is filed by nuclear decommissioning funds to report contributions received, income earned, the administrative expenses of operating the fund, and the tax on modified gross income. The return is also used to report and pay the initial Section 4951 taxes on self-dealing.
- (2) Except for self-dealers, the due dates for filing, paying, and requesting extensions require the same date as those for Form 1120. The filing requirement code is "11".
- (3) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Corporate Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-ND. Also, see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information and Other Returns, Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information and Other Returns, Tax Years Beginning After December 31, 2015*, for information regarding extensions for Form 1120-ND.
- (4) See the *Instructions for Form 1120-ND* for the return due date for self-dealers. In addition, self-dealers must file Form **7004** to request an extension of time to file. See the Instructions for Form 1120-ND, for more specific information.

21.7.4.4.4.11.8  
(10-01-2018)

**Form 1120-F, U.S.  
Income Tax Return of a  
Foreign Corporation**

- (1) A foreign corporation must file Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation* if, during the tax year, it:
  - Engaged in a trade or business in the U.S., whether or not it had income from that trade or business.
  - Had income, gains, or losses treated as if they were effectively connected with that U.S. trade or business.

- Had income from any U.S. source, only if its tax liability is not fully satisfied by withholding of tax at source.
  - Overpaid income tax which it wants refunded.
- (2) A corporation does not need to file a Form 1120-F if:
- It did not engage in a U.S. trade or business during the year, and its entire U.S. tax was withheld at the source.
  - Its only income is not subject to U.S. taxation under IRC 881(c) or (d).
  - It is a beneficiary of an estate or trust engaged in a U.S. trade or business, but would itself, otherwise not need to file.
  - It files Form 1120-L as a foreign life insurance company.
  - It files Form 1120-PC as a foreign property and casualty insurance company.
  - It files Form 1120-FSC, it has filed Form 8279, *Election To Be Treated as a FSC or as a Small FSC*, and the election is still in effect.
- (3) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-F. Also, see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning After December 31, 2015*, for information regarding extensions for Form 1120-F.
- (4) A foreign corporation that does **not** maintain an office or place of business in the United States must generally file Form 1120-F by the 15th day of the sixth month after the end of its tax year.
- (5) The MFT is 02 and the filing requirement code is "06." See IRM 21.8.2.9, *Foreign Form 1120 Series Returns*, for working these accounts, and the *Instructions for Form 1120-F* for more specific information.
- (6) File these returns at the following location:
- Internal Revenue Service  
Ogden Campus  
P. O. Box 409101  
Ogden, UT 84409
- (7) Forward all cases and correspondence to Ogden's Accounts Management at the following location:
- Internal Revenue Service  
Ogden Campus  
MS 6552  
1973 N. Rulon White Blvd.  
Ogden, UT 84404

**Reminder:** If working a CII case, follow normal CII reassignment guidelines. See the

*CII Routing Guide* for more information.

21.7.4.4.4.11.9  
(01-25-2018)

**Form 1120-FSC, U.S.  
Income Tax Return of a  
Foreign Sales  
Corporation**

- (1) Form 1120-FSC is filed to report a foreign sales corporation's income, deductions, credits, and taxes. The MFT is 02 and the filing requirement code is "15."
  - (2) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-FSC. Also, see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning After December 31, 2015*, for information regarding extensions for Form 1120-FSC. See the *Instructions for Form 1120-FSC* for more specific information.
  - (3) File these returns at the following location:  
  
Internal Revenue Service  
Ogden Campus  
P. O. Box 409101  
Ogden, UT 84409
  - (4) Forward all cases and correspondence to Ogden's Accounts Management at the following location:  
  
Internal Revenue Service  
Ogden Campus  
MS 6552  
1973 N. Rulon White Blvd.  
Ogden, UT 84404
- Reminder:** If working a CII case, follow normal CII reassignment guidelines. See the *CII Routing Guide* for more information.
- (5) See IRM 21.8.2.9, *Foreign 1120 Series Returns*, for working these accounts.
  - (6) Also, for information on Form 8873, *Extraterritorial Income Exclusion*, see IRM 21.7.4.4.14.

21.7.4.4.4.11.10  
(10-01-2019)

**Form 1120-SF, U.S.  
Income Tax Return for  
Settlement Funds**

- (1) Under IRC 468B, Special rules for designated settlement funds (DSFs), qualified settlement funds (QSFs) for which a grantor trust election is not made, and disputed ownership funds (DOFs) taxed as qualified settlement funds must file Form 1120-SF. In general, taxpayers create DSFs if they elect treatment as a DSF and pay the present and future claims against the electing taxpayer which arise out of personal injury, death, or property damage.
- (2) QSFs are funds, accounts, or trusts that have:
  - Ordered or approved by a governmental authority (including a court of law).
  - Created to resolve or satisfy one or more contested claims that have resulted or may result from an event (or related series of events) that has occurred and that has given rise to at least one claim asserting liability under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or arising out of a tort, breach of contract, or violation of law, and



- A trust under applicable state law or keep its assets segregated from other assets of the transferor (and related persons). A DSF taxed as a QSF generally is an escrow account, trust, or fund that is established to hold money or property subject to conflicting claims of ownership and consists entirely of passive investment assets.
- (3) Form 1120-SF is filed by DSFs and QSFs for which a grantor trust election is not made, and DOFs taxed as qualified settlement funds to report transfers received, income earned, administrative expenses of operating the fund, and the tax on its investment earnings.
  - (4) The income is taxed at the highest rate applicable to trusts. The Jobs and Growth Tax Relief Reconciliation Act of 2003 reduced the tax rate for tax years beginning after December 31, 2002 to 35 percent. For tax years beginning in 2013 the tax rate increased to 39.6 percent. For taxable years beginning after December 31, 2017, and before January 1, 2026, the tax rate is 37 percent. The filing requirement code is "16".
  - (5) The return due dates, payment dates, and requests for extensions utilize the same due date as those for Form 1120. Ogden campus receives Forms 1120-SF, or based on the table located in the *Instructions for Form 1120-SF*.
  - (6) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-SF. Also, see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning After December 31, 2015*, for information regarding extensions for Form 1120-SF.

21.7.4.4.4.11.11  
(05-24-2021)

**Form 1120-REIT, U.S.  
Income Tax Return for  
Real Estate Investment  
Trusts**

- (1) Form 1120-REIT is filed to report the income, gains, losses, deductions, and credits of real estate investment trusts as defined in IRC 856. See IRC 856(c) for the REIT income and asset qualification tests.
- (2) The return due dates, payment dates, and requests for extensions utilize the same due date as those for Form 1120. The filing requirement code is "18."
- (3) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-REIT. Also, see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning After December 31, 2015*, for information regarding extensions for Form 1120-REIT. See the *Instructions for Form 1120-REIT*, for more information.
- (4) For information on Form 8875, *Taxable REIT Subsidiary Election*, see IRM 21.7.4.4.13.



- (5) Route correspondence requests for extension of “foreclosure property” grace period pursuant to IRC 856(e) by a real estate investment trust (REIT, Form 1120-REIT) to Ogden Accounts Management, Mail Stop 6715. If CII case re-control to 0441605253.
- (6) An extension request is timely if it is filed more than 60 days before the grace period would expire.
  - The grace period expires as of the close of the third taxable year following the taxable year in which the REIT acquired the foreclosure property (the second taxable year for qualified health care properties).
  - Accordingly, if the grace period expires on December 31 of a particular year, the extension request must be dated and filed by October 31 of that year to be timely. See IRM 3.11.212.5, *Determination of Timely Filing – General Instructions*, for more information. If the deadline to date and file the extension request falls on a weekend or federal holiday, the deadline is the first business day following such weekend or federal holiday.
- (7) If the request is timely filed, Ogden Accounts Management will send the taxpayer a Letter 96C, *Acknowledgment Letter for General Use Inquiry*. In addition, Ogden will input a CII history statement that an extension request was received and that a Letter 96C was issued. Capture the screen of the Letter 96C for a record of the paragraphs used.
- (8) In the Letter 96C use the open paragraphs and the enclosure option to address extension requests. Input the two open paragraphs per the following two bullets and follow the instructions in the third bullet:
  - If your extension request for foreclosure property described in IRC 856(e)(3) or IRC 860G(a)(8) is timely filed (i.e., more than 60 days before the grace period expires), then the grace period shall be automatically extended: (1) in the case of qualified health care property, for 4 years less the term of any prior grace period extension, and (2) in other cases, for three years.
  - However, if your extension request is timely filed and the IRS subsequently reviews your request and determines that it shall not be granted, then the automatic extension of the grace period set out in the preceding paragraph shall end after the 30th day after you are notified by certified mail that the request was not granted. (See Treas. Reg. Section 1.856-6(g)(5).)
  - Attach a copy of the extension request that contains the taxpayers name, their EIN, date of request, and property description (the address) of each property that the taxpayer is requesting a foreclosure extension for.
- (9) If the request is not timely filed Ogden Accounts Management will send the taxpayer a Letter 3064C, *IDRS Special Letter*. In addition, Ogden will input a CII history statement that an extension request was received and that a Letter 3064C was issued. Capture the screen of the Letter 3064C, for a record of the paragraphs used.
- (10) In the Letter 3064C, use the open paragraphs and the enclosure option to address extension requests. Input the two open paragraphs per the first two of the following bullets and follow the instructions in the third bullet:

- An extension request for foreclosure property described in IRC 856(e) or IRC 860G(a)(8) must be filed more than 60 days before the grace period would otherwise expire. Your request is untimely, since it was filed after this deadline. The property is also ineligible for the automatic extension provided for a timely filed request. See Treas. Reg. Sections 1.856-6(g) (3), (5).
- While your extension request was untimely filed, you may make a separate request for the IRS to treat it as timely filed, pursuant to Treas. Reg. Section 1.856-6(g) (6), by establishing that (1) there was reasonable cause for failure to file the extension request within the prescribed time and (2) you filed the separate request within a reasonable time under the circumstances.
- Attach a copy of the extension request that contains the taxpayer's name, its EIN, date of request, and property description (the address) of each property that the taxpayer is requesting a foreclosure extension for.

- (11) If a subsequent inquiry is received **AFTER** the 96C is sent (check ENMOD), advise the taxpayer that they may call the non-toll-free numbers below if they have any questions and may speak to one of the:

Senior Program Specialists (Technical Tax Analysts)  
Internal Revenue Service  
LB&I, Financial Services  
212-298-2171 and/or 212-298-2250  
Between 8:00 AM and 4:30 PM (EST)

21.7.4.4.11.11.1  
(08-31-2009)

**Form 8927,  
Determination Under IRC  
860(e)(4) by a Qualified  
Investment Entity**

- (1) Form 8927, *Determination Under Section 860(e)(4), by a Qualified Investment Entity*, is filed by a RIC (Regulated Investment Company, Form 1120-RIC), or a REIT (Real Estate Investment Trust, Form 1120-REIT). Form 8927 is filed when a RIC or REIT seeks to make a determination under IRC 860(e)(4). When properly completed and filed with the Internal Revenue Service, Form 8927 is treated as a statement by the taxpayer attached to its amendment or supplement to a return of tax for the relevant tax year for purposes of IRC 860(e)(4).
- (2) Generally, the date Form 8927 is mailed is the date of determination under IRC 860(e)(4). See section 4 of *Rev. Proc. 2009-28*, 2009-20 I.R.B. 1011, for details. Also, see the General Instructions for Form 8927 for more information.
- (3) If a loose Form 8927, or correspondence citing section 860 of the IRC, or deficiency dividend procedures is received in Accounts Management, route to:

Internal Revenue Service  
Ogden Submission Processing Center  
P.O. Box 9941  
Mail Stop 4912  
Ogden, UT 84409

- (4) If an amended return is received with Form 8927 attached or with correspondence described in the paragraph directly above, route the case to the above address.

21.7.4.4.4.11.11.2  
(10-01-2021)

**Deficiency Dividends for  
Regulated Investment  
Company (RIC) and Real  
Estate Investment Trust  
(REIT) Filing Form 8927 -  
Background**

- (1) A Regulated Investment Company (RIC) (Form 1120-RIC) or a Real Estate Investment Trust (REIT) (Form 1120-REIT) may claim a deduction for dividends paid, including a “deficiency dividends” as defined by IRC 860(f).
- (2) To claim a deficiency dividends deduction for a subject year, a RIC or REIT must:
  - Have a “determination” that results in an adjustment for the year. This can include the filing of Form 8927 in accordance with Rev. Proc. 2009-28, 2009-20 I.R.B. 1011. See IRM 21.7.4.4.4.11.11.1, *Form 8927, Determination Under IRC 860(e)(4) by a Qualified Investment Entity*, for the subject year.
  - Distribute the deficiency dividends (which may be made in cash or other property) on or after the determination date, and within 90 days after the determination date (and prior to filing Form 976).
  - File Form 976, *Claim for Deficiency Dividends Deductions by a Personal Holding Company, Regulated Investment Company (RIC), or Real Estate Investment Trust (REIT)*, after such distribution and within 120 days after the determination date.
- (3) While the amount of the deficiency dividend deduction allowed will reduce regulated investment company (RIC) taxable income or real estate investment trust taxable (REIT) income for the subject year, the deficiency dividend deduction will generate an interest liability. For the purpose of computing interest, the amount of the deficiency dividends deduction is a deemed increase in tax, with interest due on the deemed increase in tax from the due date of the Form 1120-RIC or Form 1120-REIT of the subject year (not including extensions) to the date the Form 976 is filed (which is the date the increase in tax is deemed paid). See IRC 860(c)(1).
  - Example: Form 8927 (with respect to a 201412 Form 1120-RIC) is sent by U.S. mail on 11/15/2016 and Form 976 is filed on 01/03/2017 claiming a deficiency dividends deduction. A notice of interest due is sent per this IRM procedure. Interest is computed only through the date Form 976 was filed (01/03/2017).
- (4) If a Form 8927, Form 976, or correspondence citing IRC 860 or deficiency dividends procedures is received in Accounts Management and the taxpayer is under an examination (TC 420 or -L Freeze), route the case to the Examination Team per CC AMDISA.
- (5) If a Form 8927, Form 976, or correspondence citing IRC 860 or deficiency dividends procedures is received in Accounts Management and is a CII case, reassign to IDRS number **0435504315**. Otherwise, route to the Complex Interest Team in Ogden at the following address:  
Internal Revenue Service  
Ogden Accounts Management Campus (OAMC)  
Mail Stop 6800  
Ogden, UT 84404

21.7.4.4.11.11.3  
(11-20-2023)

**Deficiency Dividends  
Procedures and  
Deadlines (OAMC  
Complex Interest Team  
Only)**

- (1) Corporate partners in a Bipartisan Budget Act (BBA) partnership may participate in a request for modification and file amended returns to report additional taxable income. Tax attributable to corporate partners in a BBA partnership that are Qualified Investment Entities (QIE); i.e., Regulated Investment Companies (RIC) and Real Estate Investment Trusts (REIT), are subject to the procedures provided in IRC Sec. 860.
- (2) A QIE is required to distribute 90 percent of its taxable income and is allowed a deduction for dividends paid. IRC Sec. 860 provides procedures for a QIE to account for income recognized after the return for the tax year has been filed. The QIE provides notice to the IRS, declares and pays a deficiency dividend to its shareholders and files Form 976, *Claim for Deficiency Dividend Deductions*. The QIE filing the claim is assessed statutory interest for which the QIE makes payment. The claim includes an obligation for statutory interest to the IRS.
- (3) The corporate codes allow BBA-driven tax assessments and tax payments to post after the ASER has closed.
- (4) The Complex Interest team in OAMC processes Form 976. If the ASER and CSER have expired, there is no longer an obligation to send the case to the Financial Products Specialists in LB&I. There is no statute of limitations bar to filing this claim.
- (5) Employees will confirm the following:
  - The deficiency dividends distribution date (reported on Form 976, line 7) is on or after the determination date (reported on Form 976, line 6) and within 90 days after the determination date (IRC 860(f)(1)).
  - The Form 976 was filed within 120 days after the determination date (IRC 860(g)).

**Note:** The Form 976 filing date is generally the date the form is received. If the Form 976 was received after the 120-day deadline, apply the “timely mailing treated as timely filing rule of IRC 7502.” For additional information see IRM 20.1.2.2.1, *When Timely Mailing Equals Timely Filing or Paying (Received Date vs. Filing/Payment Date)* and IRM 25.6.1.6.15, *When a Document Is Treated As Filed Under the IRC*.

- A certified copy of the resolution of the board of directors or other authority authorizing the payment of the deficiency dividends is attached to the Form 976. (Form 976, line 7; Reg. section 1.860-2(b)(2)(x)).

**Note:** If any required information listed above is missing, send the correct C-Letter and suspend your case for 40 days. If the missing information is not received follow the no consideration guidance found in IRM 21.5.3.4.6.3, *No Consideration Procedures*. Send a copy of the case and the Letter 916 using E-Fax, or mail to the Financial Products Specialists Manager address listed below.

5100 River Rd. Mail Stop 601  
Schiller Park, IL 60176-1076

Attn: Subject Matter Expert RICs, REITs, and REMICs

#  
#  
#  
#

- (6) If the above conditions are met, compute the amount of interest that is due. Interest is computed on the amount of the deficiency dividends deduction (Form 976, line 9a) from the Form 1120-RIC or Form 1120-REIT from return due date (without regard to extensions) to the date the Form 976 is filed.

**Example:** MFT 02 TX PRD 201412

Form 976 timely received 07/19/2016

Deficiency Dividends Deduction = \$3,000,000.00 = TC 971 ac 697

Interest period - 03/15/2015 (RDD) - 07/19/2016 (filed date)

Debit Interest = \$133,056.44 = TC 340

DB-INT-TO-DT= 07/19/2016

- (7) Action required:

- Input TC 290 for \$.00.
- Use blocking series 18 to associate with the original return if a paper case.

**Note:** If the case is scanned into CII, follow normal CII case processing procedures. See IRM 21.5.1.5, *Correspondence Imaging Inventory (CII) Procedures*, for additional information.

- Input TC 340 for the amount of the debit interest assessment (\$133,056.44 for the example above).
- Input Reason Code (RC) 192 if the assessment of Statutory Interest is derived from RIC or REIT partner amended return, Form 976, or alternative document (including "Closing Agreement" and "Other" modification request not specifically defined) to reduce the BBA Imputed Underpayment amount.
- Input Reason Code (RC) 193 if the assessment of Statutory Interest derived from RIC or REIT amended return or alternative document (including "Closing Agreement" and "Other" determination under IRC Sec 860) is arising from a Form 976 claim for a deficiency dividend deduction.
- Input hold code 0 to allow CP 210/CP 220 Notice to generate to the taxpayer.
- Input TC 971, action code 697 for the amount of the deficiency dividends. (This identifies the TC 340 as a RIC/REIT interest adjustment)
- Send the taxpayer a Letter 3064C and include a copy of the interest computation.

**Note:** In an open paragraph include the following:

Pursuant to IRC 860(c)(1), you owe interest on the amount of the deficiency dividends deduction claimed on your Form 976. The interest owed is figured from [insert date] MM-DD-YYYY, the Form [enter form number 1120-RIC or 1120-REIT] return due date (not including extensions) to the date the Form 976 [insert date] MM-DD-YYYY, was filed. An interest computation is enclosed.

**Note:** Notate AMS of the actions taken, as needed.

- Charge time to OFP 710-01053

(8) If the dividends were not timely distributed or the Form 976 is not timely filed, issue a Letter 105C as notification that the claim is not timely. Send a copy of the case and the Letter 105C using E-Fax or mail to the Financial Product Specialist's address above. Choose paragraph (a) or (b) below depending on which deadline is not met. Also, include appeal rights.

- We can't allow your claim because the distribution wasn't within 90 days after the determination date.
- We can't allow your claim because Form 976 wasn't filed within 120 days after the determination date.

**Note:** If a call is received on the toll-free line regarding the 105C Letter, write a Form 4442 and tell taxpayer the case is being referred to the LB&I Financial Products Specialist area and they will respond within 45 days. Send the

5100 River Rd. Mail Stop 601  
Schiller Park, IL 60176-1076  
Attn: Financial Products Specialist area

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**Reminder:** Notate AMS of the actions taken.

(9) Employees working these cases may contact the Financial Products Specialist-  
for any questions with the deficiency dividends procedures for RICs and REITs. In addition, Financial Products Specialists may manually work these cases.

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21.7.4.4.4.11.12  
(10-01-2024)

**Form 1120-RIC, U.S.  
Income Tax Return for  
Regulated Investment  
Companies**

- (1) Form 1120-RIC is filed to report the income, gains, losses, deductions, and credits of regulated investment companies as defined in IRC 851.
- (2) The return due dates, payment dates, and requests for extensions use the same due date as those for Form 1120. The filing requirement code is "17".
- (3) See IRM 21.7.4.4.4.2, *Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.4.4.2.1, *Form 1120 Corporate Series Due Dates - Tax Years Beginning After December 31, 2015*, for information regarding the return due date for Form 1120-RIC. Also, see IRM 21.7.4.3.5, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning Before January 1, 2016*, and IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax and Other Returns, Tax Years Beginning After December 31, 2015*, for information regarding extensions for Form 1120-RIC. See the *Instructions for Form 1120-RIC* for more information.
- (4) A domestic corporation that meets certain conditions must file Form 1120-RIC if it elects treatment as a RIC for the tax year (or has made an election for a prior tax year and the election has not been terminated or revoked). The election is made by computing taxable income as a RIC on Form 1120-RIC.
- (5) The term "regulated investment company" applies to any domestic corporation that:



- is registered throughout the tax year as a management company or unit investment trust under the Investment Company Act of 1940 (ICA),
- has an election in effect throughout the tax year under the ICA for treatment as a business development company, or
- is a common trust fund or similar fund that is neither an investment company under section 3(c)(3) of the ICA nor a common trust fund as defined under IRC 584(a).

- (6) In addition, the RIC must meet the (1) income test, (2) asset test, and (3) distribution requirements. See the *Instructions for Form 1120-RIC* for more information on these requirements.
- (7) Per section 101 of the RIC Modernization Act of 2010, P.L. 111-325, there is no limit on the number of tax years that a RIC can carryover a net capital loss for tax years beginning after December 21, 2010. For more information, see IRC 1212 .

21.7.4.4.4.11.13

(10-01-2020)

**Form 1120-X, Amended  
U.S. Corporation Income  
Tax Return**

- (1) Form 1120-X, *Amended U.S. Corporation Income Tax Return*, is filed to correct previously filed Form 1120. To correct other types of Forms 1120, file an amended form and check the box for "Amended Return" shown at the top of the form.
- (2) An amended or corrected return posts to a taxpayer's account as a TC 976 and generates a CP/TRNS 193. Refer to IRM 21.7.9, *Duplicate Filing Conditions*, for information on resolving duplicate filing conditions.
- (3) Submission Processing no longer works Forms 1120-X. The Image Control Team (ICT) scans all Forms 1120-X to CII. Use the proper re-file blocking series when making adjustments when the original return is secured and when the original return is not secured. See IRM 21.7.9.4, *Duplicate Filing Conditions Procedures*, for more information.

21.7.4.4.4.11.13.1

(04-02-2008)

**Pre-Adjusted Form  
1120-X Procedures**

- (1) Submission Processing worked many Form 1120-X prior to April 2008. These adjustments were processed in the 20 through 29 blocking series.
- (2) If a TC 150 with math error codes is already on the module, a TRNS 193 generates and is sent to Accounts Management for review. A TRNS 193 also generates when an adjustment in blocking series 29 (disaster claim) posts.
- (3) Action required:
  - a. Review Form 1120-X and TRNS 193 to verify all adjustments have posted and the refund or offset action was made.
  - b. If the adjustment did not post, input the correct adjustment.
  - c. Verify the taxable income was adjusted, if necessary, adjust.

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If	And	Then
An incorrect refund was issued	The incorrect refund was due to a math error or erroneous refund	1. Use CFOL command codes to math verify the original return. 2. Refer to IRM 21.4.5, <i>Erroneous Refunds</i> , for information on processing erroneous refunds and IRM 21.5.4, <i>General Math Error Procedures</i> , for information on returns involving mathematical and clerical errors.
An incorrect refund was issued	The incorrect refund was not due to a math error or erroneous refund	1. Use CFOL command codes to math verify the original return. 2. Input TC 29X to correct the account using blocking series 00 or 15. 3. Send a letter to the taxpayer explaining the change.
There is no change		Refile using the 1120-X DLN. (If the original return is secured, input TC 290 \$.00, blocking series 00 to refile the return.)

21.7.4.4.11.13.2  
(05-05-2017)

**Line on Form 1120-X to  
Apply Overpayment as  
Credit Elect**

- (1) Form 1120-X contains a line where taxpayers can designate to have their overpayment applied as a credit elect to estimated taxes for the **succeeding year** per IRC 6402(b).
- (2) A credit elect on a corporate income tax return is only applied to the immediately succeeding tax period and is irrevocable. Use command code ADD48 and transaction code TC 830 (debit) and command code (CC) ADC48, and transaction code (TC) TC 710 (credit) to apply an overpayment as a credit elect to the immediately succeeding tax. Command codes (CC) ADD48/ADC48 must have a BPI "0" input when applying an overpayment as credit elect. See IRM 21.5.8.4.2, *Determining Correct Credit Transfer Format*, for complete instructions.

Example 1 - In 2017, a taxpayer files Form 1120-X correcting a 201612 tax period and requests the overpayment be applied as a credit elect to estimated tax for 201712. Transfer following the instructions in paragraph (2) directly above.

- (3) An overpayment from Form 1120-X can be transferred to another MFT/tax period and is not considered a credit elect. To transfer an overpayment to another MFT/tax period, transfer with CC ADD24 and TC 820 (debit) and CC ADC24 with TC 700 (credit).
- (4) See IRM 21.7.4.4.5, *Estimated Tax Overpayment, Credit Elect – General*, for more specific information on credit elects and due to programming issues determining the proper dates. See IRM 21.7.4.4.4.2 and IRM 21.7.4.4.4.2.1 for the correct return due date for Forms 1120 series returns since the return due date changed for tax years beginning after December 31, 2015. Also, see IRM 21.5.8.4.2, *Determining Correct Credit Transfer Format*, for more information on the command codes and transaction codes.

21.7.4.4.4.11.14  
(10-01-2024)

**Form 1120-C, U.S.  
Income Tax Return for  
Cooperative  
Associations**

- (1) Effective with tax periods ending on or after December 31, 2006 (200612 and subsequent), Form 1120-C, *U.S. Income Tax Return for Cooperative Associations*, replaces Form 990-C, *Farmers' Cooperative Association Income Tax Return*.
- (2) Form 1120-C is filed to report income, gains, losses, deductions, credits and to figure the income tax liability of the cooperative. Every cooperative must file Form 1120-C, whether or not it has taxable income. The MFT is 02, tax class 3, doc code 032, and the filing requirement code is 20.
- (3) Generally, a farmer's cooperative is a farmer, fruit growers, or like association organized and operated on a cooperative basis to:
  - Market the products of members or other producers and return to them the proceeds of sales, less necessary marketing expenses, or
  - Purchase supplies and equipment for the use of members or other persons and turn over the supplies and equipment to them at actual cost, plus necessary expenses.
- (4) A member is anyone who shares in the profits of the cooperative association and is entitled to participate in the management of the association. A patron is anyone with whom or for whom the cooperative association does business on a cooperative basis, whether a member or nonmember of the cooperative association.
- (5) For tax years beginning before January 1, 2016, a cooperative described in IRC 6072(d) must file its income tax return by the 15th day of the ninth month after the end of its tax year. Any cooperative not described in IRC 6072(d) must file its income tax return by the 15th day of the third month after the end of its tax year. In addition, cooperatives may file Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*, to request an automatic six-month extension of time to file. Form 7004 is filed on or before the original due date of the Form 1120-C that is being filed.
- (6) For tax years beginning after December 31, 2015, a cooperative described in IRC 6072(d) must file its income tax return by the 15th day of the ninth month after the end of its tax year. Any cooperative not described in IRC 6072(d) must file its income tax return by the 15th day of the fourth month after the end of its tax year, unless its tax year ends on June 30 and begins before January 1, 2026, in which case its income tax return is due the 15th day of the third month after the end of its tax year.

- (8) For tax years beginning after December 31, 2015, a cooperative may file Form 7004, *Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns*, to request an automatic five-month, six-month, or seven-month extension based on its fiscal year ending month, regardless of whether the cooperative is described in IRC 6072(d). The cooperative must file Form 7004 on or before the original due date of its Form 1120-C. See IRM 21.7.4.3.6, *Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns - Tax Years Beginning After December 31, 2015*, for more information.
- (9) Cooperatives with a SC80 are tax-exempt under IRC 521 (type of Org. code 6) and SC93 (Type of Org. code 7) are non-exempt. If the EO status shown on CC ENMOD is 40, it is treated as SC93, non-exempt.
- (10) Cooperatives must make estimated tax payments, like a regular corporation must make.
- (11) Form 1120-C is filed at the Ogden Internal Revenue Service, Ogden, UT 84201-0012.
- (12) Follow normal BMF CAT-A/claim procedures in IRM 21.5.3, *General Claims Procedures*.

21.7.4.4.4.12  
(03-14-2014)

**Adjusting Tax and Item  
Reference Number (IRN)  
886**

- (1) Any time taxable income is changed due to an adjustment (including TC 290 \$.00) to an income tax return (Form 990-T, Form 1041, Form 1120, Form 1120-C and Form 1120-S), Item Reference Number (IRN) 886 is input to correct the taxable income/ordinary income/unrelated business taxable income on the master file. Action required:
  - Input IRN 886 to increase taxable income
  - Input IRN 886 with a minus sign to decrease taxable income.
- (2) Any time that the tax reported on a Form 990T, Form 1041 series return, or a Form 1120 series return is changed, input:
  - TC 290 to increase the tax.
  - TC 291 to decrease the tax.

21.7.4.4.4.13  
(01-06-2004)

**Insolvent Financial  
Institutions/Failed  
Savings and Loans, and  
Failed Banks**

- (1) IRS is authorized to pay refunds to a statutory or court-appointed fiduciary of an insolvent member of an affiliated group filing a consolidated income tax return.
- (2) Tax returns can be filed on behalf of failed savings and loans. Large accounting firms generally prepare the returns and claims. See the various ways to identify these returns/claims below:
  - The words "Savings and Loan" or "Savings Bank" in the entity portion.
  - PBA codes 6030, 6060, 6090, or 6120.
  - Notations of abatement of tax or refunds based on IRC 7507 or IRC 597, Notice 89-102, or "FIRREA".

- Large liabilities but no remittance.
- Income but not a tax liability.
- Asterisks on the tax due line.
- “RTC” or “FDIC” in the entity portion.

- (3) Failed Savings and Loans accounts normally have a Large Corp indicator and Large Corp. Units work them. See IRM 21.7.1.4.11.10, *Failed Savings and Loans*, for more information.

21.7.4.4.4.13.1  
(01-01-2005)

**Resolution Trust  
Corporation  
(RTC)/Federal Deposit  
Insurance Corporation  
(FDIC) Returns**

- (1) On January 1, 1996, RTC was taken over by FDIC. FDIC is now filing tax returns for institutions under RTC control. The entity section of the return now shows “FDIC,” and the top of the return is stamped “RTC Return.”
- (2) RTC or FDIC returns identified by Exam use blocking series (BS) 499 or 979.
- (3) For those returns which reflect income but no tax liability, the liability is computer-generated and a Math Error Notice sent to the taxpayer.
- (4) C and E/ERS does not input a Taxpayer Notice Code (TPNC) if the return has a refund. If a notice is inadvertently generated, Notice Review should stop the notice.

21.7.4.4.4.13.2  
(11-07-2022)

**Adjustment Procedures  
(RTCs/FDICs)**

- (1) Accounts Management employees must have any returns, claims, correspondence, or internally generated notices with a savings and loan, savings bank, or bank type entity as described above, classified by Exam. An LCI is normally coded on failed savings and loans accounts.
- (2) Any return or correspondence not reflecting an LCI, which has a savings or bank type entity, must be reviewed by Exam before any adjustments or refunds are allowed. Suspend to Exam as CAT-A and use suspense reason HQ Reserved 5.

**Note:** Before routing to CAT-A, reassign the case to the correct Large Corp unit based on the FDIC bank location and the Large Corp state mapping found in IRM 21.7.1.4.11, *Large Corp Unit* and the reassignment numbers found in IRM 21.7.1.4.11.3, *Routing Large Corp Cases*.

- (3) If there is a clear indication the return was reviewed by Exam, do not have the return reclassified.

21.7.4.4.4.13.3  
(10-01-2024)

**Insolvent Financial  
Institutions/Failed Banks**

- (1) Route Form 1120-X amended returns involving failed banks meeting any of the following three criteria to Exam in Ogden:
- Return states “Claim for Refund under IRC 6402(k) or IRC 6402(i)”.
- (2) FDIC files original and amended returns for insolvent banks in FDIC receivership and elect IRC 7507 to defer the assessment of tax until the bank becomes solvent. The Submission Processing accounting function assesses tax on balance due returns and provides balance due notices to the taxpayer. If correspondence is received requesting abatement of tax due to the IRC 7507 election, route to CAT-A “HQ Reserved 5”.

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- (3) See IRM 21.5.9.4.2.1, *Carryback Applications/Claims from Financial Institutions in Receivership - Form 56-F Filed*, for carrybacks application/claim received

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21.7.4.4.4.14  
(01-01-2005)  
**Form 4466 Transcripts  
(Form 1120)**

- (1) Form 4466 transcripts generate when both a Form 1120 corporation return (TC 150) and a manual refund (TC 840 with blocking series 30 - 39) posts to MF, resulting in a zero or debit module balance. The manual refund is the result of a Form 4466, *Corporation Application for Quick Refund of Overpayment of Estimated Tax*. These transcripts show the taxpayer may have received an excessive refund of estimated tax (ES) and could have a potential ES penalty.
- (2) Review the transcript to determine if the taxpayer is subject to an ES penalty. (The related return need not be secured to assess the penalty.) Resolve the transcript by following the table below.

If	And	Then
Module balance is zero	No money was paid with the return (TC 610) or no subsequent payment was made after issuance of the original TC 840	Taxpayer is not subject to the penalty. Dispose of the transcript as classified waste.
Module balance is zero	There is a TC 610 amount and/or a subsequent payment made after issuance of the original TC 840	Taxpayer's excessive refund of ES is the amount of the payment. 1. Compute the ES penalty based on the TC 610 subsequent payment amount from the TC 840 date to the due date of the return. 2. Input TC 170 in blocking series 15 to assess the penalty.
Module balance is a debit		Taxpayer's excessive refund is the amount of the debit (except when the debit is created by previously assessed or accrued penalty and/or interest charges). 1. Combine the TC 610 payment (and similar credits) with the debit amount to determine the excessive refund. 2. Compute the ES penalty based on the excessive refund amount from the TC 840 date to the due date of the return. 3. Input TC 170 in blocking series 15 to assess the penalty.
The Form 4466 refund was issued after the return's original due date		There is no penalty assessed on the excessive refund amount.

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## 21.7.4.4.4.15

(10-01-2024)

**Modernized e-file (MeF)  
System Functionality  
Overview**

- (1) Beginning in January 2004, IRS began accepting certain tax year 2003 electronically filed corporate (Form 1120 and Form 1120-S) and exempt organization returns. See IRM 21.7.7.5.14, *Modernized Electronic Filing*, for MeF for exempt organizations. This was the first phase of the rollout of the Modernized e-File Project (MeF). MeF allows taxpayers to receive refunds via direct deposit and allows e-filers to e-pay their balance due through an authorized electronic funds withdrawal. Beginning in January 2007, Form 1120-F for TY 2006 were accepted. See IRM 3.42.4.6, *Modernized e-File (MeF) System Functionality Overview*, for a complete list of e-file program publications and revenue procedures pertaining to the Modernized e-File Program.
- (2) The MeF Project is a major modernization initiative which is developing the modernized platform for filing returns electronically. The MeF Project provides for the filing of tax and information returns electronically through the internet via registered electronic originators, or web Services. Electronic transmissions for these returns are directed to the Ogden Submission Processing Center. Beginning February 17, 2010, the Service began accepting Form 1040, *U.S. Individual Income Tax Return* through the Modernized e-file system. See IRM 3.42.5.14, *IRS e-file for 1040 Modernized e-File (MeF)*, for more information on Form 1040 and the MeF system.
- (3) Business taxpayers can get information electronically concerning the MeF project by going to the IRS Web site at *Known Issues and Solutions*.
- (4) Employees can access e-filed corporate and exempt organization returns processed in MeF through the Employee User Portal (EUP) on their NT workstations. Documents display in HTML format. The retrieval, display, printing and archiving of the electronic return and up to (eventually) 700 different schedules and attachments is through Microsoft Internet Explorer via the EUP.
- (5) Ogden processes electronically filed Form 1120 and Form 1120-S returns. Returns filed via the MeF system are assigned the following codes (See IRM 3.42.4.9.2.1, *Researching e-file BMF Identification Codes*, for more information.):

Form	Filing Location Code DLN Digits 1 and 2	Tax Class DLN Digit 3	Document Code DLN Digits 4 and 5
1120	88/93 (OVFL 92)	3	10 and 11
1120-S			16
1120-F	93 (92 overflow) 60 (ECI Foreign Address) 78 (ECI US Possession Address)		66 and 67

- (6) Systemically rejected electronically filed Form 1120 and Form 1120-S (MeF) returns fall-out to ERS/Rejects and must be processed as a paper return. Beginning in January 2012, rejected (MeF) Form 1120 returns will be renumbered in ERS/Rejects with FLC 91 and blocking series 960-978, and rejected (MeF) Form 1120-S returns will be renumbered with FLC 91 and blocking series 900-999. This will allow end users to identify these paper returns as originally filed electronically but were rejected and were processed as paper returns.

- (7) IRS e-file providers and applicants are required to submit their IRS e-file applications online. To register for e-Services, users navigate to the e-Services page *Become an Authorized e-file Provider*. New users must also register by creating a profile with an IRS Credential Service Provider. The IRS uses ID.me, a technology provider, to provide identity verification and sign-in services, which allow access to e-Services. More information is available on IRS.gov at *Register for IRS Online Self Help Tools*.
- (8) Large taxpayers filing only their own return are not required to pass a suitability background check. IRS only performs the suitability checks discussed in Publication 3112 on applicants that prepare returns for profit. Taxpayers may also call the *e-Help* Desk toll-free at 866-255-0654 for help.
- (9) To file Form 1120 series returns electronically, transmitters, and software developers MUST successfully pass Acceptance or Assurance Testing System (ATS). The ATS process tests hypothetical scenarios to ensure the participant's computer program has the correct file specifications to file returns electronically, that required fields will post to master file correctly and that Providers understand the mechanics of IRS *e-file*. All Transmitters must perform a Communications Test and be accepted. No further communications testing is required when adding additional forms to MeF and do not require testing each year. See Publication 3112, *IRS e-file Application and Participation*, and Publication 5078, *Modernized e-file (MeF) Test Package Business Submissions, Assurance Testing System (ATS)*, for more information on the testing process for the current tax year. Taxpayers may also call the Help Desk toll-free at 866-255-0654. Testing for Form 1120 is generally available in ATS by the start of November each year.
- (10) Beginning January 2019, the MeF system began accepting TY 2018 MeF filed corporate returns. The MeF system will accept corporate returns for all tax years beginning with TY 2019. Beginning with TY 2006, e-filing is required for returns, original, amended, and superseding returns, if the taxpayer is required to file electronically (Unless the taxpayer has received a waiver to file that particular tax return on paper. See IRM 3.42.4.17.3, *Certain Corporations and Tax-Exempt Organizations Waiver Procedures*). Only the MeF system accepts amended returns. See IRM 21.7.9.4.1.2.2, *Modernized e-file (MeF) Amended Returns*, for more information on filing amended returns through the MeF system. Taxpayers who filed an original return through any other system must complete an amended return on paper and file it with the campus where they would file a paper return. For carrybacks filed via the MeF system, see IRM 21.5.9.5.1.1, *Carrybacks Filed via the Modernized e-File (MeF) System* (Ogden AM Campus Only), for more specific information.
- (11) Taxpayers do not send paper Form 8453 (signature documents) to the IRS for returns filed through MeF. Preparers must scan a signed, completed Form 8453 and attach it to the electronic return.
- (12) Alternatively, most taxpayers can use a Personal Identification Number (PIN) to file their returns. Form 8879-C, *IRS e-file Signature Authorization for Forms 1120*, is used in the modernized e-file program. This form authorizes an officer of a corporation and an ERO to use a PIN to electronically sign a corporation's electronic income tax return and, if applicable, an Electronic Funds Withdrawal Consent.
- (13) The Practitioner PIN option can only be used if the taxpayer uses an ERO. Large Taxpayers who file their returns directly with IRS must use a Form 8453

signature document. For purposes of electronic filing, the IRS defines a “Large Taxpayer” as a business or other entity with assets of \$10 million or more, or a partnership with more than 100 partners, which originates the electronic submission of its own return(s).

21.7.4.4.4.15.1  
(10-01-2024)  
**Modernized e-file (MeF) -  
Electronic Filing of  
Corporate and Exempt  
Organization Returns**

- (1) Beginning in January 2004, IRS began accepting certain TY 2003 electronically filed corporate returns (Form 1120, Form 1120-F, and Form 1120-S). In addition, Form 990, Form 990-EZ, Form 1120-POL and Form 8868 for exempt organizations (See IRM 21.7.7.5.14, *Modernized Electronic Filing*) were also accepted.
- (2) The MeF System also accepts Form 990-PF, *Return of Private Foundation*, and Form 7004, *Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*. See IRM 3.42.4.7.3, *Business e-file Returns Processed by OSPC*, for a complete listing of the corporate and tax-exempt organization forms and tax returns that can be filed electronically.
- (3) Final regulations (TD 9363), released in 2007, require corporations that have assets of \$10 million or more and file at least 250 returns annually, to electronically file their Form 1120 and Form 1120-S for tax years ending on or after December 31, 2006 and for returns required to be filed during calendar years ending on or before December 31, 2023. This requirement extends to foreign corporations filing Form 1120-F, who have assets of \$10 million or more and who file at least 250 returns annually and is effective for tax years ending on or after December 31, 2018 and for returns required to be filed during calendar years ending on or before December 31, 2023. See Treas. Reg. 301.6011-5, IRC 6011(e). Section 2301 of the Taxpayer First Act of 2019, P.L. 116-25, enacted July 1, 2019, authorized the IRS and Treasury to issue regulations that could reduce the 250-return limit to 10. Final regulations (TD 9972) were published on February 23, 2023. The final regulations require corporations to e-file their corporate income tax returns beginning in 2024, and reduce the 250-return threshold enacted in prior regulations to generally require e-filing by filers of 10 or more returns in a calendar year (regardless of asset size).
- (4) Section 3101 of the Taxpayer First act of 2019, P.L. 116-25, IRC 6033(n) enacted July 1, 2019, requires tax exempt organizations to electronically file information returns and related forms. The law affects tax exempt organizations in tax years beginning after July 1, 2019. See Treas. Reg. 301.6033-4 for more information. See the table below for threshold limits for corporations and exempt organizations.

Threshold for Filing Electronically	Date Mandated to File Electronically
Corporations with Assets of \$50 million or more and required to file 250 or more returns	Taxable years ending on or after December 31, 2005 (200512).
Exempt organizations with assets of \$100 million or more and required to file 250 or more returns	Taxable years ending on or after December 31, 2005 (200512)

Threshold for Filing Electronically	Date Mandated to File Electronically
Corporations with assets of \$10 million or more and required to file 250 or more returns	Taxable years ending on or after December 31, 2006 (200612)
Exempt organizations with assets of \$10 million or more and required to file 250 or more returns	Taxable years ending on or after December 2006 (200612)
Private foundations or IRC 4947 (a)(1) trusts under IRC 6033 and required to file 250 or more returns	Taxable years ending on or after December 31, 2006 (200612)
Exempt organizations, private foundations or IRC 4947 (a)(1) trusts under IRC 6033 regardless of asset size or number of returns	Taxable years beginning on or after July 1, 2019 (201907).
Corporations required to file 10 or more returns of any type during a calendar year regardless of asset size	Corporate income tax returns required to be filed on or after January 1, 2024

- (5) For returns required to be filed on or before December 31, 2023, determine an entity's assets based on total assets at the end of the taxable year as reported on the entity's Form 1120, Form 1120-F, Form 1120-S, or Form 990.
- (6) When determining whether a corporation is required to file 10 or more returns, the 2023 final regulations (TD 9972) aggregate the number of all returns of any type, including income tax, excise tax, employment tax and information returns (including Form W-2 and Form 1099) required to be filed during the calendar year ending with or within the taxable year of the corporation. So, if a corporation is required to file 10 or more returns of any type during 2023, the requirement to electronically file its corporate tax return will apply to the corporations taxable year ending 202312 through 202411 depending on its taxable year end. All members of a controlled group of corporations are required to file their Forms 1120 electronically if the total number of returns required to be filed by the controlled group of corporations is at least 10. Under these regulations, do not include corrected or amended returns in determining the 10-return threshold.
- (7) See Publication 4163, *Modernized e-file (MeF) Information for Authorized IRS e-File Providers for Business Returns*, for returns excluded from electronic filing and *Modernized e-File (MeF) Overview*.
- (8) IRS e-file Signature Authorizations allow an officer of the entity to enter their Personal Identification Number (PIN) as their signature on the corporation's or exempt organization's electronically filed return, and if applicable, consent to electronic funds withdrawal, or authorize their EEO to enter their PIN for them. The following signature authorization forms are completed and signed but **are**

**not** sent to the IRS. The ERO must retain the Form 8879 for three years from the return due date, extended due date or the IRS received date, whichever is later.

Form Number	Title
8879-CORP	<i>IRS e-file Signature Authorization for Form 1120</i>
8879-CORP	<i>IRS e-file Signature Authorization for Form 1120-F</i>
8879-TE	<i>IRS e-file Signature Authorization for a Tax Exempt Entity</i>
8879-CORP	<i>IRS e-file Signature Authorization for Form 1120-S</i>

- (9) Corporate officers who do not use the Practitioner PIN method for signing the Form 1120, Form 1120-F, Form 1120-POL, Form 1120-S, Form 990, Form 990-EZ, Form 990-PF, Form 8453-I, Form 8879-CORP, or Form 8879-TE as outlined in paragraph (8) above, must sign, scan and submit with their electronic return in PDF format, using the proper form shown in the list below:

- Form 8453-C, *U.S. Corporation Income Tax Declaration for an IRS e-file return*
- Form 8453-S, *U.S. S Corporation Income Tax Declaration for an IRS e-file Return*
- Form 8453-TE, *Tax Exempt Entity Declaration and Signature for Electronic Filing*
- Form 8453-I, *Foreign Corporation Income Tax Declaration for an IRS e-file Return*

- (10) **DO NOT** attach information (e.g., loose forms, schedules, and correspondence) to an electronically filed return. To identify an electronic DLN, see Document 6209, Section 4, Document Locator Number, or IRM 3.42.4.9.2.1, *Researching e-file BMF Identification Codes*. Use the following procedures: File the information using TC 290 \$.00 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:** Do not use these procedures for documents scanned into Correspondence Imaging Inventory (CII). CII serves as the retention area for these documents.

- (11) The 2023 final regulations generally provide hardship waivers for corporations that would experience hardship in complying with the e-filing requirements and administrative exemptions from the e-filing requirements to promote effective and efficient tax administration. Notice 2024-18, Section III provides guidance on the hardship waivers and administrative exemptions from the electronic filing requirement.
- (12) In the case of undue hardship, the IRS may waive the electronic filing rules if the corporation demonstrates that a hardship would result if it were required to file its return electronically. A corporation interested in requesting a waiver of



the mandatory electronic filing requirement must file a written request in advance in accordance with the procedures in the Form 1120, 1120-F, or 1120-S instructions.

- (13) The 2023 final regulations also grant an administrative exemption from the requirement to electronically file returns to corporations whose use of the technology required to file electronically conflicts with their religious beliefs. Advance approval of an electronic filing administrative exemption is not required to file paper forms 1120, 1120-F, or 1120-S, due to a religious exemption. Corporations must print in bold letters “**Religious Exemption**” at the top of page one of the return they file in paper form. See *Topic no. 803, Electronic filing waivers and exemptions and filing extensions*, for additional information.

21.7.4.4.4.15.2  
(10-01-2024)

**Corporate and Exempt  
Organization Penalty for  
Failure to File  
Electronically**

- (1) Per IRS Temporary Regulation T.D. 9175, 2005-10 I.R.B., beginning January 1, 2006, certain corporations and exempt organizations are required to file electronically if they meet certain thresholds. Treasury Decision T.D. 9363 extended the requirement to e-file to all filers of a Form 1120 series original return reporting over \$10 M in assets for a fiscal or calendar year that began after December 31, 2006. See IRM 21.7.4.4.4.15.1 directly above to identify those corporations and exempt organizations mandated to file electronically beginning in 2005.
- (2) New Treasury regulations were issued which modified electronic filing requirements for corporate returns and clarified the mandatory e-filing rules for exempt organizations set forth in section 6033 and for entities that owe Unrelated Business Income Tax (UBIT). See T.D. 9972. Under the new regulations for corporations, which apply to returns due to be filed in calendar years beginning after December 31, 2023, corporations are required to file electronically, regardless of assets reported, if they are required to file 10 or more returns of any type during the calendar year ending with, or within the taxable year of the corporation. The new regulations for exempt organizations and returns reporting UBIT are effective for returns required to be filed during calendar years beginning after February 23, 2023.

21.7.4.4.4.15.3  
(11-13-2018)

**Known e-file Issues and  
Solutions - Form 1120**

- (1) Periodically, problems arise that prevent taxpayers from being able to file electronically through the Modernized e-file (MeF) System. When this occurs, e-File Services (eFS), LB&I, or Submission Processing will issue a work-around to taxpayers by posting information on the IRS Web site. Go to *Known Issues and Solutions* for more information. The e-help unit will direct taxpayers with processing problems to this site.
- (2) In addition, Accounts Management will issue SERP Alerts or IPU's if the situation warrants. For example, an Alert was issued due to a problem with name control mismatches on Form 1120 and Form 1065 MeF returns.
- (3) For calls received from taxpayers stating they are having problems e-filing, research the webpage. If unable to find any information, refer the caller to the e-help desk unit toll-free at 866-255-0654. See IRM 3.42.7.1.1, *Background*.



21.7.4.4.4.16  
(05-08-2019)

**Failure to File Form  
1120, with a Form 5471  
or a Form 5472 Penalty**

- (1) Beginning January 2009, master file systemically assesses IRC 6038 penalties on Form 5471, *Information Return of U.S. Persons With Respect to Certain Foreign Corporations*, attached to a late filed Form 1120. Beginning in 2013, master file also systemically assesses IRC 6038 penalties on Form 5472, *Information Return of a Foreign Owned Corporation*, attached to late filed Form 1120 returns. The penalty is \$10,000 per Form 5471 or Form 5472 attached to the late filed Form 1120.
- (2) The systemically assessed Form 5471 penalty appears on MFT 13 as a TC 240 with Penalty Reference Number (PRN) 623 for 2009 and as PRN 599 for 2010 and subsequent years. See IRM 20.1.9.3, *IRC 6038 - Information Reporting With Respect to Foreign Corporations and Partnerships*, for more information. The systemically assessed Form 5472 penalty also posts to MFT 13 as a TC 240 but with PRN 711. See IRM 20.1.9.5, *IRC 6038A(d) - Information Reporting for Certain Foreign-Owned Corporations*, for more information. Both penalties carry doc code 54, and 00 as the first two digits of the blocking series.
- (3) Exam posts manually assessed penalties as TC 240 with PRN 623 for failure to file Form 5471, or with PRN 625 for failure to file Form 5472. The doc code is 54 (or 51, if it's a quick or prompt assessment). BMFOLA will show that the input employee is in one of the Exam CCP teams in Cincinnati, Memphis, or Ogden. Accounts Management (AM) does not consider penalty abatement requests for the penalties assessed by Exam. Exam will consider all penalty abatement requests for Exam (manually) assessed Form 5471 and/or Form 5472 Failure to File (FTF) penalties.
- (4) A CP 215 Notice, *Civil Penalty - 500 and 600 Series*, generates as a result of the TC 240 penalty assessment on the MFT 13 module. The CP 215 notice instructs the taxpayer to send penalty abatement requests to Accounts Management's International Unit in the Ogden campus. Ogden and Cincinnati International work the requests using instructions in IRM 21.8.2.20.2, *Form 5471 Penalties Systemically Assessed from Late-Filed Form 1120 Series or Form 1065*, and in IRM 21.8.2.21.2, *Form 5472 Penalties Systemically Assessed from Late-Filed Form 1120 Series*.
- (5) Chief Counsel has determined that the same reasonable cause criteria is used for the systemically assessed Form 5471 and Form 5472 penalties and the FTF penalties assessed on late filed Form 1120. Since the late filed Form 1120 penalties generate a CP notice from MFT 02, requests for abatement will instruct the taxpayer to reply to either the Cincinnati or Ogden campus. Cincinnati and Ogden work cases where the taxpayer is only requesting abatement of the Form 1120 FTF penalty. Either campus may receive abatement requests for the Form 1120 FTF penalty and a Form 5471 or Form 5472 FTF penalty. Follow the table below.

If	And	Then
Taxpayer is only requesting abatement of a late filed Form 1120 penalty (Research to determine if all required Form 1120 have been filed (or have a valid extension) for all years not on retention.).	Not all required returns have posted at master file (BMFOL).	Contact the corporation regarding the status of the missing returns: a. If the taxpayer states that they have not filed the required forms, advise the corporation that the abatement request cannot be considered until the missing return(s) have been filed, and to submit a request at that time. b. If the corporation states that they have filed the missing returns, suspend the request for 40 days until all returns have posted. If the missing returns do not post in the time frame given, follow (a) above.
	All required returns have posted at master file	Consider abatement based on “normal” reasonable cause criteria in IRM 20.1.1.3, <i>Criteria for Relief from Penalties</i> , for the failure to file penalty. Do not consider First-Time Abatement unless only a single year is involved and there is no prior penalty history. Penalty relief for all subsequent tax periods is based on the showing of reasonable cause. See IRM 20.1.1.3.6.1, <i>RCA and First-Time Abate (FTA) Consideration</i> .

If	And	Then
Taxpayer requests abatement of both penalties		<p>Consider the request for the late filed Form 1120 penalty only. Follow the instructions in the two rows directly above. If all returns have posted, process the FTF penalty abatement request. Before closing the CII case, take the following actions to ensure the Form 5471 or 5472 civil penalty is processed:</p> <ul style="list-style-type: none"> <li>• Print the pages relevant to the civil penalty abatement request</li> <li>• Notate "Scan to INTL MFT 13" in the top right corner of the first page of the civil penalty case</li> <li>• Send the case for exception scanning as a new International case following the sites normal exception scanning procedures</li> <li>• Leave a CII case note explaining the actions taken and close the CII case</li> </ul>

(6) If you determine that you need to reprocess a TC 150 return where a Form 1120 FTF penalty and either a Form 5471 or a Form 5472 FTF penalty were assessed, take the following action:

- Abate the tax. Systemic abatement is possible for the FTF and FTP penalties if the account is not restricted. Any interest charged on the unpaid tax and any interest assessed on the FTF and/or FTP penalties is also systemically abated. Manually abate any penalties (See IRM 20.1.2.2.5, *Manual Penalty Adjustments*) and/or interest (see IRM 20.2.1.4, *Normal and Restricted Interest*) that are systemically restricted from re-computing by a restricting (manual) transaction code. Use the proper hold code to hold any money/credit and to prevent a CP 210 Notice or a CP 220 Notice from generating.
- Send a request to the address in the "then" box in the third row of paragraph (5) directly above, and request that they remove the Form 5471 penalty. Explain that you have reprocessed the return.
- Reprocess the return to the correct EIN/tax period following normal procedures (see IRM 21.7.9, *Duplicate Filing Conditions*). master file determines the assessment of penalties when the return posts.

21.7.4.4.4.17  
(01-31-2012)  
**Form 1120 and  
Reinstated Exempt  
Organization  
Determination**

- (1) Per the Pension Protection Act of 2006 (PPA), if an organization does not submit the annual electronic notice (Form 990-N) or does not file Form 990, Form 990-EZ, or Form 990-PF as required, for three consecutive years, its tax-exempt status is revoked as of the submission/filing due date of the third year. The system will put the organization in status 97 if no TC 150 (or other satisfying transaction) has posted for three years and one month. The system updates the filing requirements to Form 1120-01.
- (2) Many of these taxpayers will seek reinstatement. It is also possible that some taxpayers may file Form 1120 while they seek a retroactive reinstatement. If you receive an inquiry from a taxpayer who filed Form 1120 while awaiting reinstatement and was subsequently reinstated, advise them that if the reinstated exemption covers the period for which they filed the Form 1120, then they must file an amended return (Form 1120-X), an explanation or cover letter of the situation, and a copy of the determination letter stating the exemption was reinstated and the effective date of the exemption.
- (3) If the taxpayer submits the proper documentation, process the amended return that covers the period that the taxpayer filed the Form 1120 for and adjust the account. For example, a calendar year taxpayer's exempt status is revoked effective May 15, 2010. Taxpayer files a 201012 Form 1120 to cover the short year return for the remainder of 2010. If the proper documentation is submitted, abate the tax. Manually abate any penalty and/or interest that is restricted from re-computing by a manual penalty transaction code (see IRM 20.1.2.2.5, *Manual Penalty Adjustments*) or restricted interest transaction code see IRM 20.2.5.6, *Restricted Interest*. Unrestricted penalties and interest will systemically re-compute when the tax is abated. If the proper documentation is not submitted, send a Letter 916C, *No Consideration Letter*, and advise the taxpayer of what is needed.

21.7.4.4.4.18  
(10-01-2023)  
**Forms 1120 Series and  
Form 1120-S - Potential  
Frivolous  
Refunds/Possible ID  
Theft or RICS  
Involvement**

- (1) Forms 1120 and Forms 1120-S that meet certain criteria require a review  
freeze to hold any refund until the return and related information is reviewed.
- (2) Identify these accounts by a TC 570 with all fives in the blocking series and serial number of the Document Locator Number (DLN), i.e., XXXXX-XXX-55555-X.
- (3) If an inquiry is received from a Form 1120 or Form 1120-S filer inquiring about the expected refund, research the account for a TC 570 posted to the account as described in the paragraph above.
- (4) If the tax module contains a TC 570 with all fives, prepare a Form 4442 and notate "unreversed TC 570", and leave a history item on IDRS of "TC570ALL5S" and "ROUTETOFRP", and route to:  
Internal Revenue Service  
Attn: FRP M/S 4450  
1973 N. Rulon White Blvd.  
Ogden, UT 84404
- (5) Advise the taxpayer that their inquiry is being forwarded to another department for resolution and apologize for the delay in resolving the issue.

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- (6) Effective January 1, 2017, Computer Condition Code "E" is edited on Form **1120** or Form 1120-S (any year) if it is determined that the return is a potential identity theft filing. See IRM 3.11.217.14.3, *CCC "E" – Potential ID Theft Filing*, for additional information.
- (7) If a tax examiner in Submission Processing (SP) Code and Edit (C and E) finds a case with attachments or correspondence indicating the taxpayer is a victim of ID Theft, the case is referred to one of the SP BMF ID Theft liaisons. If the SP BMF Theft Liaison says the return is ID Theft, the tax examiner will edit CCC E. See IRM 25.23.11.6.3, *BMF Returns Selected for RICS Review*, for additional information.
- (8) When CCC "E" is edited on a return a TC 971 AC 711 will post to IDRS master file. This TC 971 code will cause the return to post as a TC 973 instead of a TC 150. In addition, Letter 5263C or Letter 6042C is sent to the taxpayer requesting them to validate the filing of the return.

**Caution:** Only RICS can reissue this letter.

- (9) If the taxpayer contacts the IRS by telephone and the criteria above is met, follow the guidance in IRM 25.23.11.6.3. If correspondence is received responding to the Letter 5263C, *Entity Fabrication*, or Letter 6042C, *Entity Verification for Business*, route to:  
RICS Unit, OSC  
Mail Stop 9002  
Ogden, UT 84401
- (10) For more information on potential BMF identify theft, see IRM 25.23.11.4, *Business Master File (BMF) Identity Theft Research*.

21.7.4.4.4.19  
(03-09-2020)  
**Form 966 - Corporate  
Dissolution or  
Liquidation**

- (1) A corporation or farmer's cooperative must file Form 966, *Corporate Dissolution or Liquidation*, if it adopts a resolution or plan to dissolve the corporation or liquidate any of its stock. Form 966 is filed within 30 days after the resolution or plan is adopted to dissolve the corporation or liquidate any of its stock. If the resolution or plan is amended or supplemented after Form 966 is filed, the taxpayer is required to file another Form 966 within 30 days after the amendment or supplement is adopted.
- (2) If a loose Form 966 is received in Accounts Management, associate the Form 966 with the entity referred to in the Employer Identification Number box on the top of the form. If box 7b is checked yes because the taxpayer filed as part of a consolidated group, associate the form with the entity's EIN listed in box 7d. Associate with the tax period listed in box 7a.
- (3) If working a Form 966 scanned into CII, the CII image is the source document and it remains in CII for further recall. If TC 150 has not posted and working a paper Form 966 case (non-CII), input TC 930 push code to have Form 966 attached to Form 1120 after the return posts.
- (4) If a loose Form 966 is received in Accounts Management with a CP 259 Notice or a CP 518 Notice, route as follows:

If	Then
Received in Cincinnati	Route to Brookhaven CSCO Stop 661
Received in Ogden	Route to Memphis CSCO Stop 811
Received in any other site	Refer to Form 966, Line 7e for the BMF site where the return was filed and follow the guidelines in the two bullets above by referring to either Brookhaven or Memphis
Return is electronically filed	Route to Memphis address above

- (5) If Form 966 is received with “Filed pursuant to Notice 97-4” written across the top and “Section 1361(b)(3)(B)” is entered on Line 10 of Form 966, route to BMF Entity address below based on where the original return was filed:

- KCSPC - Stop 6055
- OSPC - Mail Stop 6273

21.7.4.4.4.20  
(11-20-2023)  
**Micro-Captive Insurance  
Amended Returns**

- (1) Recent U.S. Court decisions confirmed that certain micro-captive insurance arrangements are not eligible for claimed federal tax benefits. Taxpayers who took a deduction or other tax benefit on a prior year Form 1120, or Form 1065 tax return related to micro-captive insurance can amend their returns to remove these benefits.
- (2) Taxpayers filing a paper amended return must write “**Microcaptive**” at the top of the first page of the amended return and mail the amended return to the address listed in the instructions for the return. If filing electronically, the return will include “**Microcaptive**” when explaining the reason(s) for the change(s).
- (3) ICT scans BMF amended returns into CII under category code SPC0. Upon receipt of the amended return, if it is not controlled with the correct category code, employees must change it to SPC0 prior to closing. See IRM 21.3.1.6.58, *Micro-Captive Insurance Amended Returns*, for more information regarding IMF amended returns.
- (4) For instructions on adjusting these cases, see IRM 21.5.3, General Claims Procedures.

21.7.4.4.5  
(10-01-2020)  
**Estimated Tax  
Overpayment, Credit  
Elect - General**

- (1) Per IRC 6402(b), the IRS is authorized to credit an overpayment against estimated tax for the succeeding taxable year. A credit under IRC 6402(b) is referred to as a “credit elect overpayment” or simply a “credit elect.” Once the taxpayer makes the election to have the overpayment applied to their next year’s estimated taxes (credit elect), it cannot be revoked.
- (2) Overpayments will offset to BMF balance due accounts, then to DMF accounts, before the credit elect is applied to the next year’s estimated taxes.
- (3) Pursuant to Treas. Reg. 301.6402-3(a)(5) and Treas. Reg. 301.6611-1(h)(2)(vii), credit (overpayment) interest is never allowed when an overpayment is applied as a credit elect to estimated taxes for the immediately succeeding tax period.
- (4) A systemic credit elect by master file appears on IDRS with transactions code TC 836 (debit) and transaction code TC 716 (credit). A credit elect is input manually to IDRS via command code (CC) ADD48 with TC 830 and via CC



ADC48 with TC 710. Employees must input CC ADD48/ADC48 with BPI 0. See IRM 21.5.8.4.2, *Determining Correct Credit Transfer Format*, for complete information.

- (5) Current master file programming for credit elect on Form 1120 series returns incorrectly calculates the installment due date as the return due date plus one month. While the result is technically correct when transferring a timely overpayment from a period beginning before 1/1/2016, it is no longer correct for periods beginning after 12/31/2015, because the due date of most Form 1120 returns is now equal to the due date of the first installment of estimated tax for the succeeding period. Therefore, adding one month is incorrect. However, even though master file uses the incorrect date, there is no harm to the taxpayer because the credit elect is considered timely for the first installment of the succeeding year in the current estimated tax penalty programming. In the case of a subsequent assessment, there can be debit (underpayment) interest implications: The systemic credit transfer will need a reversal and input using the correct date **when making an assessment of tax** on MFT 02 for periods beginning after 12/31/2015, unless the period ends in 06. See IRM 21.7.4.4.4.2 and IRM 21.7.4.4.4.2.1 for the return due dates for Forms 1120 series returns. **EXAMPLE:** The entire overpayment from the Form 1120 module for the period 201612 is applied as a credit elect to the estimated tax account of Form 1120 for 201712. master file incorrectly posts the TC 836 and TC 716 with a date of 05/15/2017, instead of the proper date of 04/15/2017. Although master file used the incorrect date, the credit side of the transfer (TC 716) is still considered timely for estimated tax purposes. If, however, a subsequent assessment is made on the 201612 tax module, debit (underpayment) interest will be computed incorrectly. Reverse the credit elect dated 05/15/2017 with command code ADD48 with TC 832 and CC ADC48 with TC 712. Re-input via CC ADD48 with TC 830 and CC ADC 48 with TC 710 with the correct date of 04/15/2017.
- (6) Use CC ADD48 and TC 830 (debit), and CC ADC48 with TC 710 (credit) to apply an overpayment as a credit elect to the immediately succeeding tax period. See the chart below:

If	Then
Credit elect overpayment transfer consists of credits dated by the	Transaction date of the TC 830 (debit) and TC 710 (credit) is the due date of the first installment of estimated tax for the succeeding year (see IRM Exhibit 20.1.3-2).

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If	Then
Credit elect overpayment transfer consists of a credit or partial credit dated after the due date of	Transaction date of TC 830 (debit) and TC 710 (credit) is the 23C date of the payment.  <b>Note:</b> Input separate transfers to accommodate multiple late payments, or when an overpayment is comprised of both timely and late payments/credits. For each transfer use the later of the first installment due date or the transaction date of the payment creating that portion of the overpayment being transferred.

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**EXAMPLE 1:** In 2017, a taxpayer files Form 1120-X correcting a 201612 tax period and requests the overpayment applied as a credit elect to estimated tax for 201712. Since the entire overpayment is applied as a credit elect, input TC 830 and TC 710 with the due date of the first installment of estimated tax for the succeeding year, 04/15/2017.

**EXAMPLE 2:** The scenario is the same as in Example 1 directly above except the overpayment is comprised entirely of a subsequent payment dated June 2, 2017. TC 830 and TC 710 will both carry a date of June 2, 2017.

- (7) Only transfer an overpayment applied as a credit elect to the immediately succeeding tax period. For example, an overpayment from a 201412 Form 1120 cannot be transferred as a credit elect to the estimated tax for the 201612 Form 1120. However, a taxpayer may make a written request to apply an overpayment to another MFT/tax period. To transfer an overpayment to another MFT/tax period, transfer with CC ADD24 and TC 820 (debit), and CC ADC24 with TC 700 (credit) using the same dates as in the examples above. See IRM 20.2.4.7.2, *Rules for Applying Offsets Under Section 6402*, for instructions, including payment of credit (overpayment) interest on the offset when applicable.
- (8) While interest is prohibited when applying an overpayment as a credit elect under IRC 6402(b), employees may allow interest when an overpayment is applied to an outstanding liability under IRC 6402(a). See IRM 20.2.4.7, *Offsets*, and IRM 20.2.4.7.1, *Interest on Offsets*, for additional information.
- (9) Per the Surface Transportation and Veterans Health Care Choice Improvement Act, for tax years beginning after December 31, 2015, the return due date for most Form 1120 series returns has changed from the 15th day of the third month, to the 15th day of the fourth month. See IRM 21.7.4.4.4.2 and IRM 21.7.4.4.4.2.1 for the return due dates for Forms 1120 series returns.

- (10) See IRM 21.7.4.4.5.1, *Credit Elect Computer Programming on Certain Income Tax/EO Returns*, for special computer capabilities on certain income tax and EO returns.

21.7.4.4.5.1  
(01-01-2005)

**Credit Elect Computer  
Programming on Certain  
Income Tax/EO Returns**

- (1) The computer automatically generates credit elect for subsequent overpayments on accounts where the amount of credit elect posted is less than shown on the original forms below:
- Form 1120
  - Form 1041
  - Form 990-C/1120-C
  - Form 990-T
  - Form 990-PF
- (2) This capability only exists until the end of the year from which the credit elect originated. For instance, the computer-generated credit elect capability:
- For a 201603 return, ends on March 31, 2017
  - For a 201612 return, ends on December 31, 2017

**Example:** A taxpayer files Form 1120 for 201612 on March 15, 2017.

- The return reflects a credit elect amount of \$1,500 to be applied to 201712.
  - However, for some reason, the amount available for credit elect is only \$1,000.
  - The computer stores a figure of \$500 as a reference for any subsequent credit which becomes available on the 201612 account.
  - The taxpayer files a claim for a \$600 decrease on June 15, 2017.
  - The only action required is input of the proper TC(s) to allow the credit.
  - The computer generates a refund of \$100 from the 201612 account and credit elect of \$500 to 201712.
- (3) Hold codes do not prevent computer-generated credit elect offsets during the year.
- (4) Exercise care at the end of the year when adjusting an account. If an additional amount should go to credit elect and the adjustment may not post until after the automatic offset expiration, use the appropriate HC and manually transfer the credit elect using TC 830/710. Manually transfer the credit elect if the taxpayer files an amended return or claim requesting credit elect on the overpayment after the computer-generated credit elect capability expires.
- (5) The computer does not generate a secondary TC 836 if a TC 832 was input and the mathematical/clerical error indicator is present in the module.

21.7.4.4.6  
(10-01-2007)

**Form 8716, Election to  
Have a Tax Year Other  
Than a Required Tax  
Year**

- (1) Eligible partnerships, subchapter S corporations, and personal service corporations (PSC) that do not qualify to adopt or retain a fiscal year based on business purposes (See Rev. Proc. 2002-39 and Rev. Proc. 2006-46) can file Form 8716, *Election to Have a Tax Year Other Than a Required Tax Year*, to use a tax year other than the required tax year. Generally, the tax year is a fiscal year month (FYM on ENMOD) ending in September, October, or November.

- (2) Under the election, the required payment is reported on Form 8752, *Required Payment or Refund Under Section 7519*.
- (3) Use the following transaction codes (TC) to post the election:
  - 052 - Reversal of posted TC 053, TC 054, or TC 055
  - 053 - Change in accounting period Form 1128
  - 054 - Retain FY (Rev. Proc. 2002-38)
  - 055 - Adopt or change FY per IRC 444 election
  - 057 - Reversal of IRC 444 election
  - 058 - Rejection of Form 8716
  - 059 - Rejection of Form 1128
- (4) CC ENMOD displays the TCs with the effective date of the election. TC 057 shows a computer-generated termination of a Section 444 election when a calendar year return is filed.
- (5) Forward any unprocessed Forms 8716 or requests for accounting period changes to Entity Control. Follow normal procedures for any adjustment requests received.
- (6) The Internal Revenue Service no longer mails out blank Forms 8752. Instruct taxpayers to download the form from the IRS Web site at [www.irs.gov](http://www.irs.gov), or by calling the forms number at 800-829-3676.

21.7.4.4.7  
(03-14-2024)  
**Form 8752, Required  
Payment or Refund  
Under Section 7519**

- (1) Form 8752, *Required Payment or Refund Under Section 7519*, is filed by partnerships and S corporations who made the Section 444 election to file their income tax return on a fiscal year rather than a calendar year basis. The Form 8752 is used to remit the required payment. The required payment is intended to represent the value of the tax deferral by the owners of those entities through the use of a taxable year other than the required year. Generally, the tax year is a FY ending in September, October, or November. The required payment is considered a deposit.
- (2) The deferral period cannot exceed three months and cannot increase the deferral period of the taxable year that is being changed. Therefore, a taxpayer with a required taxable year ending December 31, can only adopt a FY ending in September, October, or November. Taxpayers electing Section 444 are not required to remit a payment until a liability in excess of \$500 has been incurred. Thereafter, the taxpayer **must** continue to make the required payment even when the amount due is below the \$500 threshold.
- (3) Forms 8752 post to MFT 15, document code 23, and tax class 2. See the General Instructions for Form 8752 for line by line computation instructions. They are annual returns due by May 15 of each year in which the election is in effect. Use blocking series 00 when making adjustments when the original return is secured and blocking series 17 without the original return.
- (4) Personal service corporations do not file Form 8752 even though they are subject to Section 444 and must file Form 8716.
- (5) The required payment module has some of the same characteristics as other tax modules, but use caution when adjusting the accounts and performing credit transfers.

- (6) Form 8752 accounts can be very complex. Although these accounts have some of the same characteristics as other tax modules, **extreme caution must be used when adjusting the accounts and performing credit transfers**. The TC 150 amount is not a tax, it is considered a deposit and is referred to as the "required payment." The moving of payments, and the abatements and additions to the required payment have a rolling effect on multiple modules. Payments roll forward from one tax period to the next as a TC 766 credit. Adjustments to one tax period can affect the TC 766 on multiple periods. Specialists in the Cincinnati campus and by the Restricted Interest Team in Ogden Accounts Management work these cases. See below for referral information:
- Ogden AM - If a call or correspondence is received concerning Form 8752, or IRC 7519, **Do Not** take any action on the account. Complete Form 4442, *Inquiry Referral*, and fax or route regardless of the notice status to ATTN: Form 8752, M/S 6276, EEFAX (855) 371-8560. Reassign correspondence CII cases to 0437305333.
  - Cincinnati AM - If a call or correspondence is received concerning Form 8752, or IRC 7519, **Do Not** take any action on the account. Complete Form 4442, *Inquiry Referral*, or Form e-4442, *Electronic Inquiry Referral*, and route to M/S B504, or EEFAX to (855)-737-6644. Reassign correspondence cases in CII to 0231092337.
- (7) Correspondence Letter 4501C, Form 8752, *Required Payment or Refund Under Section 7519*, is used to respond to all taxpayer inquiries and IRS initiated action involving Form 8752.

21.7.4.4.7.1  
(01-01-2005)

**Election Year, Base Year,  
Required Tax Year (Form  
8752)**

- (1) The **election year** is the taxable year of a partnership or S corporation with respect to which an election is in effect under Section 444.
- (2) The **base year** is the taxable year (the taxable year is not the same thing as the required tax year mentioned in (3) below) of the partnership or S corporation preceding the applicable election year.
- (3) The **required tax year** is a calendar year.

**Example:** If the taxpayer has decided to continue with a FY ending of October (201610) and previously filed and received approval via the Form 8716 election, the taxpayer's current **election year** is November 1, 2015 - October 31, 2016. The **base year** is November 1, 2014 - October 31, 2015. The **required tax year** remains the calendar year (201512, 201612, etc.).

21.7.4.4.7.2  
(10-01-2020)

**Penalties (Form 8752)**

- (1) IRC 7519(f)(4)(a) provides for a 10 percent underpayment penalty on payments made after the payment due date of May 15. Identify these penalties by TC 246, reference code 684. The penalty may be abated for reasonable cause. See IRM 20.1.1, *Introduction and Penalty Relief* and IRM 20.1.10.20, *IRC 7519, Required Payment for Entities Electing Not to Have Required Taxable Year*, for more information.
- (2) Failure to File (TC 16X) and Failure to Pay (TC 27X) penalties under IRC 6651 do not apply to Section 7519 underpayments. If either penalty has been manually assessed on a Form 8752 account, abate the penalties.

- (3) First-time abatement does not apply to the 10 percent underpayment penalty. Also, lack of funds is never grounds for abating the penalty. If the taxpayer is experiencing a lack of funds, they should consider terminating the election and adopting the required calendar year. In addition, the fact that the taxpayer would have received a refund in the year following the year they owed the deposit, does not establish reasonable cause for the abatement of the penalty. For example, taxpayer filed Form 8752 for MFT 15 tax period 201512 for \$10,000 and did not make the payment. On the 201612 Form 8752 return the taxpayer had zero liability. The fact that the taxpayer would have received a refund of the \$10,000 on the 201612 return does not establish reasonable cause for the abatement of the penalty on 201512. See IRM 20.1.1.3, *Criteria for Relief from Penalties*, for reasonable cause criteria for penalty abatement.

21.7.4.4.7.3  
(01-01-2005)

**Posting of the Payment  
(Form 8752)**

- (1) The required payment (line 9a) posts as the TC 150 amount. The system credits the payment and automatically rolls that amount forward to the following year's account. It posts on the following year's account as a TC 766. **(There will not be a corresponding debit for that amount.)** When the following year's return posts, one of three situations occur. See the examples below.

**Example:** Excess credit:

- a. TC 150 is \$5,000.
- b. TC 766 is \$8,000.
- c. The system rolls over \$5,000 to the following year and issues a refund of \$3,000.

**Example:** Balance due:

- a. TC 150 is \$8,000.
- b. TC 766 is \$5,000.

If	Then
Balance due is paid with the return (TC 610 for \$3,000)	The system rolls over credit of \$8,000.
Balance due is not paid with the return	A balance due notice is issued for \$3,000 plus penalty and interest. The system rolls over the credit of \$5,000 and, when paid, an additional credit of \$3,000 rolls over.

**Example:** Zero balance:

- a. TC 150 is \$5,000.
- b. TC 766 is \$5,000.
- c. The system rolls over \$5,000.

21.7.4.4.7.4  
(01-01-2005)

**Form 8752 Credit  
Transfers**

- (1) The following procedures describe credit transfers on Forms 8752. It is very important to understand the application of credits and the effect a change in credits has on each account involved before an attempt is made to move payments.



- (2) Once a liability is assessed, credits are frozen on the account up to the TC 150 amount. Do not try to adjust the posted credit below the assessment amount. If so, the adjustment unposts because the system has already used the credit in the automatic roll over program. Therefore, it is not available, unless the liability is reduced first.

**Example:** Form 8752 for 201612 posts with a TC 150 of \$2,000. Credits up to the \$2,000 assessment are frozen from being transferred out of the account. Attempts to transfer the credit go unpostable.

- (3) Any adjustments to the existing credits affect all subsequent year accounts by amounts corresponding to any credit transfer from a prior year.

**Example:** TC 291 for \$2,000 is input to a fully paid 201412 account. The system pulls credits which rolled to subsequent Form 8752 accounts (201512 and 201612) back to the period adjusted to compensate for the tax decrease.

- (4) The necessity to move payments from one account to another can occur when working Form 8752 accounts. The most common credit transfer on these types of cases is when a payment is applied to the incorrect period with a return present on the account from which you are moving the credit, and the payment belongs on another account. Action required:

1. Input TC 291, HC 4, in blocking series 17 and reduce the tax liability to zero.
2. Input a credit transfer with the date of your payment and use TC 570 on the debit side to create an -R freeze.
3. Input TC 290, HC 4, in blocking series 18 with your documentation for the credit transfer. Use a posting delay code 1 to allow your credit transfer to post.

**Example:** The accounts involve Form 8752 accounts for 201512 and 201612.

- a. The 201512 account has a liability of \$10,000 and a TC 766 of \$5,000. This leaves the account in balance due of \$5,000 plus penalty and interest.
- b. The 201612 account has a liability of \$10,000, a TC 766 of \$5,000, and a TC 670 for \$5,000. The timely TC 670 was intended for 201512.
- c. Input TC 291 on 201612 for \$10,000, HC 4, blocking series 17.
- d. Input credit transfer for \$5,000 to move the TC 670 to 201512 using TC 570 on the debit side to create an -R freeze.
- e. Input TC 290 for \$10,000, HC 4, blocking series 18, and posting delay code 1 on 201612 to reassess the liability and allow your credit transfer one cycle to post.
- f. Both the 201512 and 201612 accounts will be in zero balance after the TC 670 for \$5,000 posts to 201512. An additional TC 766 will post to 201612, and then another TC 766 for \$5,000 will roll (post) to 201712. Creating a total credit balance of \$10,000 on 201712.

**Note:** Never move a TC 766 at any time. Form 8752 accounts are not subject to offset-in/offset-out criteria.

21.7.4.4.7.5  
(01-01-2005)  
**Form 8752 Tax  
Adjustments**

- (1) The necessity to adjust tax on Form 8752 can arise due to any of the situations described in the following subsections. These instructions are intended to cover the most common cases and not intended to cover every situation.

21.7.4.4.7.5.1  
(01-01-2005)  
**Incorrect Percentage  
Used (Form 8752)**

- (1) If the incorrect percentage was used to compute the tax liability and the taxpayer has not terminated the Section 444 election, take the following action:
- Analyze the taxpayer's account to determine the correct tax period and percentage.
  - Edit the correct percentage onto the Form 8752 and recompute the liability.
  - Input the necessary adjustment to correct the assessment and send a closing letter to the taxpayer explaining the action taken.

21.7.4.4.7.5.2  
(07-09-2009)  
**Form 8752 Posts to  
Incorrect Period, Correct  
Return Unavailable**

- (1) If a return posts to an incorrect period and you do not have the correct return for that period, contact the taxpayer by phone or C-Letter to secure the necessary return.
- (2) If unable to secure the return, take the following action:
- Prepare the return for re-input by completing Form 13596, *Reprocessing Returns*, and attaching it to the return.
  - Input TC 291 for the amount of the TC 150, HC 4, and blocking series 17.
  - Transfer any credits received with the return or identified by the taxpayer to be applied to this liability.
- Caution:** **Never** move TC 766 credits. The computer will automatically move the credit forward when necessary.
- Input TC 290, HC 4, posting delay code 1, and blocking series 18 to reassess the posted liability and prevent the TC 766 from refunding.
  - Open a monitor base and wait for the TC 766 to post.
  - When the TC 766 posts, input TC 291, HC 4 to reduce the tax liability to zero. (This creates a "-K" freeze to hold the credit until the taxpayer files a return.)

21.7.4.4.7.5.3  
(04-23-2009)  
**Form 8752 Posts to  
Incorrect Period, Return  
Available**

- (1) If able to secure the return for the period needing reprocessing of the TC 150 return, take the following action:
- Prepare the TC 150 document for re-input by preparing Form 13596, *Reprocessing Returns*, and attaching it to the return. See IRM 21.7.9.4.1.1, *TRNS 193s Involving Reprocessing Returns*, for more information.
  - If a payment was received with the return, an adjustment to release the credit transfer freeze must be done before transferring the credit.
  - Input TC 291 for the original TC 150 amount using HC 4.
  - Input your credit transfer to move the credit to the prior period. (Since there is no return on the period to which your credit transfer is posting, a TC 570 is not needed on the debit side in this instance.)
  - Input TC 290 for the correct liability assessment (based on the correct return for the period involved), HC 4, blocking series 00, and posting delay code 1.

21.7.4.4.7.6  
(07-11-2013)  
**Form 8752**  
**Overpayments**

- (1) Consider Form 8752 overpayments a return of a deposit, not an overpayment of tax. No legal basis exists for offsetting the overpayment to any outstanding balance due. Accounts with a TC 130 posted are frozen from refunding and will require a manual refund of the overpayment to bypass the V- freeze.
- (2) There is no line on Form 8752 to designate a credit elect of the overpayment. Overpayments on original returns automatically refund if the credit(s) TC 766 and/or payment(s) exceed the required payment amount. Overpayments resulting from tax adjustments can be held and applied per the taxpayer's request as a convenience to the taxpayer. A held overpayment can be applied to pay penalty and interest on other Form 8752 modules only. Inform the taxpayer of this action.
- (3) Overpayments on modules from the result of a posted TC 766 amount cannot be applied to prior year returns. Doing so may double credit the accounts and generate erroneous refunds.
- (4) Use caution whenever moving an overpayment from one tax period to another. Rarely will this occur. The only time an overpayment is moved from one module to the next is when the payment(s) and TC 766 credit exceed the posted TC 150. For example, TC 150 posts to 201612 for \$3,000 with a TC 766 in the amount of \$2,500, payment of \$600, creating an overpayment of \$100. Normally this overpayment will refund. However, if an overpayment can be held on a subsequent tax adjustment the money can be moved forward. Overpayments from the result of a payment (TC 610/TC 670) can only be applied to prior year(s) to pay penalty and interest after all of the tax has been paid or netted out.
- (5) Use extreme caution when transferring overpayments with a TC 700 or TC 710. Moving overpayments backwards or forwards can cause erroneous refunds. You must have a true understanding of the rolling effects of credits transfers and abatements/additions to the required payments on these accounts before taking any action. Contact the manager or lead of a Form 8752 specialist in the Cincinnati or Ogden campus when in doubt.

21.7.4.4.7.7  
(10-05-2022)  
**Form 8752 Refunds**

- (1) IRC 7519(c)(3), requires the IRS to hold any refund of the required payment until the later of the applicable April 15 date or 90 days after the day on which the claim is filed with the IRS. Since this requires extensive programming to detain the taxpayer's refund until the 90th day, a waiver to the above requirement was approved.
- (2) The waiver permits the IRS to pay the refund as soon as practical, but not earlier than April 15 and not later than the 90th day after the claim is filed.
- (3) A request to obtain a refund of an over-deposit under IRC 7519 is treated as a return of a deposit general claim against the government (although IRC 6603 is not applicable). Section 7519 requires a running deposit balance that is adjusted each year. An entity's required payment may increase, decrease, or stay the same from any one year to the next, depending on the entities base year income and the applicable tax rates.
- (4) See IRM 21.7.4.4.7.8.1, *Section 7519 Statute of Limitations, Period for Claiming a Refund of a Payment*, regarding any period of limitation for obtaining a refund of an over deposit of IRC 7519 payments.

- (5) Request filing of all delinquent Form(s) 8752 for all prior applicable election years before processing a request for a refund of IRC 7519 payments. If the taxpayer does not file prior years' returns or files such returns late and the information cannot be verified, any overpayment shown on the pending claim for refund may be rejected. Issue a notice of disallowance as described in IRC 6532(a), and the taxpayer will have two years to file suit.

**Note:** The taxpayer's election is generally not terminated for the failure to file Form 8752.

- (6) The following is an example of a Partnership electing to file Form 8752 under IRC 444 election but thereafter failing to file annually. In extreme instances, an entity might fail to file Forms 8752 after making the IRC 444 election until it liquidates or terminates its IRC 444 election.

**Example:** Assume Partnership's tax year ends on 9/30. On 5/15/2012, Partnership timely files an initial Form 8752 for its tax year ending 9/30/2011, making a required payment of \$650. Partnership timely files its Forms 1065 each year, but does not file any additional Forms 8752 or make any required payments until 2016. On 5/15/2017, Partnership files a 201612 Form 8752 seeking a refund of the \$650. Assuming Partnership had an IRC 444 election in effect for the years 2011 through 2016, Partnership's claim for refund on the Form 8752 filed on 5/15/2017 is timely because the \$650 required payment Partnership made in 2012 is, in effect, a deposit, it rolls forward into 2016. In order to determine the proper amount of any refund, the IRS generally requires all delinquent Forms 8752 to be filed before processing Partnership's 2016 Form 8752. Once the Forms 8752 that were due on 5/15 of each intervening year (2012 through 2015) are filed and an entry is made on the module for each period, the IRS determines whether the \$650 required payment made in 2012 (which rolled forward into each of the succeeding years) was sufficient for those years. If the amount that Partnership was required to have on deposit for each of the succeeding years was zero, and if in 2016 the amount of the liability is zero, then the Partnership is entitled to the \$650 refund. However, if the Form 8752 reflects a liability in 2013, 2014, or 2015, then the appropriate 10-percent underpayment penalty and interest should be assessed and collected.

- (7) See IRM 3.12.38.5.6, *Manual Refunds*, for more information regarding manual refunds issued for Forms 8752.

21.7.4.4.7.7.1  
(01-01-2005)  
**Refunds Involving  
Termination of Section  
444 Election**

- (1) In the case of a refund resulting from the termination of the Section 444 election, the term "applicable calendar year" means the calendar year following the calendar year in which the final applicable election year ends.
- (2) In order to claim the refund, the taxpayer must:
- File a final Form 8752
  - Check box C on Form 8752 or write at the top "Termination of Section 444 Election"
  - Complete lines 10 - 12

**Example:** The taxpayer FYM is 09. Taxpayer decides to adopt the calendar year. Taxpayer files short period Form 1120-S return for the period 10/1/2015 - 12/31/2015, thus terminating the election effective 9/30/2015. A final

Form 8752 for the period January 2015 – December 2015 stating the Section 444 election was terminated and requests a refund of the required payment. The taxpayer is entitled to a refund not earlier than April 15, 2016, nor later than the 90th day after the date the final return for January - December 2015 is received.

21.7.4.4.7.7.2  
(01-01-2005)

**Refunds Involving  
Continuation of Section  
444 Election**

- (1) The steps below illustrate how a refund is issued when the taxpayer continues a Section 444 election.
  - a. The taxpayer files a Form 8752 for the period January - December 2014 on May 15, 2015 for \$10,000.
  - b. The taxpayer files a Form 8752 for the period January - December 2015 on January 15, 2016 for \$7,000.
  - c. On April 15, 2016, the taxpayer will receive a refund in the amount of \$3,000 for the excess credit from the 201512 return over the 201412 return. In other words, if the liability on the 201512 return is less than the liability on the 201412 return, then the taxpayer is entitled to a refund of the difference.

21.7.4.4.7.7.3  
(10-05-2022)

**No Interest on Section  
444 Refunds**

- (1) The statute does not provide for issuance of credit interest with respect to any refund made under this section under authority of Treasury Regulation section 1.7519-2T(a)(6)(iii).
- (2) IDRS is programmed to not allow credit interest on such overpayments.
- (3) See IRM 3.12.38.5.6, *Manual Refunds*, for more information regarding manual refunds issued for Forms 8752.

21.7.4.4.7.8  
(10-01-2008)

**Section 7519 Statute of  
Limitations, Period for  
Assessment**

- (1) A required payment is due only for a limited time, e.g., 5/15/YR1 to 5/15/YR2. Once the subsequent election year begins, a new required payment is computed and due. If a prior required payment was not made, the IRS does not try to collect it; instead, interest and a possible penalty is assessed under IRC 7519(f)(4).
- (2) Treat required payments as employment taxes for the purpose of the statute of limitations on assessment. Per IRC 7519(f)(1), the interest and any penalty described in (1) above may be assessed under IRC 6201 through 6207, subject to the period of limitations in IRC 6501 (and collected under IRC 6301 through 6306, subject to the period of limitations in IRC 6502). The deficiency procedures do not apply to required payments because they are treated as employment taxes and not as income taxes for assessment purposes.
- (3) If a taxpayer filed Form 8752 for a prior period and the three-year assessment period in IRC 6501(a) expires for that period (with no exceptions that would extend it), the IRS can no longer examine the Form 8752, adjust the payment, and assess interest and penalties on the shortfall for that period. If the taxpayer has not filed for a prior period, the IRS may determine the proper payment and assess interest and penalties at any time.

21.7.4.4.7.8.1  
(10-01-2008)

**Section 7519 Statute of Limitations, Period for Claiming a Refund of a Payment.**

- (1) A request to obtain an over-deposit of the IRC 7519 amounts is treated as the return of a deposit, and not a tax. See IRM 25.6.1.10.2.12.8, *Claim for IRC 7519 Payment Made in Connection with a Section 444 Election*, regarding the lack, at the present time, of any period of limitations on filing a claim requesting a return of a IRC 7519 payment.

21.7.4.4.8  
(05-11-2012)

**Non-refundable Credits, Income Tax Returns**

- (1) A non-refundable credit is a credit claimed to reduce tax liability. These credits, subtracted from the tax amount, are limited to the amount of tax liability.
- (2) Any excess credit is non-refundable, but, generally, still available if the tax liability increases at a later date or can be applied against tax liabilities in other periods (carryback/carryforward). See IRM 21.5.9, *Carrybacks*, for more information on carrybacks. Also, see the applicable subsection for information on each specific credit to determine if it is available for carryback/carryforward.
- (3) Take the following action:
  - When allowing a credit or an additional credit amount, input a TC 291 up to the amount of tax that has posted to the module.
  - Input a TC 290 for the amount of change when decreasing the credit.
  - Input a TC 290 for \$.00 when a claim is received to increase a credit and the tax on the module is zero. Send a L 916C, No Consideration letter.

21.7.4.4.8.1  
(10-01-2024)

**General Business Credit, Form 3800**

- (1) Form 3800, *General Business Credit*, is required to claim any of the general business credits. See the *Instructions for Form 3800*, for instructions on computing the tax credits.
- (2) Taxpayers must attach the correct credit form and the total credit is summarized on Form 3800.
- (3) If only one of the credits in IRM 21.7.4.4.9, *Refundable Credits Income Tax Returns*, apply, the Form 3800 is not necessary. The taxpayer should only file the correct credit form.
- (4) Current year general business credits in excess of the current year limitation can be carried back one year preceding the unused credit year and carried over 20 years. Carry back credit from oil and gas production from marginal wells 5 years. Carry credits that are “applicable credits” as defined in IRC 6417(b) back 3 years and forward 22 years. See IRC 39(a). For the treatment of any unused general business credits, see IRM 21.7.4.4.8.1.4, **Carryback/Carryforward of Excess Credits**

21.7.4.4.8.1.1  
(10-01-2024)

**Priority of Credits**

- (1) Treat General Business Credits reported on Form 3800, *General Business Credit*, as used on a first-in, first-out basis by offsetting the earliest-earned credits first. Therefore, the order in which the credits are used in any tax year is:
  - a. Carryforward to that year, the earliest ones first, as of the close of the tax year in which the credit is earned:
  - b. The general business credit earned in that year, and
  - c. The carryback to that year.



- (2) Use the components of the general business credits reported on Form 3800 in the following order:
- a. *Rehabilitation Credit*, Form 3468, Investment Credit, Part VII
  - b. *Energy Credit*, Form 3468, Investment Credit, Part VI
  - c. *Qualifying Advanced Coal Project Credit*, Form 3468, Investment Credit, Part II
  - d. *Qualifying Gasification Project Credit*, Form 3468, Investment Credit, Part II
  - e. *Qualifying Advanced Energy Project Credit*, Form 3468, Investment Credit, Part III
  - f. *Qualifying Therapeutic Discovery Project Credit*, (carryforward only)
  - g. *Advanced Manufacturing Production Credit*, Form 3468, Investment Credit, Part IV
  - h. *Clean Electricity Investment Credit*, Form 3468, Investment Credit, Part V
  - i. *Work Opportunity Credit*, Form 5884
  - j. *Biofuel Producer Credit*, Form 6478
  - k. *Credit for Increasing Research Activities*, Form 6765
  - l. *Low-income Housing Credit*, Form 8586
  - m. *Enhanced Oil Recovery Credit*, Form 8830
  - n. *Disabled Access Credit*, Form 8826
  - o. *Renewable Electricity Production Credit*, Form 8835
  - p. *Empowerment Zone Employment Credit*, Form 8844
  - q. *Renewal Community Employment Credit* (carryforward only)
  - r. *Indian Employment Credit*, Form 8845 (carryforward only)
  - s. *Employer Social Security and Medicare Taxes Paid on Certain Employee Tips*, Form 8846
  - t. *Orphan Drug Credit*, Form 8820
  - u. *New Markets Credit*, Form 8874
  - v. *Credit for Small Employer Pension Plan Start-up Costs*, Form 8881, Part I
  - w. *Credit for Employer-Provided Childcare Facilities and Services*, Form 8882
  - x. *Qualified Railroad Track Maintenance Credit*, Form 8900
  - y. *Biodiesel, Renewable Diesel*, Form 8864
  - z. *Low Sulfur Diesel Fuel, Production Credit*, Form 8896
  - aa. *Credit for Oil and Gas Production From Marginal Wells*, Form 8904
  - ab. *Distilled Spirits Credit*, Form 8906
  - ac. *Advanced Nuclear Power Facility Production*, Form 7213, Part I
  - ad. *Nonconventional Source Fuel Credit*, (carryforward only)
  - ae. *Energy Efficient Home Credit*, Form 8908
  - af. *Energy Efficient Appliance Credit*, (carryforward only)
  - ag. *Alternative Motor Vehicle Credit*, Form 8910, Part II
  - ah. *Alternative Fuel Vehicle Refueling Property Credit*, Form 8911, Part II
  - ai. *Mine Rescue Team Training Credit*, (carryforward only)
  - aj. *Agricultural Chemicals Security Credit*, (carryforward only)
  - ak. *Credit for Employer Differential Wage Payments*, Form 8932
  - al. *Carbon Oxide Sequestration Credit*, Form 8933
  - am. *Qualified Plug-in Electric Vehicle Credit*, (carryforward only)
  - an. *New Clean Vehicle Credit*, Form 8936, Part II
  - ao. *Credit for Small Employer Health Insurance Premiums*, Form 8941
  - ap. *Employee Retention Credit for Employers Affected by Qualified Disasters*, (carryforward only)
  - aq. *Employer Credit for Paid Family and Medical Leave*, Form 8994
  - ar. *Credit for Auto-Enrollment*, Form 8881, Part II
  - as. *Zero-emission Nuclear Power Production Credit*, Form 7213 Part II
  - at. *Sustainable Aviation Fuel Credit*, Form 8864, line 8

- au. *Clean Hydrogen Production Credit*, Form 7210
- av. *Qualified Commercial Clean Vehicle Credit*, Form 8936, Part V
- aw. *Clean Electricity Production Credit*, Form 7211
- ax. *Clean Fuel Production Credit*, Form 7218
- ay. *Advanced Manufacturing Production Credit*, Form 7207
- az. *Military Spouse Retirement Plan Credit*, Form 8881, Part III
- ba. *General Credits from an Electing Large Partnership*, (carryforward only)

**Note:** Due to the limitations of the Arbortext software, the letters listed above do not necessarily correspond with those on Form 3800.

**Note:** For a list of expired or repealed general business credits for which only a carryforward may be possible, see Form 3800 Part IV, Line 2.

- (3) See Form 3800 and the *Instructions for Form 3800* for more specific information.
- (4) The IRS created pages on [www.irs.gov](http://www.irs.gov) for information on various forms as they are being updated. The site contains information regarding any future developments to the form such as legislation enacted after the form is released.
- (5) Use the following format to check to see if a form has updated information; [www.irs.gov/formXXXX](http://www.irs.gov/formXXXX). For example, to check to see if Form 3800 has any updates, input [www.irs.gov/form3800](http://www.irs.gov/form3800), or for Form 6478 input [www.irs.gov/form6478](http://www.irs.gov/form6478).

21.7.4.4.8.1.2  
(10-01-2024)

**Use of Other Credits  
Prior to Allowance of  
General Business Credit**

- (1) The tax liability must be reduced by the following other credits not taken on Form 3800, before the General Business Credit:
  - *Foreign Tax Credit*, Form 1116, see IRM 21.8.2.10, *Foreign Tax Credit (Form 1116 and Form 1118)*, for more information.
  - *American Samoa Economic Development Credit*, Form 5735. See IRM 21.8.2.2.2, *BMF/NMF Forms*, for more information.
  - *Nonconventional Source Fuel Credit* (taxpayers must attach a separate schedule).
  - *Qualified Electric Vehicle Credit*, Form 8834.
  - *Credit for Prior Year Minimum Tax - Corporations*, Form 8827.
  - *Credit to Holders of Tax Credit Bonds*, Form 8912.
- (2) See Form 3800 and the *Instructions for Form 3800* for more specific information.

21.7.4.4.8.1.3  
(10-01-2023)

**Form 8844,  
Empowerment Zone  
Employment Credit**

- (1) The Revenue Reconciliation Act of 1993 amended IRC 38 and added new section 1396 and section 1397 to the Internal Revenue Code to allow a business credit for qualified wages and certain training and educational expenses paid or incurred on behalf of qualified zone employees.
- (2) IRC 1391(d)(1) provides designations for empowerment zone to remain in effect until the earliest of:
  - December 31, 2025, or the termination date designated by the state and local governments as provided for in their nomination, or the date the secretary revokes the designation.
  - IRC 1391(d)(1)(B) does not apply with respect to such designation if, after the date of the enactment of this section, the entity which made

the nomination amends it to provide for a new termination date in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

- (3) Only certain organizations must claim the Empowerment Zone Employment Credit (EZEC) on Form 8844 (i.e., partnerships and S corporations). Other taxpayers are generally not required to complete or file Form 8844 to claim the EZEC. See the *Instructions for Form 8844*. (Section 753(a)(1), of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, repealed the renewal community employment credit for calendar years after 2009).
- (4) The empowerment zone employment credit is 20 percent of the employer's qualified wages (up to \$15,000) paid or incurred during the calendar year for qualified empowerment zone employees.
- (5) The empowerment zone employment credit has been changed by various legislation. Below is a listing of the legislation that has extended the empowerment zone employment credit:
  - Section 753(a)(1), of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit to December 31, 2011.
  - Section 327(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years and is effective after December 31, 2011 and on or before December 31, 2013. See *Notice 2013-38*, 2013-25 I.R.B. 1251, for more information.
  - Section 139, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year and is effective after December 31, 2013 and on or before December 31, 2014. See *Notice 2015-26*, 2015-13 I.R.B. 814, for more information.
  - Section 171 of the Protecting Americans From Tax Hikes Act of 2015, P.L. 114-113, extended the credit for two years and is effective on or before December 31, 2016. See *Notice 2016-28*, 2016-15 I.R.B. 576, for more information.
  - Section 40311 of the Bipartisan Budget Act of 2018, extended the credit to taxable years beginning after December 31, 2016 through December 31, 2017. See *Notice 2018-47*, 2018-21 I.R.B. 621, for more information.
  - Section 118 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, P.L. 116-94, extends the credit to taxable years beginning after December 31, 2017 through December 31, 2020. See *Rev. Proc. 2020-16*, 2020-27 I.R.B. 10, for more information.
  - Section 118 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, extends the credit to taxable years beginning after December 31, 2020, through December 31, 2025.
- (6) A qualified empowerment zone employee is any employee (full-time or part-time) of the employer who:
  - a. Performs substantially all of the services for that employer within an empowerment zone in the employer's trade or business, **and**
  - b. Has their principal residence within that empowerment zone while performing those services (Employees who work in the Washington, DC empowerment zone may live anywhere in the District of Columbia).

**Note:** The Washington, D.C. empowerment zone expired in 2011. See IRC 1400(f)(1)(repealed 2018 by P.L. 115-141).

- (7) Beginning with wages paid after December 31, 2015, Section 171 of the Protecting Americans From Tax Hikes Act of 2015, P.L. 114-113, an employee is treated as a resident of an empowerment zone if the employee is a resident of an empowerment zone.
- (8) A qualified renewal community employee is any employee (full-time or part-time) of the employer who:
  - a. Performs substantially all of the services for that employer within a renewal community in the employer's trade or business, **and**
  - b. Has their principal residence within that renewal community while performing those services.

**Note:** Although the renewal community credit may be carried forward 20 years like other general business credits, the renewal community designations expired in 2009. See IRC 1400E(b)(1)(A) (repealed 2018 by P.L. 115-141).

- (9) The credit is a component of Form 3800, *General Business Credit*, however, IRC 38 provides a special tax liability limitation for the credit. For 2007 and prior, the credit is figured separately and is never carried to Form 3800. For 2008 and subsequent, the allowable credit is figured in Part II of Form 3800.
- (10) Publication 954, *Tax Incentives for Distressed Communities* (Obsolete 3/18/2011) advises taxpayers of the tax incentives available for businesses located in empowerment zones and enterprise communities.
- (11) For prior years, see the General Instructions for Form 8844 for more specific information, and for a listing of the Urban Areas, Rural Areas, and parts of Washington, DC that make up the Empowerment Zones and for a listing of the Renewal Communities. This information is found by using the address locator at the U.S. Department of Labor's *Empowerment Zone (EZ) Address Locator*.

#### 21.7.4.4.8.1.4 (10-01-2024)

#### **Carryback/Carryforward of Excess Credits**

- (1) In general, if the sum of the business credit carryforwards to the taxable year plus the amount of the current year business credit for the taxable year exceeds the limitation under IRC 38 (c) for such taxable year (the unused credit year), such excess to the extent attributable to the amount of the current year business credit is carried back to the taxable year preceding the unused credit year and then carried forward to the 20 taxable years following the unused credit year. However, the marginal oil and gas well production credit is carried back 5 years, and "applicable credits" as defined in IRC 6417 (b) are carried back 3 years. See IRC 39 (a). See IRM 21.5.9, *Carrybacks*, for more information on carrybacks.
- (2) See IRM 21.5.9-1, *General Business Credits, Foreign Tax Credit, and Other Non-Refundable Credits - Availability for Carryback/Carryforward*, for a list of non-refundable credits other than general business credits for carryback/carryforward.
- (3) For a complete listing of general business credits, and additional information, see Form 3800, *General Business Credit*. Also see the *Instructions for Form*

3800, *General Business Credit*, which requires a computation statement **only** when the taxpayer is changing or revising the original credit amount.

21.7.4.4.8.2  
(01-01-2005)

#### Expiration of Credits

- (1) When credits expire, the date they expire may not coincide with the return period ending date for which they are valid.

**Example:** If a credit expires December 31, 2014, the credit is valid on returns through period ending 201511. The taxpayer could have activity during December 2014 (when the credit was still available) which is included on the 201511 return which includes the December 2014 period.

21.7.4.4.8.3  
(01-01-2005)

#### Information on Specific Non-Refundable Credits

- (1) The sections in this subsection contain information on various non-refundable credits.
- (2) See IRM 21.8.2.10, *Foreign Tax Credit (Form 1116 and Form 1118)*, for information on the foreign tax credit.

21.7.4.4.8.3.1  
(10-01-2024)

#### Form 3468, *Investment Credit*

- (1) Form 3468, *Investment Credit*, is used to claim investment credit. The investment credit consists of the rehabilitation credit, the energy credit, the qualifying advanced coal project credit, the qualifying gasification project credit, the qualifying advanced energy project credit, the advanced manufacturing investment credit, and the clean electricity investment credit.
- (2) Taxpayers are allowed a credit on Form 3468 for qualified rehabilitation expenditures made for any qualified rehabilitated building. See the *Instructions for Form 3468* for specific information. For additional information, see section 13402(c)(2) of P.L. 115-97.
- (3) On December 22, 2017, the rehabilitation credit was amended by Public Law No. 115-97, 131 Stat. 2054, commonly known as Tax Cuts and Jobs Act of 2017, (TCJA), section 13402. Section 13402(a) of the TCJA repealed the 10-percent rehabilitation credit for pre-1936 buildings and changed the rules for claiming the 20-percent rehabilitation credit for certified historic structures. The rehabilitation credit provides that for purposes of the investment credit, the rehabilitation credit is claimed ratably over a 5-year credit period. The TCJA amendments apply to qualified rehabilitation expenditures paid or incurred after December 31, 2017, but some taxpayers may qualify for a transition rule. See the *Instructions for Form 3468* for specific information.
- (4) Section 1307(b), of the Energy Tax Incentives Act of 2005, P.L. 109-58, added the qualifying advanced coal project credit under IRC 48A, and the qualifying gasification project credit under IRC 48B, to the investment credit. See IRM 21.7.4.4.8.3.1.2 for more information on the qualifying advanced coal project credit and the qualifying gasification project credit.
- (5) Section 1302(b), Div. B Title I, Credit for Investment in Advanced Energy Facilities, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, added IRC 48C, Qualifying Advanced Energy Project Credit to the Investment Tax Credit under IRC 46. See IRM 21.7.4.4.8.3.1.3, *Credit for Investment in Advanced Energy Facilities*, for more information on the qualifying advanced energy project credit.
- (6) The sections listed below of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, added or extended the credits on Form 3468. The table



also addresses extensions and modifications made by P.L. 116-260, Consolidated Appropriations Act, 2021, to the section 48 energy investment tax credits claimed on Form 3468:

**Note:** For changes in credit calculations based on The Inflation Reduction Act of 2022, Pub. L. 117-169, see guidance beginning in Paragraph 14 below.

Type of Energy Property	Credit Percentage	Construction Begun	Placed in-service
Solar energy property	30 percent	Before 01/01/2020	Before 01/01/2026
Solar energy property	26 percent	After 12/31/2019 and before 01/01/2023	Before 01/01/2026
Solar energy property	22 percent	After 12/31/2022 and before 01/01/2024	Before 01/01/2026
Solar energy property	10 percent	Before 01/01/2024	On or after 01/01/2026
Fiber-Optic Solar Property	30 percent	Before 01/01/2020	Before 01-01-2026
Fiber-Optic Solar Property as defined in IRC 48(a)(3)(A)(ii)	26 percent	Before 01/01/2023	Before 01/01/2026
Fiber-Optic Solar Property as defined in IRC 48(a)(3)(A)(ii)	22 percent	Before 01/01/2024	Before 01/01/2026
Fiber-Optic Solar Property as defined in IRC 48(a)(3)(A)(ii)	0 percent	Before 01/01/2024	Before 01/01/2026
Qualified fuel cell	30 percent	Before 01/01/2020	Before 01/01/2026
Qualified fuel cell	26 percent	After 12/31/2019 and before 01/01/2023	Before 01/01/2026



Type of Energy Property	Credit Percentage	Construction Begun	Placed in-service
Qualified fuel cell	22 percent	After 12/31/2022 and before 01/01/2024	Before 01/01/2026
Qualified fuel cell	0 percent	After 12/31/2019 and before 01/01/2024	On or after 01/01/2026
Equipment used to produce electricity from geothermal deposits	10 percent	N/A	N/A
Equipment which uses ground or ground water to heat (or cool) a structure (heat pump)	10 percent	Before 01/01/2024	See <i>Notice 2018-59</i>
Equipment which uses ground or ground water to heat (or cool) a structure (heat pump)	0 percent	After 01/01/2024	Before 01/01/2026
Waste energy recovery	26 percent	After 12/31/2020 and before 01/01/2023	Before 01/01/2026 See <i>Notice 2018-59</i>
Waste energy recovery	22 percent	After 12/31/2022 and before 01/01/2024	Before 01/01/2026 See <i>Notice 2018-59</i>
Waste energy recovery	0 percent	After 12/31/2020 and before 01/01/2024	On or after 01/01/2026
Qualified micro-turbine property	10 percent	Before 01/01/2024	N/A

Type of Energy Property	Credit Percentage	Construction Begun	Placed in-service
Combined heat and power system property	10 percent	Before 01/01/2024	N/A
Combined heat and power system property	0 percent	On or after 01/01/2024	N/A
Qualified offshore wind facility (located in the inland navigable waters of the United States or in the coastal waters of the United States)	30 percent reduced by phaseout percentage (0%) = 30 percent	Before 01/01/2026	See <i>Notice 2018-59</i>
Small wind energy property	30 percent	On or before 12/31/2019	Before 01/01/2026
Small wind energy property	26 percent	After 12/31/2019 and before 01/01/2024	Before 01/01/2026
Small wind energy property	22 percent	After 12/31/2022 and before 01/01/2024	Before 01/01/2026
Small wind energy property	0 percent	After 12/31/2019 and before 01/01/2024	On or after 01/01/2026

See the phaseout table below for Investment Tax Credit (ITC) large wind facility:

Type of Qualified Facility for Which Election Made to Claim ITC in Lieu of PTC	Phaseout Reduction of Credit Percentage	Construction Began	Placed In-Service
Wind facility other than small wind	0 percent	Before 01/1/2017	N/A
Wind facility other than small wind	20 percent	Construction began after 12/31/2016 and before 01/1/2018	N/A
Wind facility other than small wind	40 percent	Construction began after 12/31/2017 and before 01/1/2019	N/A
Wind facility other than small wind	60 percent	Construction began after 12/31/2018 and before 01/1/2020	N/A
Wind facility other than small wind	40 percent	Construction began after 12/31/2019 and before 01/1/2022	N/A
Offshore wind facility (other than small wind)	N/A	Begins before 01/01/2026	N/A

See the table below that addresses the section 45 renewable energy production tax credits claimed on Form 8835:

Type of Production Facility	Credit Period	Construction Began	Placed-in Service
Indian Coal	N/A		N/A
Wind Facility	10 years	Before 01/01/2022	N/A

Type of Production Facility	Credit Period	Construction Began	Placed-in Service
Closed Loop Biomass Facility	10 years	Before 01/01/2022	N/A
Open Loop Biomass Facility	10 years	Before 01/01/2022	N/A
Geothermal Energy Facility	10 years	Before 01/01/2022	N/A
Landfill gas Facility	10 years	Before 01/01/2022	N/A
Trash Facility	10 years	Before 01/01/2022	N/A
Qualified hydro-power Facility	10 years	Before 01/01/2022	N/A
Marine and hydrokinetic Facility	10 years	Before 01/01/2022	N/A

- (7) Section 1102(a), Division B, Title I, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, added an Election of Investment Credit in Lieu of Production Tax Credit that allows a taxpayer to make an election on Form 3468 for renewable energy facilities placed in-service after 2008 and the construction of which begins before 2017 in lieu of the tax credit for producing electricity from renewable resources on Form 8835. *Notice 2009-52*, 2009-25 I.R.B. 1094, provides a description of the procedures that taxpayers are required to follow to make an irrevocable election to take the investment tax credit in lieu of the production tax credit.
- (8) Section 1103, Division B, Title I, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, Repeal of Certain Limitations on Credit for Renewable Energy Property, repeals the \$4,000 limitation on the energy tax credit for qualified small wind energy property placed in-service during the taxable year. This section also repeals limitations on property financed by subsidized energy property under IRC 48, (energy tax credit), and in certain circumstances the credits under IRC 25C, (non-business energy credit property) and IRC 25D, (residential energy efficient property). The provision is effective for qualified property placed in-service after December 31, 2008. *Notice 2009-52*, 2009-25 I.R.B. 1095, provides guidance regarding the conditions under which taxpayers may rely on a manufacturer's certification.
- (9) Section 302, Div. P., Title III, of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113 (PATH Act), significantly extended the election for a taxpayer that owns a wind facility to elect to claim the investment tax credit under section 48 in lieu of the production tax credit under section 45. Additionally, section 303 of the PATH Act extended the credit for solar energy facilities and provided that the credit will phase down in increments to 10 percent for facilities placed in-service after January 1, 2024.

- (10) Section 40409 of the Bipartisan Budget Act of 2018 extends the credit through December 31, 2017.
- (11) Section 127 further extended the election to treat qualified facilities as energy property (the investment tax credit under IRC Sec. 48) as long as construction began before January 1, 2020 to January 1, 2022. The act further allows a phaseout percentage which reduces the amount of credit allowed by 40 percent for either a wind energy facility production credit under IRC Sec. 45(b)(5) or the investment credit facility under IRC Sec. 48(a)(5)(E) if the property began construction by December 31, 2019. Both the section 45 and section 48 credits were reduced by 60 percent for projects that began construction after December 31, 2018, and before January 1, 2020. After the PATH Act amendments, projects that did not begin construction before January 1, 2020, were not eligible for either the section 45, or section 48 credits. However, P. L. 116-260, Consolidated Appropriations Act, 2021, amended section 45 and section 48 by providing another extension of both credits for projects the construction of which began after December 31, 2019, and before January 1, 2022, with a 40 percent reduction of the credit amount.
- (12) Section 127 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 extends the election to treat qualified facilities as energy property under Section 48(a)(5)(C)(ii) taking effect on January 1, 2018 through January 1, 2021. This is an investment tax credit (ITC) based on the amount of qualifying basis in the facility. This is distinct from a production tax credit (PTC) which is based on the amount of electricity or other product (such as Indian coal or refined coal) produced. However, the same facility regardless of type may not be used to claim both an investment tax credit and production tax credit. See IRC Sec. 45(a)(5)(C).
- (13) The Inflation Reduction Act of 2022, Pub. L. 117-169, August 16, 2022, 136 Stat 1818 (IRA) made changes to section 48. Among these changes are adding additional properties as energy property and changing the calculation of the credit.
- (14) For property placed in service after December 31, 2021, the IRA modified the credit rate structure, creating a base credit rate and an increased credit rate. The base credit rate is 6 percent (2 percent in the case of microturbine property). Under section 48(a)(9), the increased credit rate is 30 percent (10 percent in the case of microturbine property). The increased credit rate is available with respect to energy projects that have a maximum output of less than one megawatt of electrical (as measure in alternating current) or thermal energy and for energy projects that meet certain prevailing wage and apprenticeship requirements (or for which construction began before January 29, 2023 which is the date that is 60 days after the Secretary published guidance with respect to the requirements of paragraphs sections 48(a)(10)(A) and (11)). Therefore, the credit is 6 percent in the case of:
  - (I) Qualified fuel cell property,
  - (II) Energy property described in (3)(A)(i) which is equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat, excepting property used to generate energy for the purposes of heating a swimming pool, but only with respect to property the construction of which begins before January 1, 2025,
  - (III) Energy property described in (3)(A)(iii) which is equipment used to produce, distribute, or use energy derived from a geothermal deposit

- (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage, but only with respect to property the construction of which begins before January 1, 2025,
- (IV) Energy property described in (3)(A)(ii) which is equipment which uses solar energy to illuminate the inside of a structure using fiber-optic distributed sunlight, or electrochromic glass which uses electricity to change its light transmittance properties in order to heat or cool a structure, but only with respect to property the construction of which begins before January 1, 2025,
  - (V) Qualified small wind energy property,
  - (VI) Waste energy recovery property,
  - (VII) Energy storage technology,
  - (VIII) Qualified biogas property,
  - (IX) Microgrid controllers,
  - (X) Energy property described in (3)(A)(v) which is combined heat and power system property,
  - (XI) Energy property described in (3)(A)(vii) which is equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure, but only with respect to property the construction of which begins before January 1, 2035.

The credit is 2 percent in the case of microturbine property.

- (15) For property placed in service after December 31, 2021, the IRA extended the energy credit and for each of the qualified energy properties, they must begin construction before January 1, 2025, except for geothermal heat pump property under 48(a)(3)(A)(vii), which is extended for property that begins construction before January 1, 2035.
- (16) The IRA also modified the credit rate phase-down rules. In the case of qualified fuel cell property in section 48(a)(3)(A)(iv), qualified small wind property in section 48(a)(3)(A)(vi), qualified solar energy property in section 48(a)(3)(A)(i), and qualified solar fiber optic property in section 48(a)(3)(A)(ii), the credit rate is 26 percent for property the construction of which begins after December 31, 2019, that is placed in service before January 1, 2022. For geothermal heat pump property, the base credit rate phases down. The increased credit rates for geothermal heat pump property during the phase-down period are 26 percent for property the construction of which begins in calendar year 2033 and 22 percent for property the construction of which begins in calendar year 2034.
- (17) Additionally, the IRA also added bonus credit amounts with respect to qualified energy property that meets domestic content requirements under section 48(a)(12) or energy community requirements under section 48(a)(14). The domestic content and energy communities bonus credits are effective for property placed in service after December 31, 2022. The IRA also modified the section 48 energy credit to add a bonus credit under section 48(e) for certain qualified solar and wind facilities placed in service in connection with low-income communities. This is an application program for which eligible taxpayers may apply for an allocation of capacity. If a taxpayer receives an allocation, it can later claim an increased credit (either 10 or 20 percent) when the qualified property is placed in service.



- (18) The IRA added additional properties as energy property. These are energy storage technology, qualified biogas property, and microgrid controllers. Additionally, the IRA modified the eligibility requirements of certain other qualified property. Specifically, the IRA modified the definition of qualified fuel cell property in section 48(c)(1) to include linear generator assemblies. Linear generator assemblies generate electricity using an electromechanical process. Linear generator assemblies do not include any assembly which contains rotating parts. Additionally, the IRA modified the definition of fiber optic solar property in section 48(a)(3)(A)(ii) to include electrochromic glass, which uses electricity to change its light transmittance properties in order to heat or cool a structure. The IRA also provided that qualified energy property includes amounts paid or incurred by a taxpayer for qualified interconnection property in connection with the installation of certain energy property (as defined in section 48(a)(3)). Section 48(a)(8) describes definitions and rules that apply for qualified interconnection property. For the new types of qualified property (energy storage technology, qualified biogas property, microgrid controllers, linear generator assemblies, dynamic glass, and interconnection property), the provision is effective for property placed in service after December 31, 2022.
- (19) The IRA also updated section 48(a)(5) to provide that it is available for facilities which are placed in service after 2008 and the construction of which begins before January 1, 2025.
- (20) The Creating Helpful Incentives to Produce Semiconductors Act of 2022 (CHIPS 2022) added a new investment credit equal to 25% of the qualified investment in any advanced manufacturing facility for the primary purpose of the manufacturing of semiconductors or semiconductor manufacturing equipment under IRC 48D. This credit applies to property placed in service after 2022, and, for any property that construction of which begins prior to 2023, only to the extent of the basis attributable to the construction, reconstruction, or erection after August 9, 2022, see IRM 21.7.4.4.8.3.1.5, Form 3468, *Advanced Manufacturing Investment Credit Under IRC 48D*, for additional information.
- (21) Under IRC 46 and the general business credit rules of IRC 39, any unused portion of these credits remaining (after the application of the limitations in IRC 38(c)), after all of the credits that can be used in the current year are used, can be carried back one year and carried forward 20 years to reduce taxes for that taxable year. "Applicable credits" as defined in IRC 6417(b) are carried back 3 years.
- (22) See Form 3468 and the *Instructions for Form 3468* for specific information on claiming the investment credit and see Form 4255 and the Instructions for Form 4255 for specific information on the recapture of the credit. For recapture in the case of dispositions, or of property ceasing to be investment credit property, or ceasing to qualify for progress expenditures, see IRC 50(a).
- (23) Also, see *Notice 2015-4*, 2015 I.R.B. 407 and *Notice 2015-51*, 2015-31 I.R.B. 133, which provides performance and quality standards that small wind energy property must meet to qualify for the energy credit under section 48. Notice 2015-51 modifies Notice 2015-4 by providing a revised effective date for certain small wind energy property that meets the performance and quality standards of International Electrotechnical Commission 61400-1, 61400-12, and 61400-11.
- (24) Process Form 3468 as follows:

- a. Math verify Form 3468
- b. Input TC 291 to increase the credit or TC 290 to reduce the credit

21.7.4.4.8.3.1.1  
(10-01-2023)  
**Carryforward of  
Investment Credit**

- (1) If the investment credit claimed is a carryforward of a credit determined under IRC 48, IRC 48C, or IRC 48E, request records of the account for the three tax years preceding the year the credit originated. For carryforward of other investment credits, request records of the account for the tax year preceding the year the credit originated. See the chart below for carryforward of investment credit instructions.

If	Then
The credit can be applied to tax owed for preceding years	<ol style="list-style-type: none"> <li>1. Reject the claim.</li> <li>2. The taxpayer must show if recaptured investment credit or alternative minimum tax is included in the TC 150 amounts. Do NOT secure the original return to verify.</li> <li>3. Instruct the taxpayer to re-file and follow carryback procedures or Form 1120-X instructions.</li> </ol>
There is no tax to be reduced on the preceding year(s) as applicable	Allow the carryforward claim.

21.7.4.4.8.3.1.2  
(03-11-2024)  
**Form 3468, Credit for  
Investment in Clean  
Coal Facilities**

- (1) Section 1307(b) of the Energy Policy Act of 2005, P.L.109-58, creates two new investment tax credits:
  - The Qualifying Advanced Coal Project Credit, and
  - The Qualifying Gasification Project Credit
- (2) The first credit, the Qualifying Advanced Coal Project Credit under IRC 48A of the Code, established a program to allocate an investment tax credit in the amount of 20 percent of eligible basis for projects using integrated gasification combined cycle "IGCC" and 15 percent for projects using other advanced coal-based electricity generation technology. IRS *Notice 2006-24*, 2006-11 I.R.B. 595, establishes the qualifying advanced coal project program.
- (3) See the following announcements for more information:
  - *Announcement 2010-56*, 2010-39 I.R.B. 398, discloses the results of the 2009-10 allocation round under IRC 48A.
  - *Announcement 2011-62*, 2011-40 I.R.B. 483, discloses the results of the 2010-11 allocation round under the qualifying advanced coal project program of IRC 48A of the Internal Revenue Code. This announcement also serves as notice to applicants that a 2011-12 allocation round under the qualifying advanced coal project program is currently open pursuant to Notice 2009-24, 2009-16 I.R.B. 817.
  - *Announcement 2013-2*, 2013-2 I.R.B. 271, discloses the results of the 2011-12 allocation round which is the final allocation round under phase II of the qualifying advanced coal project program of IRC 48A of the code.

- *Announcement 2013-43*, 2013-46 I.R.B. 524, discloses the results of the 2012-13 Phase III allocation round under the qualifying advanced coal project program of IRC 48A of the Internal Revenue Code.
  - *Announcement 2016-33*, 2016-39 I.R.B. 422 announces the certifications resulting from the results of the 2012-2013 Phase III allocation round under the qualifying advanced coal project program of IRC 48A.
- (4) In addition, see the following IRC 48A notices for more information:
- *Notice 2007-52*, 2007-26 I.R.B. 1456 which clarifies, modifies, amplifies and supersedes Notice 2006-24, 2006-11 I.R.B. 595
  - *Notice 2008-26*, 2008-9 I.R.B. 487, which updates and amplifies Notice 2007-52, 2007-26 I.R.B. 1456
  - *Notice 2008-96*, 2008-44 I.R.B. 1077, which updates and amplifies Notice 2007-45, 2007-22 I.R.B. 1456
- (5) Section 111 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, increases to 30 percent the investment tax credit under IRC 48A. It also added a requirement for projects receiving IRC 48A credits to capture and sequester at least 65 percent of such project's total carbon oxide emissions. IRS *Notice 2006-24*, 2006-11 I.R.B. 595. Additionally, Act section 115 creates a new tax credit for carbon oxide sequestration under IRC 45Q. See IRM 21.7.4.4.8.3.37, *Carbon Oxide Sequestration Credit, Form 8933*, for more information.
- (6) *Notice 2009-24*, 2009-16 I.R.B. 817, updates the procedures for the allocation of credits for the qualifying advanced coal project program under IRC 48A. The notice also announces the beginning of an allocation round of credits in the amount of \$1.25 billion for qualifying advanced coal-based generation technology projects under Phase II of the qualifying advanced coal project program. Notice 2009-24 clarifies, modifies, and amplifies Notice 2007-52.
- (7) *Notice 2011-24*, 2011-14 I.R.B. 603, modifies Notice 2009-24 by updating the rules relating to the qualifying advanced coal project program under IRC 48A. Specifically, this notice updates the rules regarding the separation and sequestration of carbon dioxide emissions for Phase II of the qualifying advanced coal program and provides for the annual measurement of separated and sequestered carbon dioxide by applying the recapture rules of IRC 50(a) in the event that a taxpayer does not attain or maintain the carbon dioxide separation and sequestration requirements of IRC 48A. Except as specifically provided in this notice, the qualifying advanced coal project program will be conducted in the manner and under the procedures provided in Notice 2009-24.
- (8) See *Notice 2012-51*, 2012-33 I.R.B. 150, which discloses the result of the review of the credits allocated under IRC 48A Phase I program and establishes an additional program. ("the IRC 48A Phase III program") to reallocate the remaining credits of IRC 48A Phase I program ("the section 48A Phase III credits"). The procedures in this notice apply only to IRC 48A Phase I credits available for reallocation under the IRC 48A Phase III program. Notice 2012-51, 2012-33 I.R.B. 150 amplifies Notice 2009-24, 2009-16 I.R.B. 817.
- (9) *Notice 2015-14*, 2015-10 I.R.B. 722, updates and amplifies the procedures for the allocation of credits under the qualifying advanced coal project program of IRC 48A by announcing the immediate beginning of the 2015 reallocation round ("Round 2") of the IRC 48A Phase III program. This Notice updates and amplifies Notice 2012-51, 2012-33 I.R.B. 150."

- (10) *Notice 2020-88*, 2020-53, I.R.B. 1795, updates and amplifies the procedures for the allocation of credits under the qualifying advanced coal project program of IRC 48A by announcing the immediate beginning of the 2020 reallocation round (Round 3) of the IRC 48A Phase III program. This Notice updates and amplifies Notice 2012-51, 2012-33, I.R.B. 150 and Notice 2015-14, 2015-10, I.R.B. 722.
- (11) The second credit, the Qualifying Gasification Project Credit under IRC 48B of the Code, authorizes the allocation of an investment tax credit in the amount of 20 percent of eligible basis for certain gasification projects. Qualified gasification projects convert a solid or liquid produced from coal, petroleum residue, biomass, or other material recovered for their energy or feedstock value into a synthetic gas composed primarily of carbon monoxide and hydrogen for direct use of subsequent chemical or physical conversion. IRS *Notice 2006-25*, 2006-11 I.R.B. 609, establishes the qualifying gasification project program. See Notice 2006-25 for the requirements for the project.
- (12) See *Announcement 2010-56*, 2010-39 I.R.B. 398 for the results of the 2009-10 Allocation Round of the Qualifying Advanced Coal Project Program and the Qualifying Gasification Project Program for more information.
- (13) See the following IRC 48B notices
- Notice 2007-53, 2007-1 I.R.B. 1474
  - Notice 2006-25, 2006-1 I.R.B. 609
  - Notice 2008-97, 2008-44 I.R.B. 1080
- (14) Section 112 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, increases to 30 percent the investment tax credit for certain gasification projects. It also added a requirement for projects receiving IRC 48B credits to capture and sequester at least 75 percent of such project's total carbon dioxide emissions. See IRM 21.7.4.4.8.3.1, *Form 3468, Investment Credit*, and the *Instructions for Form 3468*, for more specific information.
- (15) See the following IRC 48B Notices:
- Notice 2009-23, 2009-16 I.R.B. 802
  - Notice 2007-53, 2007-26 I.R.B. 1474
  - Notice 2011-24, 2011-14 I.R.B. 603
  - *Announcement 2010-56*, 2010-39 I.R.B. 398, discloses the results of the 2009-10 allocation round under the qualifying advanced coal project program of IRC 48A and the qualifying gasification project program of IRC 48B. This announcement also serves notice to applicants that no allocation round is conducted under the qualifying gasification project program.
  - *Announcement 2016-34*, 2016-39 I.R.B. 422, which discloses the results of the Phase III allocation round under the qualifying gasification project program of IRC 48B. This announcement also serves as notice to applicants that no additional allocation round is conducted under Phase III of the qualifying gasification project program.
  - *Announcement 2017-6*, 2017-24 I.R.B. 1262, which modifies and supersedes *Announcement 2016-34*, 2016-39 I.R.B. 422.

- (16) *Notice 2014-81*, 2014-53 I.R.B. 1001, establishes the IRC 48B Phase III program of the qualifying gasification project program to reallocate the IRC 48B Phase I credits available for allocation after the conclusion of the IRC 48B Phase I program.
- (17) The IRC 48A and IRC 48B credits apply to periods after August 8, 2005, the date of the enactment of the Emergency Economic Stabilization Act of 2008. Taxpayers claim both credits on Form 3468, *Investment Credit*. See IRM 21.7.4.4.8.3.1, *Form 3468, Investment Credit*, for more information.
- (18) Section 111(d), Div. B., Title I, of the Energy Improvement and Extension Act of 2008, P.L. 110-343, amended IRC 48A (and by reference IRC 48B) by allowing the Competitive Certification Awards Modification Authority to allow the Secretary to change the terms of any competitive certification award and any associated closing agreement where such modification (unless the Secretary determines that the dollar amount of tax credits available to the taxpayer under such section would increase as a result of the modification or such modification would result in such project not being originally certified:
  - Is consistent with the objectives of such section
  - Is requested by the recipient of the competitive certification award, **and**
  - Involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base)
- (19) Action required:
  - Math verify Form 3468
  - Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.1.3  
(03-11-2024)

**Form 3468, Qualifying  
Advanced Energy  
Project Credit Under IRC  
48C**

- (1) Section 1302(b), Division B, Title I, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, added IRC 48C, *Qualifying Advanced Energy Project Credit*, to the Investment Tax Credit under IRC 46. The provision is effective with respect to qualified progress expenditures made after February 17, 2009.
- (2) P.L. 117-169, commonly known as the Inflation Reduction Act (IRA) of 2022, modified and extended IRC 48C, which became effective January 1, 2023. Under IRA 2022, the qualifying advanced energy project credit provides a tax credit up to 30% of the qualified investment in an advanced energy project that meets prevailing wage and apprenticeship requirements. (See Notice 2022-61) IRA 2022 also provides \$10 billion of allocations, directs a minimum share to IRC 48C(e) energy communities census tracts, and expands eligibility to new types of qualifying advanced energy projects.
- (3) A qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced energy project.
- (4) An eligible project is one that:
  - a. Is a qualifying advanced energy project because it:
    - a) Re-equips, expands, or establishes an industrial or a manufacturing facility for the production or recycling of specified advanced energy property,
    - b) Re-equips any industrial or manufacturing facility, with equipment



designed to reduce greenhouse gas emissions by at least 20 percent through the installation of:

- (i) Low or zero carbon process heat systems,
  - (ii) Carbon capture, transport, utilization, and storage systems,
  - (iii) Energy efficient and reduction in waste from industrial processes, or
  - (iv) Any other industrial technology designed to reduce greenhouse gas emissions; or
- c) Re-equips, expands or establishes an industrial facility for the processing, refining or recycling of critical materials.
- b. The Secretary certified pursuant to IRC 48C(e)(3) that the qualified investment in the qualifying advanced energy project is eligible for IRC 48C(e) program, and
- c. Does not include any portion of a project for the production of any property that is used in the refining or blending of any transportation fuels (other than renewable fuels).

(5) Specified Advanced Energy Property means any of the following:

- Property designed for use in the production of energy from the sun, wind, geothermal deposits (within the meaning of IRC 613(e)(2)), or other renewable resources
- Fuel cells, microturbines, or an energy storage system and components
- Electric grids modernization equipment or components
- Property designed to capture, remove, use, or sequester carbon oxide emissions
- Equipment designed to refine, electrolyze, or blend any fuel, chemical or product which is renewable, or low-carbon and low-emission
- Property designed to produce energy conservation technologies (including residential, commercial, and industrial applications)
- Light-, medium-, or heavy-duty electric or fuel cell vehicles, as well as technologies, components, or materials for such vehicles, and associated charging or refueling infrastructure
- Hybrid vehicles with a gross vehicle weight rating of not less than 14,000 pounds as well as technologies, components, or materials for such vehicles, or
- Other advanced energy property designed to reduce greenhouse gas emissions as may be determined by the Secretary.

(6) Eligible property is any property that meets the following requirements:

- The property is necessary for the production or recycling of specified advanced energy property described in IRC 48C(c)(1)(A)(i), re-equipping an industrial or manufacturing facility with equipment designed to reduce greenhouse gas emissions by at least 20 percent as described in IRC 48C(c)(1)(A)(ii), or re-equipping, expanding, or establishing an industrial facility for the processing, refining or recycling of critical materials described in IRC 48C(c)(1)(A)(iii).
- The property is:
  - (a) Tangible personal property, or
  - (b) Other tangible property (not including a building or its structural components) that is used as an integral part of the qualifying advanced energy project.
- Depreciation (or amortization in lieu of depreciation) is allowable with respect to the property.



- (7) To be eligible for the credit, some or all of the qualified investment in the qualifying advanced energy project must be certified by the IRS under IRC 48C(d). See Notice 2023-18 and Notice 2023-44 for more information.
- (8) S Corporations or Partnerships may make an elective payment transfer under IRC 6418. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers, for additional information on facility registration requirements for making an elective payment transfer. In addition to completing Form 3468, when making an elective payment transfer, the total credit amount must also be reported on the applicable line of Form 3800, Part III, column g (Form 3468, Part III).
- (9) See Form 3468 instructions for more specific information.
- (10) Action required:
  - Math verify Form 3468
  - Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.1.4  
(10-01-2017)  
**Form 8942, Application for Certification of Qualified Investments Eligible for Credits and Grants Under the Qualifying Therapeutic Discovery Project Program**

- (1) Section 9023, Qualifying Therapeutic Discovery Project, of the Patient Protection and Affordable Care Act, P.L. 111-148, added section 48D to the Internal Revenue Code (IRC). IRC 48D, provided for a 50 percent non-refundable investment tax credit up to a maximum credit of \$5 million per firm and \$1 billion overall, for qualified investment in qualified therapeutic discovery projects made in 2009 and 2010. See IRM 21.7.4.4.8, *Non-refundable Credits, Income Tax Returns*, for more information on non-refundable credits. See the October 1, 2016 revision of IRM 21.7.4 for more information when working a case involving the qualifying therapeutic discovery project.

21.7.4.4.8.3.1.5  
(03-11-2024)  
**Form 3468, Advanced Manufacturing Investment Credit Under IRC 48D**

- (1) The Creating Helpful Incentives to Produce Semiconductors (CHIPS) Act of 2022, added a new investment credit under IRC 48D equal to 25% of the qualified investment in any advanced manufacturing facility for the primary purpose of manufacturing of semiconductors or semiconductor manufacturing equipment. This credit applies to property placed in service after 2022, and, for any property that construction of which begins prior to 2023, only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after August 9, 2022.
- (2) The advanced manufacturing investment credit is equal to 25% of the qualified investment in any advanced manufacturing facility placed in service by an eligible taxpayer in the tax year.
- (3) An advanced manufacturing facility means a facility whose primary purpose is the manufacturing of semiconductors or semiconductor manufacturing equipment.
- (4) The qualified investment for any advanced manufacturing facility is the basis of any qualified property placed in service by the taxpayer during the tax year and after 2022 that is part of an advanced manufacturing facility.
- (5) Qualified property includes any building or its structural components and all of the following:
  - Property that is tangible property,

- Property that is allowed depreciation or amortization,
- Property that is constructed, reconstructed, or erected by the taxpayer or acquired by the taxpayer if the original use of the property commences with the taxpayer, and
- Property that is integral to the operation of the advanced manufacturing facility.

**Exception:** Qualified property doesn't include a building or a portion of a building used for offices, administrative services, or other functions unrelated to manufacturing.

- (6) An eligible taxpayer is a taxpayer who isn't a foreign entity of concern (as defined in section 9901(6) of P. L. 116-283), and hasn't made an applicable transaction (as defined in IRC 50(a)) during the tax year.
- (7) S Corporations or Partnerships may make an elective payment election (EPE) under IRC 6417. In addition to completing Form 3468, when making an EPE, the credit amount for each facility must also be reported on the applicable line of Form 3800, Part III, column i, (Form 3468, Part IV). See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers.
- (8) See Form 3468 instructions for more specific information.
- (9) Action required:
  - Math verify Form 3468
  - Review Part III of Form 3800 to determine if the taxpayer reported an elective payment election (EPE) for Form 3468, Advanced Manufacturing Investment Credit (IRC 48D). If so, see IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA) Superseding and Amended Return Processing; Elective Payment Elections (EPE) or Transfers, for processing information and to verify if adjustment is allowable.
  - If no elective payment election (EPE) has been made: Input TC 291 to increase the credit or TC 290 to reduce the credit.

21.7.4.4.8.3.1.6  
(03-11-2024)

**Form 3468, Energy  
Credit Under IRC 48**

- (1) P.L. 117-167, commonly known as the Inflation Reduction Act (IRA) of 2022, modified the energy credit under IRC 48, which includes new credits for the following: energy storage technology property, qualified biogas property, micro-grid controller property, and the election to treat clean hydrogen production facilities as energy property.
- (2) Under IRC 48(a)(9), the base credit can be increased by five times for projects meeting prevailing wage and apprenticeship requirements; or projects which began construction before January 29, 2023; or projects with a maximum net output of less than 1 megawatt of electrical or thermal energy.
- (3) IRC 48 also provides three bonus credits:
  - The energy credit is increased by up to 10% for projects meeting certain domestic content requirements for steel, iron, and manufactured products.
  - The energy credit is increased by up to 10% if located in an energy community.
  - The energy credit is increased by up to 20% on certain solar and wind facilities placed in service in connection with low-income communities.

- (4) The energy credit is equal to the energy percentage of the basis of each energy property placed in service during the tax year, and is reported in Part VI of Form 3468. Energy Properties include the following:
- Geothermal energy property
  - Solar energy property to generate electricity, to illuminate, or heat or cool
  - Qualified fuel cell property
  - Qualified micro-turbine property
  - Combined heat and power system property
  - Qualified small wind energy property
  - Waste energy recovery property
  - Geothermal heat pump system property
  - Energy storage technology property
  - Qualified biogas property
  - Micro-grid controllers property
  - Qualified investment credit facility property (if an election is made under section 48(a)(5))
  - Clean hydrogen production facilities as energy property (if an election is made under section 48(a)(15))
- (5) To qualify as an energy property, the property must:
- a. Meet the performance and quality standards, if any, that have been prescribed by regulations and are in effect at the time the property is acquired;
  - b. Be property for which depreciation (or amortization in lieu of depreciation) is allowable; and
  - c. Be property either:  
The construction, reconstruction, or erection of which is completed by the taxpayer; or  
Acquired by the taxpayer if the original use of such property commences with the taxpayer.
- Note:** Property does not include any property that is part of a facility which it is allowed a production credit under IRC 45, for the tax year, or any prior tax year.
- (6) Energy property doesn't include any property acquired before February 14, 2008, or to the extent of basis attributable to construction, reconstruction, or erection before February 14, 2008, that is public utility property, as defined by IRC 46(f)(5) (as in effect on November 4, 1990), and related regulations.
- (7) The basis of the energy property must be reduced by 50% of the energy credit determined. The basis must also be reduced by any amount attributable to qualified rehabilitation expenditures. See Form 3468 instructions for additional information on determining the basis of properties.
- (8) S Corporations or Partnerships may make an elective payment transfer under IRC 6418. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers, for additional information on facility registration requirements for making an elective payment transfer. In addition to completing Form 3468, when making an elective payment transfer, the total credit amount must also be reported on the applicable line of Form 3800, Part III, column g (Form 3468, Part VI).

(9) See Form 3468 instructions for more specific information.

(10) Action required:

- Math verify Form 3468
- Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.2  
(10-01-2024)  
**Form 5884, Work  
Opportunity Credit**

- (1) The Work Opportunity Credit, or Work Opportunity Tax Credit (WOTC) replaced the Targeted Jobs Credit when it expired December 31, 1994. In general, the amount of the credit is 40 percent of qualified first year wages.
- (2) The work opportunity credit has been changed by various legislation. See the 08/22/2016 revision of this IRM for a complete list of legislation that extended the work opportunity credit before 2014. Below is a listing of the most recent legislation that has extended the work opportunity credit:
  - Section 119, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year for qualified individuals who begin work for the employer after December 31, 2013 and on or before December 31, 2014. See *Notice 2015-13* for guidance on claiming the credit under section 119 of the act.
  - Section 142 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the work opportunity tax credit for five years for qualified individuals who begin work for the employer after December 31, 2014 and on or before December 31, 2019. In addition, the Act added a new targeted group, qualified long-term unemployment recipients who begin work after 2015.
  - Section 143 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, P.L. 116-94, amends Section 51(c)(4), of the work opportunity tax credit, and applies to individuals who begin work for the employer after December 31, 2019 and before January 1, 2021.
  - Section 113 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, P.L. 116-260, extends the work opportunity tax credit for qualified individuals who begin work after December 31, 2021 and before December 31, 2025.
- (3) Qualified first-year wages are considered wages paid or incurred for work performed during the one-year period beginning on the date the certified individual begins work for the taxpayer. The amount of qualified wages taken into account for a qualified employee is generally limited to \$6,000 or \$3,000 for a qualified summer youth employee. See IRC 51(b)(3) for more information.
- (4) To claim the credit, taxpayers must request and be issued a certification for each employee from the state workforce agency (SWA) to prove that the employee is a member of a targeted group. Taxpayers must receive the certification by the day the individual begins work, or they must complete Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity Credit*, on or before the day the taxpayer offers the individual a job. Employers use Form 8850 to pre-screen and to make a written request to the SWA of the state in which their business is located (where the member of the targeted group works), to certify an individual as a member of a targeted group for purposes of qualifying for the work opportunity credit, no later than the 28th calendar day after the date the member of a targeted group begins working for the taxpayer.

**Note:** Submitting Form 8850 to the SWA is listed in Rev. Proc. 2018-58, section 15, item 12, as an act that may be postponed for taxpayers affected by a federally declared disaster.

- (5) Taxpayers claim the credit as a general business credit on Form 3800, *General Business Credit*. Tax exempt employers report the WOTC on Form 5884-C. Partnerships, S corporations, cooperatives, estates, and trusts must file Form 5884 to claim the WOTC. Any unused portion of this credit remaining, after the tax is reduced to zero, can be carried back one year to reduce taxes for that year and also carried forward 20 years.
- (6) See the General Instructions for Form 5884, Form 5884-C and Form 8850 instructions which have more specific information on the targeted groups, rules concerning qualified wages, and specific instructions for completing the forms.
- (7) Action required:

#

form.

- b. Input TC 291 to increase the credit or TC 290 to reduce the credit.

21.7.4.4.8.3.2.1  
(10-01-2020)

**Form 8884, Expanded  
Work Opportunity  
Credit, New York Liberty  
Zone**

- (1) The New York Liberty Zone was repealed. See IRC 1400L, P.L. 115-141, effective March 23, 2018.
- (2) See the October 1, 2014 and previous revisions of this IRM for information on the Work Opportunity Credit, New York Liberty Zone.

21.7.4.4.8.3.2.2  
(10-01-2019)

**Form 5884, Work  
Opportunity Credit,  
Hurricane Katrina  
Employees**

- (1) Section 201, of the Work Opportunity Tax Credit for Hurricane Katrina Employees, Katrina Emergency Tax Relief Act of 2005, P.L. 109-73, provides for a credit for hiring qualified Hurricane Katrina employees as defined directly below.
- (2) A Hurricane Katrina Employee is:
  - Any individual who on August 28, 2005, had a main home in the core disaster area and who is hired during the **two-year period beginning August 28, 2005** (P.L. 110-343 modified this in 2008 to be a **four-year period**), for a position in which the principal place of employment is located in the core disaster area, **or**
  - Any individual who on such date had a main home in the core disaster area, who is displaced from such residence by reason of Hurricane Katrina, and who is hired on or after August 28, 2005 and on or before December 31, 2005.
- (3) See the October 1, 2014 and previous revisions of this IRM for information on the Work Opportunity Credit, Hurricane Katrina Employees.

21.7.4.4.8.3.2.3  
(10-01-2015)

**Employee Retention  
Credit for Employers  
Affected by Hurricane  
Katrina, Rita, and Wilma  
(Form 5884-A, *Credit for  
Employers Affected by  
Hurricanes Katrina, Rita,  
and Wilma*)**

- (1) Section 202, of the Employee Retention Credit for Employers Affected by Hurricane Katrina, Katrina Emergency Tax Relief Act of 2005, P.L. 109-73, provides for a credit against tax in an amount equal to 40 percent of the qualified wages for each eligible employee of such employer. The amount of qualified wages applicable to any individual cannot exceed \$6,000 paid or incurred for each employee during the period August 28, 2005 through December 31, 2005.
- (2) Section 201, of the Gulf Opportunity Zone Act of 2005, P.L. 109-135, extended the Employee Retention Credit for Employers affected by Hurricane Katrina, to victims of Hurricane Rita and Hurricane Wilma beginning with the dates shown in the chart below and ending on December 31, 2005.

Specific Hurricane	Beginning After
Katrina	August 28, 2005
Rita	September 23, 2005
Wilma	October 23, 2015

- (3) See the October 1, 2014 and previous revisions of this IRM for information on the Employee Retention Credit for Employers Affected By Hurricane Katrina, Rita, and Wilma.

21.7.4.4.8.3.2.4  
(10-01-2015)

**Form 5884-A, *Hurricane  
Katrina Housing Credit***

- (1) Form 5884-A, *Credit for Employers Affected by Hurricanes Katrina, Rita, and Wilma*, is also filed to claim the **Hurricane Katrina** Housing Credit.
- (2) The credit is equal to 30 percent of the value (up to \$600 per month, per employee) of in-kind lodging furnished to a qualified employee from January 1, 2006 through July 1, 2006 and which is excluded from the employee's income.
- (3) See the October 1, 2014 and previous revisions of this IRM for information on the Credit for Employers Affected by Hurricanes Katrina, Rita, and Wilma.

21.7.4.4.8.3.2.5  
(10-01-2020)

**Form 5884, *Work  
Opportunity Credit -  
Incentives to Hire  
Unemployed Veterans  
and Disconnected Youth***

- (1) Section 1221, Incentives to Hire Unemployed Veterans and Disconnected Youth, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, adds new paragraph (14) to IRC 51(d). The provision allows for a credit for unemployed veterans and disconnected youth hired in 2009 or 2010. Any unemployed veteran or disconnected youth who begins work for the employer during 2009 or 2010 is treated as a member of a targeted group for purposes of the work opportunity credit.
- (2) See the October 1, 2016 and prior revisions of this IRM for information on the - work opportunity credit - incentives to hire unemployed veterans and disconnected youth.
- (3) An individual is a member of a targeted group if such individual is a:
  - Qualified IV-A recipient
  - Qualified veteran
  - Qualified ex-felon
  - Designated community resident
  - Vocational rehabilitation referral
  - Qualified summer youth employee



- Qualified supplemental nutrition assistance program benefits recipient
- Qualified SSI recipient
- Long-term family assistance recipient
- Qualified long-term unemployment recipient

- (4) See IRM 21.7.4.4.8.3.2, *Work Opportunity Credit*, and the General Instructions for Form 5884 for more specific information on claiming the credit and the action required to adjust an account.
- (5) *Notice 2009-28* sets forth the statutory definitions of “unemployed veteran” and “disconnected youth,” and provides guidance on the definition of “disconnected youth.” It also provides transition relief for employers who hire unemployed veterans or disconnected youth after December 31, 2008, and before July 17, 2009. *Notice 2009-69* clarifies section D of Notice 2009-28. *Notice 2009-69* explains that “not readily employable by reason of lacking a sufficient number of basic skills” includes individuals who have worked occasionally since high school graduation / receipt of GED certificate. Notice 2009-69 also provides extended transition relief for filing of Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity Credit*.
- (6) Businesses planning to claim the work opportunity tax credit (WOTC) for eligible unemployed veterans and unskilled younger workers hired during the first part of 2009, had until August 17, 2009 to request the certification required for these workers. Issue Number IR-2009-55 offers guidance to businesses hiring unemployed veterans and certain youths on claiming the tax credit.

21.7.4.4.8.3.2.6  
(10-01-2024)

**Form 5884, Work Opportunity Credit - Section 261, Returning Heroes and Wounded Warriors Work Opportunity Tax Credits, of the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011, Title II, subtitle D, of Pub. L. No. 112-056**

- (1) The Work Opportunity Tax Credit (WOTC) was extended through December 31, 2025, for all targeted groups by section 113, Division EE, subtitle B of Pub. L. 116-260. Section 261 of the VOW to Hire Heroes Act of 2011, (Pub. L. No. 112-56), enhances the work opportunity credit by providing two new categories to the qualified veteran targeted group. The Act extended the credit for qualified veterans who begin work for the employer on or before December 31, 2012. The Act also increases the qualified first-year wages used to figure the credit. Only certain organizations claim the credit on Form 5884 (i.e., partnerships, S corporations, cooperatives, estates, and trusts). See the *Instructions for Form 5884, Work Opportunity Credit*. All other taxpayers are generally not required to complete or file this form if their only source for this credit is a partnership, S corporation, estate, or trust.
- (2) In addition, the Act amends IRC 52 and IRC 3111 to make a credit available to “qualified tax-exempt organizations” that hire qualified veterans for which the work opportunity credit (WOTC) would be allowable under IRC 51 if the organization were not a qualified tax-exempt organization. Specifically, the Act adds new IRC 3111(e), which permits qualified tax-exempt organizations that hired qualified veterans on or after November 22, 2011 (and was extended to qualified veterans who begin work on or before December 31, 2025), to claim a credit against payroll taxes. The credit is taken on the employer share of social security tax imposed under IRC 3111(a). The credit for tax-exempt organizations is claimed on Form 5884-C, *Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans*. See IRM 21.7.2.5.15, *Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans*, and *Form 5884-D, Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters*, **Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations**

**Hiring qualified Veterans**, for more information on how tax-exempt organizations claim the credit on their employment tax return.

- (3) Section 261(b) of the Act amends IRC 51(d)(3)(A). The term “qualified veteran”, as amended, means any veteran who is certified by the state workforce agency (SWA) as any of the following:
- Being a member of a family receiving assistance under a supplemental nutrition assistance program under the Food and Nutrition Act of 2008 for at least a 3-month period ending during the 12-month period ending on the hiring date.
  - Entitled to compensation for a service-connected disability, and (I) having a hiring date which is not more than one year after being discharged or released from active duty in the Armed Forces of the United States, or (II) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.
  - Having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 4 weeks (but less than 6 months).
  - Having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.
- (4) The WOTC is equal to 25 percent (16.25 percent for tax-exempt organizations) of the qualified first-year wages for employees who worked for the employer at least 120 hours but fewer than 400 hours, and 40 percent (26 percent for tax-exempt organizations) of the qualified first-year wages for employees who worked for the employer at least 400 hours. Under IRC 51(b)(3) as amended by the Act, the amount of the first-year wages which may be taken into account with respect to any individual must not exceed:
- \$6,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(i) (a veteran certified as being a member of a family receiving assistance under a supplemental nutrition assistance program under the Food and Nutrition Act of 2008 for at least a 3-month period ending during the 12-month period ending on the hiring date) and subsection (d)(3)(A)(iii) (a veteran certified as having aggregate periods of unemployment of at least 4 weeks but less than 6 months in the year prior to being hired).
  - \$12,000 per year in the case of any individual who is a qualified veteran by reason of IRC 51(d)(3)(A)(ii)(I), a disabled veteran certified as having a hiring date which is not more than one year after being discharged or released from active duty in the Armed Forces of the United States.
  - \$14,000 per year in the case of any individual who is a qualified veteran by reason of IRC 51(d)(3)(A)(iv), a veteran certified as having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.
  - \$24,000 per year in the case of any individual who is a qualified veteran by reason of IRC 51(d)(3)(A)(ii)(II), a disabled veteran certified as having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.
- (5) Section 261(c) of the Act amends IRC 51(d)(13) to add paragraph (D) which provides for a simplified certification process for qualified veterans. An employer must obtain certification that an individual is a targeted group member before the employer may claim the credit. Certification of an individu-

al's targeted group status is obtained from a state workforce agency established in accordance with 29 U.S.C sections 49-49n. An employer must submit Form 8850, *Pre-screening Notice and Certification Request for the Work Opportunity Credit*, to the SWA no later than the 28th day after the individual begins work for the employer. See the *Instructions for Form 8850* for more information.

- (6) *Notice 2012-13*, 2012-09 I.R.B., provides guidance on the Returning Heroes and Wounded Warriors Work Opportunity Tax Credits. The notice also provides employers who hired qualified veterans between November 22, 2011, and May 22, 2012, additional time beyond the 28-day deadline in IRC 51(d)(13) for submitting Form 8850 to SWAs. The notice provides additional guidance on electronic signature and electronic submission of Form 8850 and also informs all employers that the Internal Revenue Service (IRS) will allow the signature and submission of Form 8850 by facsimile to the SWA that chooses to accept such submissions.
- (7) Only certain organizations must claim the WOTC on Form 5884. All other taxpayers are not required to complete or file Form 5884 to claim the WOTC if their only source for this credit is a partnership, S corporation, estate, or trust (see the Instructions to Form 5884). For taxable employers, the WOTC credit is claimed by filing both Form 5884, *Work Opportunity Credit* and Form 3800, *General Business Credit*. Action required:

- Verify the amount of wages reported on Form 5884 and math verify the form
- Input TC 291 to increase the credit and a TC 290 to decrease the credit

21.7.4.4.8.3.2.7  
(10-01-2023)

**Form 5884, Work  
Opportunity Credit**

- (1) Taxpayers use both Form 5884 and Form 3800 to claim the work opportunity credit for qualified first-year and/or second-year wages you paid to or incurred for targeted group employees during the tax year. A business doesn't have to be located in an empowerment zone or rural renewal county to qualify for this credit.
- (2) Section 113 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, P.L. 116-260, extended the work opportunity credit for five years for qualified individuals who begin work for the employer after December 31, 2020, and before January 1, 2026.
- (3) An individual is a member of a targeted group if such individual began working for the taxpayer after December 31, 2020 and on or before December 31, 2025 and is a:
- Long-term family assistance recipient
  - Qualified IV-A recipient
  - Qualified veteran
  - Qualified ex-felon
  - Designated community resident
  - Vocational rehabilitation referral
  - Qualified summer youth employee
  - Qualified SSI recipient
  - Supplemental Nutrition Assistance Program (SNAP) benefits (food stamps) recipient
  - Qualified long-term unemployment recipient (for individuals who begin work after December 31, 2015)

- (4) See IRM 21.7.4.4.8.3.2, *Form 5884, Work Opportunity Credit* for more information on claiming the credit. Also, see IRM 21.7.4.4.8.3.2.5, *Form 5884, Work Opportunity Credit - Incentives to Hire Unemployed Veterans and Disconnected Youth*, for the credit for the incentives to hire unemployment veterans and disconnected youth, and IRM 21.7.4.4.8.3.2.6, *Form 5884, Work Opportunity Credit - Section 261, Returning Heroes and Wounded Warriors Work Opportunity Tax Credits, of the VOW to Hire Heroes Act of 2011, Title II, subtitle D, of Pub. L. No. 112-056*, which enhanced the work opportunity credit by providing two new categories to the qualified veteran targeted group. The VOW to Hire Heroes Act permits tax exempt organizations to claim the Work Opportunity Tax Credit (WOTC).
- (5) Action required
  - Math verify, Form 5884
  - Input TC 291 to increase the credit and a TC 290 to decrease the credit.

## 21.7.4.4.8.3.3

(10-01-2024)

**Employee Retention  
Credit for Employers  
Affected by Qualified  
Disasters - Form 5884-A,  
Credits for Affected  
Disaster Area Employers**

- (1) Section 503 of the *Disaster Tax Relief and Airport and Airway Extension Act of 2017* provides an employee retention credit for employers affected by Hurricane Harvey, Irma, or Maria. Information for certain California Wildfires is covered in Pub 976, *Disaster Relief*. For more information regarding due dates and disaster locations, see *Disaster Assistance and Emergency Relief for Individuals and Businesses* found on [irs.gov](https://www.irs.gov).
- (2) Section 203 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, P.L. 116-94, extended the credit for most disasters in 2018 and 2019 but did not include the Puerto Rico Earthquakes disaster that began December 28, 2019, after the law was passed.
- (3) Section 303 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, P.L. 116-260, extended the credit for Puerto Rico Earthquakes disaster that began December 28, 2019, and most disasters in 2020 other than disasters declared only by reason of COVID-19. The separate CARES Act employee retention credits for COVID-19 relief are claimed on employment tax returns, not Form 5884-A.
- (4) The retention credit is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. The amount of qualified wages which may be considered with respect to any individual must not exceed \$6,000 (reduced by the amount of qualified wages with respect to such employee taken into account for any prior taxable year). Qualified wages for this credit for 2020 should not include any wages taken into account for the separate CARES Act employee retention credit for COVID-19 relief under section 2301 of the CARES Act. In addition, for 2020, any wages taken into account in determining the retention credit must not be taken into account as wages under IRC 41, IRC 45A, IRC 45P, IRC 45S, IRC 51 and IRC 1396.
- (5) For more information regarding 2020 due dates and disaster locations, see *Tax Relief in Disaster Situations*. The Form 5884-A instructions contain a comprehensive list of qualifying disasters.
- (6) Section 303 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 contains a provision that allows certain tax-exempt organizations to claim the 2020 qualified disaster employee retention credit as a payroll tax credit.

Qualified tax-exempt organizations will claim this credit on the new Form 5884-D, *Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters*. For more information, see IRM 21.7.2.5.15 , **Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, and Form 5884-D, Employee Retention Credit for Certain Tax-Exempt Organizations Affected by Qualified Disasters**.

21.7.4.4.8.3.3.1  
(10-01-2023)  
**Form 5884-A Eligibility Requirements**

- (1) An eligible employer means any employer which conducted an active trade or business in a qualified disaster zone of one of the following disasters listed below:
  - Hurricane Harvey - August 23, 2017
  - Hurricane Irma - September 4, 2017
  - Hurricane Maria - September 17, 2017
  - 2017 California Wildfires - October 8, 2017
  - 2017 California Wildfires, flooding, mudflows and debris flows - December 4, 2017
  - 2018 and 2019 disasters - any date that falls within the disaster's incident period, but not after January 19, 2020
  - 2020 disasters and December 2019 earthquakes in Puerto Rico - any date that falls within the disaster's incident period, but not after January 26, 2021
- (2) The eligible employer affected by the 2017 hurricanes and California wildfires must be inoperable on any day on or after the disaster's incident period and before January 1, 2018, because of damage sustained by the disaster.
- (3) The eligible employer affected by a 2018 or 2019 disaster must be inoperable on any day during or after the disaster's incident period and before December 21, 2019, because of damage sustained by the disaster.
- (4) The eligible employer affected by the Puerto Rico Earthquakes disaster that began December 28, 2019, or a 2020 qualified disaster, must have conducted an active trade or business in a qualified disaster zone and the business was inoperable on any day on or after the disaster's incident period and before December 28, 2020. The business must be inoperable because of damage sustained by the disaster. The credit is not available for any disaster declared only by reason of COVID-19 and any disaster that received its presidential disaster declaration after February 25, 2021.
- (5) An eligible employee is defined as an employee whose principal place of employment was with an eligible employer (defined above) in the applicable disaster zone on the date listed above.
- (6) Qualified wages are defined as wages paid or incurred on any day on or after the date of the 2017 hurricanes and California wildfires listed above and on or after the date the trade or business first became inoperable at the principal place of employment of the employee (which is determined immediately prior to the date listed above). Qualified wages do not include wages paid or incurred after the earlier of December 31, 2017, or the date on which such trade or business resumed significant operations at that place.
  - For 2018, 2019, and 2020 disasters, qualified wages are defined as wages paid or incurred on or after the date the trade or business first became inoperable at the principal place of employment of the



employee (which is determined immediately prior to the disaster). Qualified wages do not include wages paid or incurred on or after the earlier of 150 days after the last day of the incident period or the date on which such trade or business has resumed significant operations at that place.

- Qualified wages include wages paid without regard to whether the employee performs services, performs services at a place of employment other than the principal place of employment, or performs services at the principal place of employment before significant operations resume.

**Reminder:** Employers may claim a WOTC and an employee retention credit for the same employee as long as the same wages are not double counted to calculate each credit (see IRC 303(c)(1) of the Taxpayer Certainty and Disaster tax Relief Act of 2020, P.L. 116-260).

21.7.4.4.8.3.3.2  
(01-25-2018)  
**Form 5884-A, Claim  
Procedures**

- (1) The Employee Retention Credit is claimed and computed as a general business credit on Form 5884-A and is carried to Form 3800, *General Business Credit*. The credit is reported on line 1 aa of Form 3800.
- (2) Any unused portion of this credit remaining, after the tax is reduced to zero, can be carried forward 20 years. This credit **CAN NOT** be carried back.
- (3) See the Form 5884-A Instructions for more specific information on the eligible employees and rules concerning qualified wages, and specific instructions for completing the form.
- (4) The tentative minimum tax is zero for purposes of determining the tax liability limitation with respect to the Act.
- (5) Action required:

Math verify the Form 5884-A  
Input TC 291 to increase the credit or TC 290 to reduce the credit.

#  
#

21.7.4.4.8.3.4  
(10-01-2024)  
**Form 6478, Biofuel  
Producer Credit**

- (1) Form 6478, *Biofuel Producer Credit*, is used to claim the second-generation biofuel producer credit under **IRC 40**. IRC 40 consists of the following:
  - Alcohol mixture credit (IRC 40(a)(1))
  - Alcohol credit (IRC 40(a)(2))
  - Small ethanol producer credit (IRC 40(a)(3))
  - Second-generation biofuel producer credit (IRC 40(a)(4))

**Note:** The alcohol mixture, alcohol, and small ethanol producer credits expired for fuels sold or used after 2011 (IRC 40(e)). See the October 1, 2015 revision of this IRM for more information on these credits.

**Note:** The cellulosic biofuel was re-designated second-generation biofuel by the American Taxpayer Relief Act of 2012 (Pub. L. 112-240, section 404).

- (2) Section 140 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, P.L. 116-260, extends the credit for qualified second-generation biofuel production to December 31, 2022. Public Law 117-169, (August 16, 2022), commonly



known as the Inflation Reduction Act, retroactively reinstated and extended the second generation biofuel producer credit through December 31, 2024.

- (3) Qualified second-generation biofuel production is second-generation biofuel which during the tax year:
  - a. Is sold by the producer to another person (i) for use by the buyer in the buyer's trade or business to produce a qualified second-generation biofuel mixture (other than casual off-farm production), (ii) for use by the buyer as a fuel in a trade or business, or (iii) who sells the second-generation biofuel at retail to another person and puts the second-generation biofuel in the retail buyer's fuel tank; or
  - b. Is used or sold by the producer for any purpose described above.
- (4) Generally, second-generation biofuel, for credit purposes, is any liquid fuel, which:
  - Is derived by, or from, qualified feedstocks
  - Meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545)
  - Is not alcohol of less than 150 proof. In figuring the proof of any alcohol, disregard any added denaturants (additives that make the alcohol unfit for human consumption)
- (5) A qualified feedstock is:
  - Any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis
  - Any cultivated algae, cyanobacteria, or lemna
- (6) Special rules for algae. Second-generation biofuel also includes certain liquid fuel, which:
  - Is derived by, or from, any cultivated algae, cyanobacteria, or lemna
  - Is not alcohol of less than 150 proof (disregard any added denaturants), but only if this fuel is sold by the producer to another person for refining by such other person into a liquid fuel which will meet the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and not include any fuel if: (i) More than 4 percent of the fuel (determined by weight) is any combination of water and sediment, (ii) The ash content of the fuel is more than 1 percent (determined by weight), or (iii) The fuel has an acid number greater than 25.

**Note:** Once this fuel is sold by the producer to another person for refining by such person into a fuel which will meet these requirements, neither the producer nor any other person can use such fuel (or any fuel derived from such fuel) to figure a second credit for qualified second-generation biofuel production.
- (7) Qualified cellulosic biofuel production and qualified second-generation biofuel production does not include purchasing alcohol and increasing the proof of the alcohol through additional distillation. Nor does it include cellulosic biofuel or second-generation biofuel that is not both produced in the United States or a U.S. territory and used as a fuel in the United States or a U.S. territory.

- (8) Second-generation biofuel does not include any fuel if:
- More than 4 percent of the fuel (determined by weight) is any combination of water and sediment
  - The ash content of the fuel is more than 1 percent (determined by weight)
  - The fuel has an acid number greater than 25
- (9) See the General Instructions for Form 6478 for definitions, special rules, and on the recapture of the credit. See Publication 510 for information on the coordination with excise tax credits on Form 720, Form 8849, or Form 4136.
- (10) All producers of cellulosic or second-generation biofuel must be registered by the IRS. See Form 637, *Application for Registration (For Certain Excise Tax Activities)*.
- (11) Action required:
- a. Math verify Form 6478.
  - b. Input TC 291 to increase the credit or TC 290 to reduce the credit.
  - c. Input IRN 884 for the amount of the credit. Use a positive amount to increase the credit and a negative amount to reduce the credit.

21.7.4.4.8.3.5  
(10-01-2024)

**Form 6765, Credit for  
Increasing Research  
Activities**

- (1) Taxpayers use Form 6765, *Credit for Increasing Research Activities*, to figure and claim credit for increasing research activities (research credit) to elect the reduced credit under section 280C, and to elect to claim a certain amount of the credit as a payroll tax credit against the employer portion of social security taxes. The research credit is generally allowed for expenses paid or incurred for qualified research. **Qualified research** means research that satisfies all parts of the following test:
- For which expenses may be treated as section 174 expenses
  - Which is undertaken for the purpose of discovering information (i) which is technological in nature, and (ii) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer
  - Substantially all of the activities of which constitute elements of a process of experimentation for a new or improved function performance, reliability or quality
- (2) Corporations, partnerships, S corporations, and amended Forms 1041 must file Form 6765 to claim the credit. All other taxpayers are generally not required to complete or file this form if their only source for this credit is a partnership, S corporation, estate, or trust. Instead, they can report this credit directly on Form 3800, General Business Credit. The exception is an estate or trust and the credit can be allocated to the beneficiaries on Form 1041. For more details, see the *Instructions for Schedule K-1 (Form 1041) for a Beneficiary Filing Form 1040*, Box 13.
- (3) Under IRC Section 39, as part of the general business credit, any portion of the research credit not used in the current year must be carried back one year to reduce taxes for that taxable year and carried forward 20 years.
- (4) See Form 6765 and the *Instructions for Form 6765* for specific information on claiming the research credit.

- (5) The research credit is modified and extended by various provisions of legislation over the years. See previous revisions of this IRM for a complete list of legislation that previously extended the research credit before 2009. Below is the most recent legislation that has extended the research credit, along with paragraphs (6) and (7) below:
- Section 731, Title VII, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for two years for any amount paid or incurred for taxable years beginning after 12/31/2009 and on or before 12/31/2011.
  - Section 301(a), Title III, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years for amounts paid or incurred for taxable years beginning after 12/31/2011 and on or before 12/31/2013.
  - Section 111, Div. A, Title I, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year for amounts paid or incurred for taxable years beginning after 12/31/2013 and on or before 12/31/2014.
- (6) Section 121(a), Div. Q, of the Protecting Americans from Tax Hikes Act of 2015, of P.L. 114-113, (the Act), **permanently** extended the research credit for expenses paid and incurred after 12/31/2014. In addition, per section 121(b) of the Act, the credit is allowed against the alternative minimum tax for eligible small businesses (as defined in IRC 38(c)(5)(C)) and is effective for taxable years beginning after 12/31/ 2015.
- (7) Section 121(c) of the Act allows qualified small businesses to elect to claim the payroll tax credit portion of the research credit as a credit against the employer portion of social security tax. This provision is effective for tax years beginning after 12/31/2015. The credit against the employer portion of social security tax is in lieu of a credit against income tax. The provision does not apply to organizations exempt from taxation under section 501. See IRM 21.7.2.5.21, *Form 8974, Qualified Small Business Payroll Tax Credit for Increasing Research Activities*, and *Notice 2017-23*, 2017-16 I.R.B. 1100, for additional information.
- (8) *Notice 2008-39*, 2008-13 I.R.B. 684, established the filing address for certain claims for credit or refund reported on amended Forms 1120 or on Forms 1120-X, generated by the research credit. **Research Credit Suspension Period claims ARE NOT** covered by this notice.
- (9) Notice 2008-39 only applies to taxpayers required to file Form 1120 with claims for credit or refund attributable, in whole or in part, to the research credit that were not:
- Reported on an original income tax return or an amended income tax return, filed on or before the due date of the original Form 1120, including extensions, and
  - Filed with the Internal Revenue Service on or before 03/31/2008.
- (10) Claims attributable in whole or part, to the research credit and reported on Form 1040 or Form 1040X **ARE NOT** subject to Notice 2008-39. Form 1045 and Form 1139 also **ARE NOT** subject to the notice.
- (11) All claims subject to this notice should show **Refund-Research Credit** at the top of the claim/return and must include a completed Form 6765 (and a copy of the Form 6765 they filed with their original return, if any) **and must:**

- Explain in detail the grounds which the credit is claimed
- Provide facts sufficient to apprise the IRS of the exact basis thereof; and
- Include a written declaration under the penalties of perjury
- Be in writing

**Note:** Accounts Management in Ogden and Cincinnati follow the general claims instructions in IRM 21.5.3.4.2, *Tax Decrease or Credit Increase Processing*, for claims that do not meet the criteria in paragraph (11) above.

- (12) Per *Notice 2008-39*, all claims subject to this notice are worked in Accounts Management at the Ogden campus only. Notice 2008-39 instructs taxpayers to file claims at the following address:  
Internal Revenue Service  
1973 N. Rulon White Blvd.  
Ogden, UT 84201
- (13) Notice 2008-39 does not apply to those claims for credit or refund subject to the electronic filing requirements for amended returns stated in Treas. Reg. section 301.6011-5.
- (14) For corporations, partnerships, S corporations, and amended Forms 1041 - Employees follow procedures in IRM 21.5.3-2, for suspending Form 6765, or Form 3800 Research Credit Claims to CAT-A. See the chart below for routing procedures.

If received	Then
In site other than Ogden	Prepare a Form 3210 Transmittal, and route to: Ogden Accounts Management, Mail Stop OSC 6755 For CII cases, reassign to 0445160144
In Ogden	For all Research Credit Claims in CII, reassign to 0445160144  <b>Note:</b> If a Large Corp Indicator (LCI) is on the account, the Research Credit Claim SME will coordinate the processing of the claim with Large Corp.
In Ogden BMFX Returns, the Research Credit Claim SME	Suspends the claim to CAT-A using the following reasons: <ul style="list-style-type: none"> <li>• LM = CII: HQ Reserve 5</li> <li>• SB = CII: Research Credit</li> </ul>

- (15) For Forms 1120X, 1040X, and amended Forms 1041, Research Credit Claims filed between January 10, 2022, and January 10, 2025, the IRS provides taxpayers the opportunity to perfect their claims. Taxpayers are required to provide the following information at the time the claim is filed with the IRS:
- Identify all the business components to which the Section 41 research credit claim relates for that year,
  - For each business component, identify all research activities performed and,

- Provide the total qualified employee wage expenses, total qualified supply expenses, and total qualified contract research expenses for the claim year,
- The names of the individuals who performed each research activity (not necessary for claims dated June 18, 2024 and subsequent), and
- The information each individual sought to discover (not necessary for claims dated June 18, 2024 and subsequent).

**Note:** Effective for claims postmarked as of June 18, 2024, the IRS is waiving the requirement for taxpayers to provide the information shown in the last two bullet points above with their claims involving the Research Credit. Additional information can be found at [irs.gov](https://irs.gov) *Research Credit Claims*.

- Classifiers request Accounts Management issue Letter 6426C requesting additional information. CSRs will need to suspend the case while they wait for a response from the taxpayer. The fax number used on Letter 6426C will be the CSRs fax number, or the department fax number. Give taxpayers 45-days to respond. After 60 days, if the taxpayer has not responded, AM issues Letter 6424C - No Consider.
- If the taxpayer responds, re-suspend to CAT-A. Classifiers will determine if the 3 or 5 criteria are met. If not, the classifier will request the CSR send Letter 6424C. There will be no request for additional information or a need to monitor.
- If additional information is needed for the research credit claims, classifiers may request AM send Letter 916C with an open paragraph and paragraph 0 (zero). Use the CSR fax number in the letter. Allow the taxpayer 45-days to respond. If the taxpayer responds, re-suspend to CAT-A. If the taxpayer does not respond within 60 days, send Letter 6424C- No Consider.

- (16) For Flow-through Entities, the IRS may issue Letter 6425C that reminds the partnership or S corporation entity that shareholders or partners must include the 5 criteria to be considered a valid claim. No additional information is requested from the taxpayer.
- (17) If the case is routed back to Accounts Management (Cincinnati or Ogden) stamped "Accepted as Filed," the case is worked in AM in the campus that sent the referral to Exam.
- (18) Action required:
- a. Math verify Form 6765
  - b. Input TC 291 to reduce the tax or TC 290 to increase the tax.

21.7.4.4.8.3.6  
(10-01-2024)

**Form 8586, Low-Income Housing Credit and Form 8609, Low-Income Housing Credit Allocation and Certification**

- (1) Owners of residential low-income rental buildings are allowed a low-income housing credit for each qualified building over a 10-year credit period. Owners use Form 8609, *Low-Income Housing Credit Allocation and Certification*, to obtain a housing credit allocation from the housing credit agency. For an owner to claim the credit, the housing credit agency must make an allocation of the credit by the close of the calendar year in which the building is placed in service, unless one of four exceptions apply, see the Form 8609 Instructions for more information.
- (2) Section 201 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, applies a minimum credit rate to any new or existing building placed in service

by the taxpayer after December 31, 2020. The applicable minimum credit rate percentage must not be less than 4 percent. For more information see *Rev. Rul. 2021-20*, 2021-51 I.R.B. 875 and *Rev. Proc. 2021-43*, 2021-51 I.R.B. 882. The amendments made by this section apply to:

- Any building that receives an allocation of housing credit dollar amount after December 31, 2020, and
  - Any building, any portion of which is financed with an obligation described in IRC 42(h)(4)(A) issued after December 31, 2020.
- (3) Section 305 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, applies to section 42 of the Internal Revenue Code of 1986. The State housing credit limitation for any State for each of the calendar years 2021 and 2022 is increased by the aggregate housing credit dollar amount allocated by the State housing credit agencies for the calendar year, to buildings located in any qualified disaster zone in the State. For more information see *Notice 2021-45*, 2021-31 I.R.B. 170 as clarified by Notice 2021-17, 2021-14 I.R.B. 984, and as amended by Notice 2022-5, 2022-5 I.R.B. 45. The increase with respect to any State must not exceed:
- For calendar year 2021, the applicable dollar limitation for the state.
  - For calendar year 2022, the applicable dollar limitation for the State reduced by the amount of any increase determined under section 305(a)(1) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 with respect to the State for calendar year 2021.

**Note:** The term applicable dollar limitation is equal to the lesser of:

- The product of \$3.50 multiplied by the population of the State (as determined for calendar year 2020) that resides in a qualified disaster zone in the State, or
  - 65 percent of the State housing credit ceiling for the State for calendar year 2020.
- (4) The taxpayer must file a separate Form 8609 (with Part I completed by the state or local housing agency) for each building a credit is claimed. The Form 8609 is filed one time with the Low-Income Housing Credit Unit at the Philadelphia Service Center no later than the due date (including extensions) of the first tax return with which the taxpayer files Form 8609-A.
- (5) Taxpayers, other than partnerships, S corporations, estates or trusts, whose only source of this credit is from those pass-through entities, are not required to complete or file Form 8586, *Low Income Housing Credit*, or Form 8609-A, *Annual Statement for Low-Income Housing Credit*. Instead, they can report the credit directly on Form 3800, General Business Credit.
- (6) Form 8609-A is filed for each year of the 15-year compliance period by a building owner to report compliance with the low-income housing provisions and calculate the low-income housing credit. The credit is claimed on Form 8586, Low-Income Housing Credit.
- (7) Action required:
- a. Verify Form 8609 (issued by the state or local agency) was filed showing the allocation of credit amount for each building claimed on Form 8586 and Form 8609-A.
  - b. Math verify Form 8586.



- c. Input TC 291 to increase the credit or TC 290 to reduce the credit.

21.7.4.4.8.3.7  
(10-01-2024)  
**Form 8830, Enhanced  
Oil Recovery Credit**

- (1) The Enhanced Oil Recovery Credit is for certain costs paid or incurred which result in increased oil production. Form 8830, **Enhanced Oil Recovery Credit**, is used to claim the credit. Partnerships and S corporations must file this form to claim the credit.
- (2) The credit is generally 15 percent credit of qualified costs for the tax year, but the credit is phased out as crude oil prices increase, using a ratio set out in IRC 43(b).
  - a. The credit was completely phased out in TY 2006-2015 due to the continued high price of crude oil. As a result, a Form 8830 was also not issued for TY 2006-2015.
  - b. The credit was again phased out for tax years 2019 and 2020. Notice 2020-31 announced the inflation adjustment factor and phaseout amount for the enhanced oil recovery credit for taxable years beginning in the 2019 calendar year.
- (3) The enhanced oil recovery credit is available for tax years beginning in 2021. Notice 2021-47, 2021-32 I.R.B. 269, announced the inflation adjustment factor and phase-out amount for tax years beginning in 2021. See Section 43, Inflation Adjustment for more information. Notice 2022-19 provides the inflation adjustment factor and phase-out amount for tax years beginning in 2022. Notice 2023-57 provides the inflation adjustment factor and phase-out for tax years beginning in 2023.
- (4) See the Form 8830 general instructions for more information on claiming the credit.

21.7.4.4.8.3.8  
(10-01-2024)  
**Form 8826, Disabled  
Access Credit**

- (1) Form 8826, *Disabled Access Credit*, is used by eligible small businesses to claim the 50 percent credit for eligible access expenditures to comply with the requirements under the Americans with Disabilities Act of 1990 (Public Law 101-336). The credit is part of the general business credit. The disabled access credit is limited to \$5,000 per taxable year. For purposes of the credit, an eligible small business is any business or person that:
  - Had gross receipts for the preceding tax year that did not exceed \$1 million **or** had no more than 30 full-time employees during the preceding year, **and**
  - Elects (by filing Form 8826) to claim the disabled access credit for the tax year.
- (2) This credit cannot be claimed as a deduction in figuring taxable income, capitalized, or used in figuring any other credit to the extent of the credit being claimed on Form 8826. For the treatment of any unused credit, see IRM 21.7.4.4.8.1.4, *Carryback/Carryforward of Excess Credits*.
- (3) See the General Instructions for Form 8826 for eligible access expenditures and for expenditures not included.
- (4) Action required:
  - a. Math verify Form 8826
  - b. Input TC 291 to increase the credit and TC 290 to reduce the credit

## 21.7.4.4.8.3.9

(10-01-2024)

**Form 8835, Renewable Electricity Production Credit**

- (1) Section 1914(a), Title XIX, of the Energy Policy Act of 1992, P.L. 102-486, revised IRC 38 and added new IRC 45 (electricity produced from certain renewable, etc., also known as the Production Tax Credit (PTC)), to allow an income tax credit for electricity produced by the taxpayer from qualified energy resources, at a qualified facility in the United States (within the meaning of section 638(1)), or a possession of the United States (within the meaning of section 638(2)), and sold by the taxpayer to an unrelated person during the taxable year.
- (2) Form 8835 is filed to claim the renewable electricity production credit. The credit is allowed only for the sale of electricity produced in the United States or U.S. possessions from qualified energy resources at a qualified facility.
- (3) The credit period for refined coal produced at a refined coal production facility and Indian coal produced at an Indian coal production facility expired after 2021. Accordingly, the title of Form 8835 has been changed to "Renewable Electricity Production Credit".
- (4) Partnerships, and S corporations must file a separate Form 8835 for each owned qualified facility to claim the credit. All others are generally not required to complete or file this form if their only source for this credit is from a partnership, S corporation, estate, or trust. Instead, they can report their share of the credit directly on Form 3800, General Business Credit.
- (5) For tax years beginning after 2022, under IRC 6418, S Corporations or Partnerships may transfer all or part of the credit amount otherwise allowed as a general business credit to an unrelated third-party buyer in exchange for cash. In addition to completing Form 8835 for each qualified facility, the credit transfer amount for each facility must also be reported on the applicable line of Form 3800, Part III. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers, for additional information on facility registration requirements for making an elective payment transfer.
- (6) The credit is modified by various legislation. Legislation impacting the credit is listed below. Also, see Form 8835 and the *Instructions for Form 8835* for specific information regarding the credit:
  - Section 406(a) and section 407(a), Title IV, of the American Taxpayer Relief Act of 2012, 126 Stat. 2340, 126 Stat. 2313.
  - Section 154(a) and section 155(a), Div. A, Title I, of the Tax Increase Prevention Act of 2014, 128 Stat. 4021, 4032, 128 Stat. 4010.
  - Section 301, Div. P, Title III, of the Consolidated Appropriations Act, 2016, P.L. 114-113, 129 Stat. 3038 (CAA 2016), extended the beginning of construction date for wind facilities by five years and by adding a phase out of the PTC for wind facilities.
  - Section 186(a)-(d), Div. Q, Title I, of the PATH Act also extends the period in which a taxpayer producing coal at an Indian coal facility and selling it to an unrelated third-party may claim the PTC from the 9-year period to an 11-year period beginning on 01/01/2006.
  - Section 187(a), Div. Q, Title I, of the PATH Act extended the date before which a taxpayer must begin construction on closed-loop biomass, open-loop biomass, geothermal energy, landfill gas, trash, qualified hydropower, and marine and hydrokinetic renewable energy facilities from 01/01/2015 to 01/01/2017.

- Section 187(b), Div. Q, Title I, of the PATH Act amended IRC 48(a)(5)(C)(ii) to allow a taxpayer to elect to claim the ITC instead of the PTC for wind, closed-loop biomass, open-loop biomass, geothermal or solar, landfill gas, trash, qualified hydropower, marine and hydrokinetic facilities that following facilities that begin construction before 01/01/2017 and placed in-service after 2008.
- Section 40408 of the Bipartisan Budget Act of 2018 extended the credit for Indian Coal facilities to a 12-year period for coal produced after December 31, 2016.
- Section 145 of P.L. 116-260, Consolidated Appropriations Act, 2021 extended the credit for Indian Coal facilities under IRC 45(e)(10)(A), to a 16-year period for coal produced after December 31, 2020.
- Section 128 of P.L. 116-94, Further Consolidated Appropriations Act, 2020, extended the credit for Indian coal facilities under IRC 45(e)(10)(A) to a 15-year period for Indian coal produced after December 31, 2017.
- Section 131 of P.L. 116-260, Consolidated Appropriations Act, 2021 extended the date before which a taxpayer must begin construction on wind, closed-loop biomass, open-loop biomass, geothermal energy, landfill gas, trash, qualified hydropower, and marine and hydrokinetic renewable energy facilities from January 1, 2021, to January 1, 2022.
- IRC 45 was amended by section 13101 of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA) of 2022. The IRA changed the manner in which the section 45 credit amounts are calculated for any qualified facility placed in service after December 31, 2021. The IRA also removed the one-half reduction of the credit amount under IRC 45(b)(4)(A) for qualified hydropower facilities and marine and hydrokinetic renewable energy facilities placed in service after December 31, 2022. In the case of any qualified facility placed in service before January 1, 2022, the IRC 45 credit amounts are determined under the calculation rules provided by the prior version of IRC 45.
- As amended by the IRA, IRC 45(b)(6)(A) provides that, in the case of any qualified facility that satisfies the requirements of IRC 45(b)(6)(B), the credit amount determined under IRC 45(a) (determined after the application of IRC 45(b)(1) through (5) and without regard to IRC 45(b)(6)) is equal to such amount multiplied by 5. A qualified facility satisfies the requirements of IRC 45(b)(6)(B) if it is placed in service after December 31, 2021, and it is one of the following: (i) a facility with a maximum net output of less than 1 megawatt (as measured in alternating current); (ii) a facility the construction of which began prior to January 29, 2023, which is the date that is 60 days after the publication of the guidance with respect to the requirements of IRC 45(b)(7)(A) (prevailing wage requirements) and IRC 45(b)(8) (apprenticeship requirements); or (iii) a facility that satisfies the requirements of IRC 45(b)(7)(A) and (8). The IRA also added bonus credit amounts with respect to qualified facilities placed in service after December 31, 2022, that meet domestic content requirements under IRC 45(b)(9) or energy community requirements under IRC 45(b)(11).
- The IRA amended the phaseout of the IRC 45 credit for wind facilities under IRC 45(b)(5) such that it does not apply to facilities placed in service after December 31, 2021. The IRA also added a new phaseout of the IRC 45 credit under IRC 45(b)(10) in the case of qualified facilities placed in service after December 31, 2022, for taxpayers making an

- elective payment election under IRC 6417. The IRA also amended the credit amount reduction under IRC 45(b)(3) in the case of qualified facilities the construction of which began after August 16, 2022.
- The IRA amended IRC 45(d)(4) to restore the IRC 45 credit for electricity produced in solar energy facilities in the case of qualified facilities placed in service after December 31, 2021, and the construction of which begins before January 1, 2025. Effective for facilities placed in service after December 31, 2022, the IRA amended the definition of marine and hydrokinetic renewable energy under IRC 45(c)(10) and the definition of a marine and hydrokinetic renewable energy facility under IRC 45(d)(11). The IRA extended certain deadlines in the definitions under IRC 45(d) for wind facilities, closed-loop biomass facilities, open-loop biomass facilities, geothermal facilities, landfill gas facilities, trash facilities, qualified hydropower facilities, and marine and hydrokinetic renewable energy facilities.
- (7) Generally, the credit is 1.5 cents (for a facility placed in service before 01/01/2022) or 0.3 cents (for a facility placed in service after 12/31/2021) per kilowatt-hour (kWh) defined in the table below, based on the year for the sale of electricity produced by the taxpayer from qualified energy resources at a qualified facility during the credit period. The credit may be reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits. The credit is adjusted annually based on inflation. The credit for electricity produced at qualified facilities using wind, closed-loop biomass, geothermal, and solar is listed in the second column (2015 was the last year of credit eligibility for solar energy facilities, until it was restored by the IRA). The credit for electricity produced at qualified facilities using: open-loop biomass, small irrigation power (expired as of 10/2/2018), landfill gas, trash, qualified hydropower, and marine and hydrokinetic renewables is reduced by one-half in any calendar year after 2003 (and pre-IRA) and listed in the third column. As amended by the IRA, the one-half reduction under IRC 45(b)(4)(A) no longer applies to qualified hydropower facilities and marine and hydrokinetic renewable energy facilities placed in service after December 31, 2022.

<b>Tax year</b>	<b>Amount per kWh for electricity produced at qualified facilities using: wind, closed-loop biomass, geothermal, and solar</b>	<b>Amount per kWh for electricity produced at qualified facilities using: open-loop biomass, small irrigation power, landfill gas, trash, hydropower, marine and hydrokinetic renewables (see note below)</b>
2015 and 2016	.023	.012
2017	.024	.012
2018	.024	.012
2019	.025	.012
2020	.025	.013

Tax year	Amount per kWh for electricity produced at qualified facilities using: wind, closed-loop biomass, geothermal, and solar	Amount per kWh for electricity produced at qualified facilities using: open-loop biomass, small irrigation power, landfill gas, trash, hydropower, marine and hydrokinetic renewables (see note below)
2021	.025	.013
2022	.026	.013
2023 (facility placed in service before 01/01/2022)	.028	.014
2023 (facility placed in service after 12/31/2021)	.0055	.003
2024 (facility placed in service after 12/31/21, and before 1/1/23)	.006	.003

**Note:** Credit is available for electricity produced and sold by facilities using marine and hydrokinetic energy after 10/3/2008, in taxable years ending after 10/3/2008.

- (8) In addition, the amount of the credit is phased out as the market price of electricity (or refined coal in the case of the refined coal production credit) exceeds certain threshold levels. The PTC was not phased out for calendar years 2005 - 2023. See Form 8835 and the *Instructions for Form 8835*, for how to figure the credit.
- (9) Annually the IRS publishes the inflation adjustment factor and reference prices for each calendar year for the PTC and the refined coal production credit under IRC 45 of the Internal Revenue Code. Use the inflation adjustment factor and reference prices in determining the availability of the credits. The inflation adjustment factor and reference prices apply to sales of kilowatt hours of electricity produced from qualified energy resources in that calendar year and refined coal produced in the United States or a possession thereof:

Tax Year	Notice Number
2013	<i>Notice 2013-33, 2013-22 I.R.B. 1140</i>
2014	<i>Notice 2014-36, 2014-22 I.R.B. 1058</i>
2015	<i>Notice 2015-32, 2015-20 I.R.B. 967 and Notice 2016-11, 2016-6 I.R.B. 312</i>

<b>Tax Year</b>	<b>Notice Number</b>
2016	<i>Notice 2016-34</i> 2016-22 I.R.B. 1016
2017	<i>Notice 2017-33</i> , 2017-22 I.R.B. 1256
2018	<i>Notice 2018-36</i> , 2018-20 I.R.B. 582 and <i>Notice 2018-50</i> , 2018-22 I.R.B. 626
2019	<i>Notice 2019-41</i> , 2019-28 I.R.B. 256
2020	<i>Notice 2020-38</i> , 2020-23 I.R.B. 903
2021	<i>Notice 2021-32</i> , 2021-21 I.R.B. 1159
2022	<i>Notice 2022-20</i> , 2022-21 I.R.B. 1095, and Announcement 2022-23, 2022-48 I.R.B. 499
2023	<i>Notice 2023-51</i> I.R.B. 2023-30

- (10) Generally, IRC 45(e)(8)(A) provides that the credit is \$4.375 per ton for the sale of refined coal produced, and IRC 45(e)(10)(B)(i) provides that the credit is \$1.50 per ton for the sale of Indian coal produced in calendar years 2006 through 2009 and \$2.00 per ton for calendar years beginning after 2009. See the table below for the credit amount per ton for the sale of refined coal and Indian coal:

<b>Tax Year</b>	<b>Credit amount per ton for refined coal produced and sold</b>	<b>Credit amount per ton for Indian coal produced and sold</b>
2013	\$6.59	\$2.308
2014	\$6.601	\$2.317
2015	\$6.710	\$2.354
2016	\$6.810	\$2.387
2017	\$6.909	\$2.423
2018	\$7.032	\$2.466
2019	\$7.173	\$2.525
2020	\$7.301	\$2.570
2021	\$7.384	\$2.600

- (11) The PTC for electricity produced at qualified facilities placed in service before 10/23/2004 has expired. See previous revisions of Form 8835 and associated instructions for more information.
- (12) The PTC for electricity and refined coal produced at qualified facilities placed in-service after 10/22/2004 (after 10/02/2008, for electricity produced from marine and hydrokinetic renewables), and Indian coal produced at facilities placed in-service after 08/08/2005, is taken on Form 8835.



Credit	Description
Refined coal sold during calendar years 2007-2021:	<ul style="list-style-type: none"> <li>• A refined coal production facility originally placed in-service after 10/22/2004 and before 01/01/2012. See <i>Notice 2010-54</i>, 2010-40 I.R.B. 403, for more information on refined coal facilities.</li> <li>• A refined coal facility producing steel industry fuel (or any modification to a facility) which is placed in-service before 01/01/2010.</li> <li>• The refined coal credit is allowed for qualified refined coal produced and sold to an unrelated person by the taxpayer without regard to whether the taxpayer owns the refined coal production facility in which the refined coal is produced. Accordingly, a taxpayer that leases or operates a facility owned by another person may claim the credit for refined coal that the taxpayer produces in the facility.</li> </ul>
Electricity sold in calendar years 2007 - 2023, that was produced from:	<ul style="list-style-type: none"> <li>• Closed-loop biomass</li> <li>• Geothermal energy</li> <li>• Solar Energy (expired as of 01/01/2016, restored by IRA)</li> <li>• Small irrigation power (expired as of 10/02/2018) and municipal solid waste (including landfill gas, trash facilities).</li> </ul>

Credit	Description
<p>The PTC facility is eligible for the credit if the type of facility is placed in-service and began construction by the specified date for:</p>	<ul style="list-style-type: none"> <li>• Closed-loop biomass facility owned by the taxpayer, originally placed in-service after 12/31/1992 and the construction of which begins before 01/01/2025.</li> <li>• Closed-loop biomass facility owned by the taxpayer originally placed in service before 01/01/2025, and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both but only if the modification satisfies certain requirements, including the construction of such modification beginning before 01/01/2025.</li> <li>• Closed-loop biomass facility that is a new unit placed in-service after 10/03/2008, in connection with a facility described in IRC Sec. 45(d)(2)(A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of the new unit. See IRC Sec. 45(d)(2)(B).</li> <li>• Geothermal energy facility originally placed in-service after 10/22/2004, and the construction begins before 01/01/2025. The facility does not include any property described in IRC 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under IRC 48.</li> <li>• Landfill gas or trash facility using municipal solid waste originally placed in-service after 10/22/2004 and the construction of which begins before 01/01/2025.</li> <li>• Trash facilities include a new unit placed in service in connection with a facility placed in-service on or before 10/22/2004 , but only to the extent of the increased amount of electricity produced at the facility by reason of the new unit. See IRC Sec. 45(d)(7).</li> </ul> <p><b>Note:</b> A qualified facility does not include a refined coal production facility if the production from that facility is allowed as a credit under IRC 45K.</p>

Credit	Description
Electricity sold in calendar years 2005 - 2023, that was produced from open-loop biomass:	<ul style="list-style-type: none"> <li>• Open-loop biomass facility using agricultural livestock waste originally placed in-service after 10/22/2004 and the construction of which begins before 01/01/2025 with a nameplate capacity rating that is not less than 150 kilowatts.</li> <li>• Open-loop biomass facility using any other biomass the construction begins before 01/01/2025.</li> <li>• Open-loop biomass facility that is a new unit placed in-service after 10/03/2008, in connection with a facility described in IRC 45(d)(3)(A), but only to the extent of the increased amount of electricity produced at the facility by reason of the new unit. See IRC 45(d)(3)(B).</li> </ul>
Electricity sold in calendar years 2006 - 2023, that was produced from qualified hydropower:	<ul style="list-style-type: none"> <li>• Hydropower facility producing incremental hydropower production attributable to efficiency improvements or additions to capacity described in IRC 45(c)(8)(B) placed in service after 08/08/2005 and before 01/01/2025, and any other facility producing qualified hydroelectric production described in IRC 45(c)(8) placed in-service after 08/08/2005, and the construction begins before 01/01/2025. An efficiency improvement or addition to capacity shall be treated as placed in-service before 01/01/2025, if the construction of the improvement or addition begins before 01/01/2025.</li> </ul>
Electricity sold in calendar years 2009 - 2023, that was produced from marine and hydrokinetic energy:	<ul style="list-style-type: none"> <li>• Marine and hydrokinetic renewable energy facility originally placed in-service on or after 10/03/2008 the construction of which begins before 01/01/2025.</li> </ul>

Credit	Description
Electricity sold that was produced from wind:	<p>Wind facility originally placed in-service after 12/31/1993 and the construction begins before 01/01/2025. This does not include any facility for which any qualified small wind energy property expenditure (as defined in IRC 25D(d)(4)) is used in determining the residential energy efficient property credit. However, IRC 45(b)(5) provides that in the case of any facility placed in service before 01/01/2022 using wind to produce electricity, the amount of the credit is reduced as follows if the construction began:</p> <ul style="list-style-type: none"> <li>• after 12/31/2016 and before 1/01/2018 - 20 percent</li> <li>• After 12/31/2017 and before 1/01/2019 - 40 percent</li> <li>• After 12/31/2018 and before 1/01/2020 - 60 percent</li> <li>• After 12/31/2019 and before 1/01/2022 - 40 percent</li> </ul>

- (13) *Notice 2013-29*, 2013-20 I.R.B. 1085, provides guidance on determining when construction has begun on a qualified facility for purposes of the PTC. Notice 2013-29 provides two methods that a taxpayer may use to establish that construction of a qualified facility has begun:
- By starting physical work of a significant nature (Physical Work Test), or
  - By demonstrating, after the facility is placed in-service, that 5-percent or more of the total cost of the facility was paid or incurred before 01/01/2014 (5-percent Safe Harbor). Both of these methods require that a taxpayer maintain a continuous program of construction to be determined by the relevant facts and circumstances (Continuous Construction Test and Continuous Efforts Test, respectively, and the Continuity Requirement, collectively).
- (14) The following bullets summarize the IRS guidance regarding the PTC under IRC 45 and the Investment Tax Credit (ITC) under IRC 48:
- *Notice 2013-60*, 2013-44 I.R.B. 431, clarifies in part Notice 2013-29, 2013-20 I.R.B. 1085, by providing a Continuity Safe Harbor based on the date that a facility is placed in-service.
  - *Notice 2014-46*, 2014-36 I.R.B. 520, clarifies and modifies Notice 2013-29 and Notice 2013-60, by providing rules for how to satisfy the physical work test and the addressing the effect of various types of transfers with respect to a facility after construction began.
  - *Notice 2015-25*, 2015-13 I.R.B. 814, updates Notice 2013-29, Notice 2013-60, and Notice 2014-46, by extending the date for the deemed satisfaction of the Continuity Safe Harbor.
  - *Notice 2016-31*, 2016-23 I.R.B. 1025, was previously released by the IRS on May 5, 2016. This second release reflects three revisions made

to the Notice: (1) to modify the deadline for the Continuity Safe Harbor in section 3, (2) to correct a math error in the example in section 6.02(1), and (3) to insert language regarding the effective date of the publication in section 7.

- *Notice 2017-4*, 2017-4 I.R.B. 541, provides clarification regarding the extension and modification of the Continuity Safe Harbor, the prohibition against combining methods by which to satisfy the beginning of construction requirement, and the costs that may be included in the Five Percent Safe Harbor for retrofitted renewable energy facilities.
- *Notice 2019-43*, 2019-31 I.R.B. 487, provides that the Continuity Safe Harbor may be tolled and extended in certain limited circumstances involving significant national security concerns.
- *Notice 2020-41*, 2021-29 I.R.B. 17, provides that the Continuity Safe Harbor provided and extended by the prior IRS notices is further extended for projects that began construction in either calendar year 2016 or 2017. This notice also provides a 3½ Month Safe Harbor for services or property paid for by the taxpayer on or after September 16, 2019 and received by October 15, 2020.
- *Notice 2021-5*, 2021-3 I.R.B. 479, provides that if a qualified facility or an energy property construction project is an Offshore or Federal Land Project, the Continuity Safe Harbor is satisfied if a taxpayer places the qualified facility or energy property that is the subject of the project into service by the end of a calendar year that is no more than 10 calendar years after the calendar year during which construction of the project began.
- *Notice 2021-41*, 2021-29 (I.R.B. (pending publication in IRB), provides that the Continuity Safe Harbor is further extended for property the construction of which began in 2016 through 2020. This notice also provides a clarification of the methods that taxpayers may use to satisfy the Continuity Requirement to satisfy the beginning of construction requirements under IRC 45 and IRC 48.

- (15) For TY 2006 and subsequent tax years the PTC can only be claimed as a general business credit and is carried to Form 3800, *General Business Credit*. The allowable credit is figured on Form 3800.
- (16) Under IRC 6417(b) , any unused portion of the renewable electricity production credit (under IRC 45(a)) remaining after the tax is reduced to zero can be carried back three years to reduce taxes for prior years and then carried forward 20 years. See IRM 21.7.4.4.8.1.4, *Carryback/Carryforward of Excess Credit*, for tax years beginning prior to 1998.
- (17) Action required:
- a. Math verify Form 8835
  - b. Input TC 291 to increase the credit or TC 290 to reduce the credit

21.7.4.4.8.3.10  
(10-01-2024)  
**Form 8907,**  
**Nonconventional Source**  
**Fuel Credit**

- (1) Section 1321 and section 1322, Title XIII, of the Energy Policy Act of 2005, P.L. 109-58, changed the credit for producing fuel from a non-conventional source by re-designating section 29 to section 45K and by making section 45K a component of the general business credit under section 38.
- (2) The credit is for the domestic production (within the United States) and sale of fuel produced from nonconventional sources which include:

- Gas produced from biomass
  - Liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), **and**
  - Coke or coke gas (if sold on the later of January 1, 2006, or the date such facility is placed in-service, and ending on the date which is 4 years after the date such period began)
- (3) Section 211 of the Tax Relief and Health Care Act of 2006, P.L. 109-432, made changes to the credit relating to coke and coke gas. Coke and coke gas that is produced in a facility that produces coke or coke gas from petroleum-based products **does not qualify** for the credit. This change is effective back to the date of enactment.
- (4) Gas produced from biomass, and liquid, gaseous, or solid fuels produced from coal (including lignite), qualify for the credit if:
- It is produced by the taxpayer in a facility located in the United States or a U.S. possession that was placed in-service after December 31, 1992, and before July 1, 1998, pursuant to a binding contract in effect before January 1, 1997, **and**
  - The fuel was sold before January 1, 2008.
- (5) Coke and coke gas qualify for the credit if:
- It is not produced in a facility that produces coke or coke gas from petroleum-based products.
  - It is produced by the taxpayer in a facility located in the United States or a U.S. possession that was placed in-service before January 1, 1993, or after June 30, 1998, and before January 1, 2010, **and**
  - The fuel is sold during the period beginning on the later of January 1, 2006, or the date the facility is placed in-service and ending 4 years after the date the period began.
- (6) The section 45K credit is not available for fuel sold after 12/31/2013. Form 8907, *Nonconventional Source Fuel Credit* is used to claim the credit. Any unused credit can be carried back one year and forward 20 years. However, the credit, cannot be carried back to a taxable year ending before January 1, 2006.
- (7) For TY 2006 through 2013, the credit can only be claimed as a general business credit and must be carried to Form 3800, *General Business Credit*. The allowable credit is then figured on Form 3800.
- (8) The income tax credit is equal to the product of \$3 multiplied by the barrel-of-oil equivalent of qualified fuels. However, this amount must be adjusted by multiplying it by the inflation adjustment factor for the type of qualified fuel and the calendar year in which the sale occurs. See the General Instructions for Form 8907 on figuring the credit.
- (9) See the chart below for the notice number that contains the nonconventional source fuel credit amount, inflation adjustment factor, and reference price under 45K of the IRC. Starting in calendar year 2008, the credit is only available for fuel produced from coke or coke gas (other than from petroleum-based products). Also, see the General Instructions for Form 8907 for more information on figuring the credit. The section 45K credit is not available for fuel sold after 12/31/2013 but the IRS continues to publish an annual section



45K reference price notice for using in computing credits under section 43, section 45I, and under section 613A the percentage depletion allowance for oil and gas produced from marginal wells.

<b>For calendar year</b>	<b>See</b>
2015 (Reference price only)	<i>Notice 2015-45, 2015-26</i> I.R.B. 1140
2016 (Reference price only)	<i>Notice 2016-43, 2016-29</i> I.R.B. 132
2017 (Reference price only)	<i>Notice 2017-24, 2017-17</i> I.R.B. 1127
2018 (Reference price only)	<i>Notice 2019-28, 2019-18</i> I.R.B. 1077
2019 (Reference price only)	<i>Notice 2020-28, 2020-19</i> I.R.B. 781
2020 (Reference price only)	<i>Notice 2021-29, 2021-19</i> I.R.B. 1149
2021 (Reference price only)	<i>Notice 2022-17, 2022-18</i> I.R.B. 1048
2022 (Reference price only)	<i>Notice 2023-49, 2023-26</i> I.R.B. 1087
2023 (Reference Price only)	<i>Notice 2024-51, 2024-26</i> I.R.B. 1790

- (10) The nonconventional source fuel credit for coke and coke gas expired on December 31, 2013. To claim a credit for fuel sold in 2013, the facility producing the fuel must have been placed in-service during 2009 so that some fuel sold in 2013 was sold during the 4 year period that began when the facility was placed in-service. The credit is not available for fuel produced in a facility placed in-service after 2009.
- (11) Action required:
- Input TC 291 to increase the credit or TC 290 to reduce the credit.
  - Input IRN 883 to record the credit. Use a positive amount to increase the credit or a negative amount to decrease the credit.

21.7.4.4.8.3.11  
(10-01-2021)  
**Credit for Prior Year  
Minimum Tax, Form  
8801 (Estates and  
Trusts) and Form 8827  
(Corporations)**

- (1) These forms are used to compute the minimum tax credit for any alternative minimum tax incurred in prior years and to compute any minimum tax credit carryforward for use in future years.
- (2) For tax years 1987 – 1989, all taxpayers, including corporate taxpayers, generated a minimum tax credit only for the portion of their prior year alternative minimum tax (AMT) liability attributable to AMT deferral items. For 1990 and subsequent years, corporate taxpayers generate a minimum tax credit for all of their AMT liability, while the minimum tax credit for all other taxpayers continues to be limited to the portion of the AMT liability attributable to deferral items.

**Note:** S corporations are not subject to AMT, so they generate no Minimum Tax Credit (MTC) themselves. An S corporation may apply MTC obtained from a C corporation (by QSub election) against any built-in gains tax but may not receive a refund of MTC.

- (3) For its first tax year ending after March 31, 2008, a corporation can elect to claim a refundable credit for certain unused minimum tax credits in lieu of the special depreciation allowance for eligible qualified property. For its first tax year ending after December 31, 2008, a corporation can choose to have this election apply to extension property (See IRM 21.7.4.4.17.10, *The Housing and Economic Recovery Act of 2008 P.L. 110-289, Election to Accelerate Research Credit and Alternative Minimum Tax in Lieu of Bonus Depreciation*, for more information), can choose not to have this election apply to extension property, or can choose to make this election only for extension property if the election was not made in its first tax year ending after March 31, 2008. See IRM 21.7.4.4.9.3, *Prior Sequestration of Form 8827 Credit*, for cases involving Form 8827 for tax years ending in 2009 and subsequent. See IRM 21.7.4.4.9.4, *Coronavirus Aid, Relief and Economic Security Act of 2020 (CARES Act) (PL 116-136, Section 2305)*, for changes to the refundable prior year minimum tax credit for tax years 2018 and 2019.
- (4) Action required for working Form 8801 cases:
  - a. Math verify Form 8801
  - b. Input TC 291 to increase the credit or TC 290 to reduce the credit
- (5) See IRM 21.7.4.4.9.3.3 for actions required to process Form 8827.

21.7.4.4.8.3.12  
(10-01-2022)  
**Form 8845, Indian  
Employment Credit, and  
Accelerated  
Depreciation for  
Business Property on an  
Indian Reservation**

- (1) Only certain organizations must claim the Indian Employment Credit (IEC) on Form 8845, *Indian Employment Credit, and Accelerated Depreciation for Business Property on an Indian Reservation*, (i.e., partnerships, S corporations, cooperatives, estates, and trusts). Other taxpayers are not required to complete or file Form 8845 to claim the IEC if their only source for this credit is a partnership, S corporation, cooperative, estate, or trust. See the *Instructions for Form 8845* on irs.gov.
  - The employee is an enrolled member, or the spouse of an enrolled member, of an Indian tribe. Each tribe determines who qualifies for enrollment and what documentation, if any, is issued as proof of enrollment status. Examples of necessary documentation will vary from one tribe to another and may include a tribal membership card, Certified De-

gree of Indian Blood (CDIB) card, or letter from the tribe or tribal enrollment office. Employers should retain a copy of the proof of enrollment status provided by the employee.

- Substantially all the services performed by the employee, for the employer, are performed within an Indian reservation (defined below).
- The employee's principal residence while performing such services is on or near the reservation where the services are performed.

**Note:** However, the employee is treated as a qualified employee for any tax year only if more than 50 percent of the wages paid or incurred by the employer, to the employee during the tax year are for services performed in the employer's trade or business. Each member of a controlled group must meet this requirement independently. Also, see the instructions for lines 1 and 2 of Form 8845.

- (2) In most cases, the credit is 20 percent of the excess of an employer's current year qualified wages and employee health insurance costs over the sum of the corresponding amounts paid or incurred during calendar year 1993 by the employer (or predecessor).
- (3) In general, Indian reservation is defined in section 45A(c)(7).
- (4) The Indian employment credit has been modified by various legislation. See the 08/22/2016 revision of this IRM for a complete list of legislation that extended the credit before 2014. Below is a listing of recent legislation that has extended the Indian employment credit:
  - Section 114 and section 124, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the Indian employment tax credit under 45A for one year for the taxable years beginning after December 31, 2013, and on or before December 31, 2014.
  - Section 161 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the Indian employment tax credit under 45A for two years for taxable years beginning after December 31, 2014, and on or before December 31, 2016.
  - Section 111 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, P.L. 116-94, extended the Indian employment credit under section 45A for taxable years beginning after December 31, 2017, through December 31, 2020.
  - Section 135 of the Consolidated Appropriations Act of 2021, P.L. 116-260, extended the Indian employment credit under section 45A for taxable years beginning after December 31, 2020 through December 31, 2021.
- (5) See the General Instructions for Form 8845 for specific information on claiming the Indian employment credit.
- (6) Any unused portion of this credit remaining, after the tax is reduced to zero, can be carried back one year to reduce taxes for that year and carried forward 20 years. See IRM 21.7.4.4.8.1.4, *Carryback/Carryforward of Excess Credits*, for tax years beginning prior to 1998.
- (7) Action required:

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- b. Input TC 291 to increase the credit or TC 290 to reduce the credit.

21.7.4.4.8.3.13  
(10-01-2024)

**Form 8846, Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips**

- (1) Certain food and beverage establishments use Form 8846, *Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips*, to calculate and claim a credit under IRC 45B for social security and Medicare taxes paid or incurred by the employer on certain employees' tips. For more information on the employees involved, see the General Instructions for Form 8846. The credit is part of the general business credit and is reported on Form 3800, General Business Credit. Partnerships and S corporations must file the Form 8846 to claim the credit. All other taxpayers are not required to complete or file the Form 8846 if their only source for the credit is a partnership or S corporation. Instead, they can report the credit directly on line 4f, in Part III of Form 3800, *General Business Credit*.
- (2) For the treatment of any unused credit, see IRM 21.7.4.4.8.1.4, **Carryback/Carryforward of Excess Credits**.
- (3) Generally, the credit equals the amount of employer social security and Medicare taxes paid or incurred by the employer on tips received by the employee. However, employers cannot claim the credit for taxes on any tips that are used to meet the federal minimum wage in effect on January 1, 2007, \$5.15 an hour. The amount of tips for any month used to figure the credit must be reduced by the amount by which the wages that would have been payable during that month at \$5.15 an hour exceed the wages (excluding tips) paid by the employer during that month.
- (4) For more information regarding section 45B and the alternative minimum tax, see IRM 4.23.7.9, *IRC 45B Credit*.
- (5) Action required:
  - a. Math verify Form 8846
  - b. Input TC 291 to increase the credit or TC 290 to reduce the credit

21.7.4.4.8.3.14  
(10-01-2024)

**Form 8847, Credit for Contributions to Selected Community Development Corporations**

- (1) Taxpayers use Form 8847, *Credit for Contributions to Selected Community Development Corporations*, to claim the credit for qualified contributions made to selected community development corporations (CDCs). The credit is figured over a 10-year period beginning with the tax year a CDC contribution is made.
- (2) When a contribution is made, the community development corporation furnishes a Schedule A of Form 8847, with Part I completed. The contributor must complete Part II of Schedule A and attach it to Form 8847 each year the credit is claimed. If Schedule A is not completed or attached to Form 8847, contact the taxpayer to obtain a completed Schedule A. (Accept faxed copies)
- (3) For TY 2006 and subsequent the credit can only be claimed as a general business credit and is figured on Form 3800, *General Business Credit*.
- (4) For TY 2005 and prior, Form 8847, *Credit for Contributions to Selected Community Development Corporations* was submitted. The credit may need to be carried to Form 3800, *General Business Credit*, if claiming two or more credits.
- (5) For the treatment of any unused credit, see IRM 21.7.4.4.8.1.4, **Carryback/Carryforward of Excess Credits**.

## (6) Action required:

- a. Math verify Form 8847
- b. Input TC 291 to increase the credit or TC 290 to reduce the credit

21.7.4.4.8.3.15  
(10-01-2024)

**Form 8820, Orphan Drug Credit**

- (1) Taxpayers use Form 8820, *Orphan Drug Credit* to compute and claim the Orphan Drug Credit or to elect the reduced Orphan Drug Credit under Section 280C. For tax years beginning before January 1, 2018 the credit is 50 percent of qualified clinical testing expenses paid or incurred during the tax year. For taxable years beginning after December 31, 2017, the Orphan Drug Credit is limited to an amount equal to 25 percent.
- (2) For TY 2006 and subsequent, the credit is claimed as a general business credit and must be carried to Form 3800, *General Business Credit*. The allowable credit is then figured on Form 3800. Taxpayers that are not partnerships, S corporations, estates, or trusts, and whose only source of this credit is from those pass-through entities, are not required to complete or file Form 8820. Instead, they report this credit directly on Form 3800.
- (3) For the treatment of any unused credit, see IRM 21.7.4.4.8.1.4, **Carryback/Carryforward of Excess Credits**.
- (4) See IRM 21.5.3-3 Exhibit, for Cat-A criteria involving Form 8820.
- (5) See the General Instructions for Form 8820, for definitions and more specific instructions.
- (6) Action required:
  - a. Math verify Form 8820
  - b. Input TC 291 to increase the credit or TC 290 to reduce the credit

21.7.4.4.8.3.16  
(10-01-2017)

**Form 8861, Welfare-to-Work Credit**

- (1) The Taxpayer Relief Act of 1997 added this credit as part of the General Business Credit. This credit can be claimed for wages paid or incurred to long-term family assistance recipients during the tax year. The credit cannot be claimed for workers starting employment after December 31, 2005.
- (2) The Tax Relief and Health Care Act of 2006, P.L. 109-432, combined the Welfare-to-Work Credit and the Work Opportunity Credit. To calculate a credit for any employee hired after December 31, 2006, use Form 5884, *Work Opportunity Credit*. See IRM 21.7.4.4.8.3.2, *Form 5884, Work Opportunity Credit*, for more information). Form 8861 is obsolete as of 10-27-2009.

**Note:** An employer cannot claim the Work Opportunity Credit with respect to wages of any employee on which the Welfare-to-Work Credit is claimed.

See the October 1, 2016 and prior revisions of this IRM for more information on the Welfare-to-Work Credit.

21.7.4.4.8.3.17  
(10-01-2024)

**Trans-Alaska Pipeline Liability Fund Credit**

- (1) This credit is part of the General Business Credit. It is applicable to an extremely small number of large corporations.

- (2) There is no form for the credit. A statement must be attached to show how the credit was computed under IRC 4612(e).
- (3) For the treatment of any unused credit, see IRM 21.7.4.4.8.1.4, **Carryback/Carryforward of Excess Credits**.
- (4) Action required:
  - a. Do not adjust this credit without contacting the Large Corporation Unit.
  - b. Input TC 291 to increase the credit or TC 290 to reduce the credit.

21.7.4.4.8.3.18  
(10-01-2023)

**Form 8912, Credit to  
Holders of Tax Credit  
Bonds**

- (1) Taxpayers use Form 8912, *Credit to Holders of Tax Credit Bonds*, to claim the Clean renewable energy bond (CREB) credit, Qualified forestry conservation bond (QFCB) credit, New clean renewable energy bond (NCREB) credit, Qualified energy conservation bond (QECB) credit, Qualified zone academy bond (QZAB) credit, Qualified school construction bond (QSCB) credit, and Build America bond (BAB) credit. The holder of the bond is generally allowed an income tax credit with respect to each credit allowance date (i.e., March 15, June 15, September 15, and December 15 of each year that the bond is outstanding, and on the last day on which the bond is outstanding) in lieu of, or in addition to, receiving periodic interest payments on the bonds. Prior to TY 2008, the credit on QZAB was claimed on Form 8860.
- (2) A CREB is any bond issued after 2005 and before 2010 by a qualified issuer (such as a cooperative electric company or governmental body) where 95 percent of the proceeds used for capital expenditures incurred by a qualified borrower for a qualified project.
- (3) A QFCB is any bond issued after May 22, 2008 and before January 1, 2018, by a qualified issuer as a qualified forestry conservation bond. 100 percent of the available project proceeds used for one or more qualified forestry conservation purposes. Section 15316, Qualified Forestry Conservation Bonds, of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, allows the issuance of up to \$500,000,000 of the QFCBs for qualified forestry conservation purposes.
- (4) A NCREB is any bond issued after October 3, 2008 and before January 1, 2018, by a qualified issuer as a new clean renewable energy bond and 100 percent of the available project proceeds used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities. Division B, section 107, New Clean Renewable Energy Bonds, of the Energy Improvement and Extension Act of 2008, P.L. 110-343, provided for a national volume cap of \$800,000,000 for NCREBs to finance qualified renewable energy facilities. Section 1111, Increased Limitation on Issuance of New Clean Renewable Energy Bonds, of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, increased the national limitation for new CREBs by \$1.6 billion to \$2.4 billion.
- (5) A QECB is any bond issued after October 3, 2008 and before January 1, 2018, by a state or local government as a qualified energy conservation bond and 100 percent of the available project proceeds used for one or more qualified energy conservation purposes. Section 301, Qualified Energy Conservation Bonds, of the Energy Improvement and Extension Act, Division C of P.L. 110-343, provided national authority to issue \$800,000,000 of QECBs, Section 1112, Increased Limitations on Issuance of Qualified Energy Conservation



Bonds, of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, increased the national limitation for QECBs by \$2.4 billion to \$3.2 billion.

- (6) A QZAB is any bond issued after December 31, 1997, and before January 1, 2018, by a state or local government as a qualified zone academy bond and 100 percent of the available project proceeds used to improve certain eligible public schools (for QZABs issued before October 4, 2008, 95 percent or more of the proceeds used to improve certain eligible public schools). Below is a list of recent legislation that extended the QZAB credit:
- Division C, Section 313, of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, P.L. 110-343, provided national authority to issue \$400,000,000 of qualified zone academy bonds for 2008.
  - Section 1522, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, extended the authority to issue QZAB and increased the national limitations for QZABs. The provision authorizes the issuance of up to \$1,400,000,000 in QZAB annually for 2009 and 2010. *Notice 2009-30*, 2009-16 I.R.B. 852, sets forth the volume cap for years 2008 and 2009, and *Notice 2010-22*, 2010-10 I.R.B. 435, sets forth the volume cap for the year 2010, for the maximum face amount of QZAB that may be issued for each State, respectively, under IRC 54E.
  - Section 758(a), of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for one year to December 31, 2011. In addition, section 758(a) sets the national limitation at \$400,000,000 for 2011. See *Rev. Proc. 2011-19*, 2011-6 I.R.B. 465, for the maximum face amount of QZAB that may be issued for each State for calendar year 2011 under IRC 54E(c)(2).
  - Section 310(a), of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the authority to issue QZAB for two years for calendar years 2012 and 2013. *Notice 2013-3*, 2013-7 I.R.B. 484, provides for the allocation of the national limitation for qualified zone academy bonds among the States, the District of Columbia, and the possessions of the United States for each of the years 2012 and 2013.
  - Section 120, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the authority to issue QZABs for calendar year 2014. *Notice 2015-11*, 2015-11 I.R.B. 618, provides for the allocation of the national limitation for qualified zone academy bonds among the States, the District of Columbia, and the possessions of the United States for 2014.
  - Section 164 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, authorizes the issuance of \$400 million of qualified zone academy bonds for 2 years for calendar year 2015 and 2016. *Notice 2016-20*, I.R.B. 2016-9, provides for the allocation of the national limitation for qualified zone academy bonds among the States, the District of Columbia, and the possessions of the United States for each of the years 2015 and 2016.
- (7) A QSCB is any bond issued after February 17, 2009 and before January 1, 2018, by a state or local government as a qualified school construction bond where 100 percent of the available project proceeds used for the construction, rehabilitation, or repair of a public school facility, or for the acquisition of land on which the bond-financed facility is to be constructed. Section 1521, Qualified School Construction Bonds, of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009 Act, P.L. 111-5, added QSCB as a new tax credit bond to the IRC and provided a national bond limit for QSCB of

\$11 billion for each of the years 2009 and 2010. See *Notice 2009-35*, 2009-17 I.R.B. 876, and *Notice 2010-17*, 2010-17 I.R.B. 519, for the maximum face amount of QSCBs that may be issued for each State, large school districts, certain possessions, and Indian tribal governments for calendar years 2009 and 2010, respectively, under IRC 54F.

- (8) A BAB is any bond (other than a private activity bond) issued after February 17, 2009 and before January 1, 2011, by an issuer who makes an irrevocable election to have the rules of IRC 54AA apply and except for that election, the interest on the bonds would have been excluded under section 103. Section 1531, Build America Bonds, of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009 Act, P.L. 111-5, added BABs as a tax credit bond to the code.
- (9) Tax Cuts and Jobs Act of 2017(TCJA), Section 13404 repealed all of the tax credit bonds (IRC 54, IRC 54 (A through F), and IRC 54 AA) effective for new bonds issued after December 31, 2017. Credit may only be claimed for bonds issued before January 1, 2018.
- (10) See Form 8912 and its instructions for the definitions of a qualified issuer, qualified borrower, and qualified project and see the specific information on claiming the credits.
- (11) Action required:
  - a. Math verify Form 8912
  - b. Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.19  
(04-28-2017)

**Form 8882, Credit for  
Employer-Provided  
Childcare Facilities and  
Services**

- (1) Section 205(a) of the Economic Growth and Tax Relief Reconciliation Act of 2001, PL 107-16, provided for a credit for employers: Form 8882, *Credit for Employer-Provided Childcare Facilities and Services*, under IRC 45F. Employers use Form 8882 to claim the credit for qualified childcare facilities, and resource and referral expenditures.
- (2) A qualified childcare facility is a facility that meets the requirements of all applicable laws and regulations of the state or local government in which it is located, including the licensing of the facility as a childcare facility. See the General Instructions for the other conditions that must be met, and for the requirements to claim the credit for qualified childcare facility expenditures and for qualified childcare resources and referral expenditures.
- (3) The credit is part of the General Business Credit. It is effective for tax years beginning after December 31, 2001 and before December 31, 2010. Therefore, the first full 12-month period for which the credit is valid is 2002. Employers may claim the credit on their original return or on a timely filed amended return. See the General Instructions for Form 8882 for controlled groups and recapturing of the credit.
- (4) Section 101(a), Temporary Extension of 2001 Tax Relief, of the Tax Relief Unemployment Insurance Reauthorization Act of 2010, P.L. 111-312 extended the credit to tax years beginning on or before December 31, 2012. The credit was made permanent by section 101 of the American Taxpayer Relief Act of 2012, P.L. 112-240.
- (5) The credit is limited to \$150,000 per taxable year. For the taxable year, the credit is equal to the expenses incurred by the employer equal to:

- a. 25 percent of the qualified childcare facility expenditures; **plus**
- b. 10 percent of the qualified childcare resource and referral expenditures paid or incurred during the tax year

(6) Action required:

- a. Math verify Form 8882
- b. Input TC 291 to increase the credit and TC 290 to reduce the credit

21.7.4.4.8.3.20  
(03-11-2024)

**Form 8881, Credit for Small Employer Pension Plan Startup Costs, Auto-Enrollment, and Military Spouse Participation**

- (1) Eligible employers utilize Form 8881, Credit for Small Employer Pension Plan Startup Costs, Auto Enrollment, and Military Spouse Participation, to claim credits for startup costs, auto enrollment, and military spouse participation in pension plans.
- (2) Form 8881, Part I, is used to claim the credit for qualified startup costs incurred in establishing or administering an eligible employer plan (including employer contributions credit). The Part I credit is allowed under IRC 45E. See IRM 21.7.4.4.8.3.20.1, **Form 8881, Credit for Small Employer Pension Plan Startup Costs**, for additional information.
- (3) Form 8881, Part II, is used to claim the **Small Employer Auto-Enrollment Credit** for the first tax year an eligible automatic contribution arrangement is included in an eligible employer plan. The Part II credit is allowed under IRC 45T. See IRM 21.7.4.4.8.3.20.2 **Form 8881, Small Employer Auto-Enrollment Credit**, for additional information.
- (4) Form 8881, Part III, is used to claim the credit for a military spouse's participation (including for employer contributions) in an eligible defined contribution plan. The Part III credit is allowed under IRC 45AA. See IRM 21.7.4.4.8.3.20.3, **Form 8881, Military Spouse Participation Credit**, for additional information.
- (5) Taxpayers, other than partnerships and S corporations, whose only source of these credits is from a partnership or S corporation, are not required to complete or file this form. Instead, they can report these credits directly on Form 3800.

21.7.4.4.8.3.20.1  
(10-01-2024)

**Form 8881, Credit for Small Employer Pension Plan Startup Costs**

- (1) Section 619(a) of the Economic Growth and Tax Relief Reconciliation Act of 2001, PL 107-16, provided a credit for small employers: **Credit for Small Employer Pension Plan Startup Costs**. Employers use Form 8881, Part I, to claim the credit for qualified start-up costs incurred in establishing or administering an eligible employer plan.
- (2) Eligible employers must have had no more than 100 employees who received at least \$5,000 of compensation during the tax year preceding the first credit year.

**Note:** Employers are not eligible if, during the 3 tax years preceding the first credit year, they established or maintained a qualified employer plan in which contributions were made, or benefits were accrued, for substantially the same employees as are in the new eligible employer plan.

- (3) The credit is allowed under IRC 45E(f), Employer Contribution Credit, and is part of the General Business Credit.

- (4) For tax years beginning before January 1, 2020, the credit (equal to 50 percent of the start-up costs paid or incurred during the tax year) is limited to the first three years of the start-up costs of the plan. The credit cannot exceed \$500 for the first credit year and each of the two taxable years immediately following the first credit year. See the instructions for Form 8881 for more specific information.
- (5) For tax years beginning after December 31, 2019, the maximum credit available under IRC 45E, (for up to three years) is the greater of \$500, or the lesser of:
  1. \$250 x the number of non-highly compensated employees eligible to participate in the plan; or
  2. \$5,000
- (6) For tax years beginning after December 31, 2022, there is an increased plan startup costs credit under IRC 45E(e)(4) of 100% of the start-up costs paid or incurred during the tax year for an employer with no more than 50 employees for the year preceding the first credit year, which credit is limited under IRC 45E(b).
- (7) See Form 8881 instructions for additional information.
- (8) Action required:
  - a. Math verify Form 8881
  - b. Input TC 291 to increase the credit or TC 290 to reduce the credit

21.7.4.4.8.3.20.2  
(03-11-2024)

**Form 8881, Small  
Employer**

**Auto-Enrollment Credit**

- (1) To encourage eligible small employers to incorporate auto-enrollment participation into employer-sponsored retirements plans, section 105 of the SECURE Act established IRC 45T, *Auto-Enrollment Option for Retirement Savings Options Provided by Small Employers*. The IRC provides for a general business credit of \$500 for any taxable year occurring during the credit period separate and apart from other credits (such as the credit for retirement plan startup costs under IRC 45E (described in IRM 21.7.4.4.8.3.20.1)). Employers use Form 8881, Part II, to claim the credit.
- (2) In order to qualify for the credit, an eligible small employer must adopt an *Eligible Automatic Contribution Arrangement*, as defined by IRC 414(w)(3). In general, such arrangements require plans to treat participants as though they have elected for the employer to make contributions to the plan at a specified percentage of compensation, until affirmatively notified by the participant to do otherwise. An eligible small employer must have had no more than 100 employees during the preceding tax year who received at least \$5,000 of compensation from the taxpayer during that tax year.
- (3) The credit is available for tax years beginning after December 31, 2019. An eligible employer (defined under IRC 408(p)(2)(C)(i)) can claim the \$500 credit for any such tax year within a 3-year period beginning with the first tax year in which the eligible automatic contribution arrangement is adopted and continuing for the next two tax years (provided that the arrangement continues to be maintained during those years).
- (4) See Form 8881 instructions for additional information.
- (5) Action required:

- a. Math verify Form 8881,
- b. Input TC 291 to increase the credit, or TC 290 to reduce the credit.

21.7.4.4.8.3.20.3  
(10-01-2024)

**Form 8881, Military  
Spouse Participation  
Credit**

- (1) The Secure 2.0 Act added a military spouse retirement plan eligibility credit under IRC 45AA. This credit is available to small employers who maintain defined contribution plans with specific features that benefit military spouses.
- (2) The small employer military spouse participation credit may be claimed by an eligible employer for tax years beginning after December 29, 2022.
- (3) The credit is \$200 for each military spouse who is an employee of the eligible employer and who participates in an eligible defined contribution plan of the employer at any time during the tax year, plus the amount of non-elective and matching contributions to the plan made by the employer on behalf of the military spouse up to \$300.
- (4) For each military spouse, the credit is limited to 3 successive tax years of the eligible employer, beginning with the first tax year during which the military spouse first began participating in the eligible defined contribution plan.
- (5) Eligible employers must have had no more than 100 employees, during the preceding tax year for which the credit is claimed, who received at least \$5,000 of compensation during that tax year.
- (6) An eligible defined contribution plan, is a defined contribution plan (defined under IRC 414(i)), under which military spouses are eligible to participate no later than 2 months after beginning employment. Upon participation, they are immediately eligible to receive the same amount of employer contributions that a similarly situated participant, who is not a military spouse, would be eligible to receive after 2 years of service. In addition, they have an immediate non-forfeitable right to the benefit derived from the employer contributions under the plan.
- (7) See Form 8881 instructions for additional information.
- (8) Action required:
  - a. Math verify Form 8881,
  - b. Input TC 291 to increase the credit, or TC 290 to reduce the credit.

21.7.4.4.8.3.21  
(10-01-2023)

**Form 8874, New Markets  
Tax Credit**

- (1) The Community Renewal Tax Relief Act of 2000 created the New Markets Tax Credit. Taxpayers use Form 8874, *New Markets Credit*, to claim the credit for qualified equity investments made in qualified community development entities (CDE) after December 31, 2000. The credit is part of the General Business Credit, Form 3800. For more information, see IRC 45D.
- (2) The New Markets Tax Credit is modified by various legislation. See previous revisions of IRM 21.7.4 for legislation prior to 2015. Below is a listing of recent legislation that has extended the New Markets Tax Credit:
  - Section 141 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the New Markets Tax Credit for five years and is effective for calendar years 2010 through 2019. In addition, the provision sets the maximum amount of qualified equity investments at \$3.5 billion per calendar year 2010 through 2019.



- Section 141 of P.L. 116-94, Taxpayer Certainty and Disaster Relief Act of 2019, extended the New Markets Tax Credit under IRC Sec 45D for one year until December 31, 2020. The act includes a New Markets Tax Credit limitation of \$5 Billion for 2020. No amount of the New Markets Tax Credit limitation may be carried to a calendar year after 2025.
  - *Notice 2020-49* provides a community development entities (CDEs) and qualified active low-income community businesses (QALICB) with relief for certain specified time-sensitive acts due to be performed between April 1, 2020, and December 31, 2020, in order to meet requirements of IRC 45D and its regulations. A CDE or QALICB may perform these acts by December 31, 2020.
  - Section 112 of P.L. 116-260, Taxpayer Certainty and Disaster Relief Act of 2020, extends the New Markets Tax Credit under IRC 45D(f)(1)(H), for each of the calendar years 2020 through 2025. Additionally, under IRC 45D(f)(3), the New Markets Tax Credit carryover of unused limitation is extended to 2030.
- (3) A qualified equity investment is an interest in a qualified community development entity (CDE) in the form of a stock (other than non-qualified preferred stock) in a corporation or a capital interest in a partnership that meets the following requirements:
- Acquired solely for cash at its original issue (or from a taxpayer for whom the investment is a qualified equity investment)
  - Used substantially by the CDE to make qualified low-income community investments, and
  - Designated by the CDE as a qualified equity investment
- (4) A qualified community development entity:
- Is an entity certified as a qualified CDE by the Department of the Treasury's Community Development Financial Institution (CDFI) Fund
  - Maintains accountability to residents of low-income communities through their representation on any governing board or advisory board of the entity
  - Primary mission is serving, or providing investment capital for, low-income communities or persons
- (5) Qualified CDEs also include specialized small business investment companies and community development financial institutions. See IRC 45D(c)(2) for more information.
- (6) A credit is allowed to the holder of the qualified equity investment on each of seven credit allowance dates. The credit allowance dates are the date the holder makes the initial investment and each of the next six anniversary dates.
- (7) The credit is equal to the qualified equity investment multiplied by:
- 5 percent with respect to the first three credit allowance dates
  - 6 percent with respect to the remainder of the credit allowance dates



21.7.4.4.8.3.22  
(10-01-2024)

**Form 8864, *Biodiesel, Renewable Diesel, or Sustainable Aviation Fuels Credit***

- (1) Section 302, Biodiesel Income Tax Credit, of the American Jobs Creation Act of 2004, P.L. 108-357, created IRC 40A, Biodiesel and Renewable Diesel Used as Fuel. The credit, as originally enacted, applied to certain fuels produced, and sold or used, after December 31, 2004 and on or before December 31, 2006.
- (2) The following legislation extended the credit for fuels, produced, and sold or used (see prior revisions of IRM 21.7.4 for a list of legislation that extended the credit prior to Section 121 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019):
  - Section 121, P.L. 116-94, Div.Q. Title I, Section 121(a)(1), Dec. 20, 2019, 133 Stat. 3230, of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 extends the income tax credit for Biodiesel and Renewable Diesel fuel sold or used after December 31, 2017, through December 31, 2022.
  - Public Law 117-169, (August 16, 2022), commonly known as the Inflation Reduction Act, extended the income tax credit for Biodiesel and Renewable Diesel fuel sold or used through December 31, 2024. The Act created the sustainable aviation fuel credit for certain fuel mixtures that contain sustainable aviation fuel sold or used after December 31, 2022, and before January 1, 2025. The act also removed IRC 40A(f)(4), so that renewable diesel does not qualify for aviation fuel use.
- (3) Taxpayers use Form 8864, *Biodiesel, Renewable Diesel, or Sustainable Aviation Fuels Credit*, to claim the IRC 40A biodiesel and renewable diesel fuels credit and IRC 40B sustainable aviation fuel credit, which consist of the credits listed below. The sum of these credits is the biodiesel fuels credit and the sustainable aviation fuel credit for purposes of IRC 38, General Business Credit:
  - Biodiesel credit
  - Renewable diesel credit
  - Biodiesel mixture credit
  - Renewable diesel mixture credit
  - Small agri-biodiesel producer credit
  - Sustainable aviation fuel credit
- (4) No biodiesel credit or a biodiesel mixture credit is allowed under IRC 40A unless the claim includes a Certificate for Biodiesel described in *Notice 2005-62*, section 2, paragraph (h)(2), and a statement that the claimant has no reason to believe any information in that certificate is false. See Notice 2005-62 or Publication 510 for more information on the certificate rules. In addition, see the General Instructions for Form 8864 for the definition of biodiesel, agri-biodiesel, renewable diesel, biomass, and other related terms.
- (5) The biodiesel or renewable diesel reported on lines 1 through 3 must not be a mixture. The credits are for biodiesel or renewable diesel, which during the tax year taxpayers:
  - Sold at retail to another person and placed in the fuel tank of that person's vehicle, **or**
  - Used as a fuel in a trade or business

**Note:** However, no credit is allowed for fuel used in a trade or business that was purchased in a retail sale described above.

- (6) Taxpayers use lines 4, 5, and 6 for claiming a biodiesel mixture, agri-biodiesel mixture, and renewable diesel mixture credit. A qualified biodiesel mixture means agri-biodiesel, biodiesel other than agri-biodiesel, or renewable diesel **that is mixed** with diesel fuel, without regard to any use of kerosene. But treat the kerosene as diesel fuel when figuring the renewable diesel mixture credit for aviation fuel mixtures on or before December 31, 2022. For qualified aviation fuel mixtures beginning on January 1, 2023, see IRC 40B and sustainable aviation fuel.. The credit is allowed only to the producer of the mixture (i.e., blender). The credit is allowed only for the taxable year the mixture was sold or used and the producer in its trade or business, must have:
- Sold the mixture to any person for use as a fuel, or
  - Used the mixture as a fuel
- (7) The biodiesel credit and the biodiesel mixture credit is \$1 per gallon multiplied by the number of gallons of biodiesel sold or used.
- (8) Line 7, qualified agri-biodiesel production, means up to 15 million gallons of agri-biodiesel which is produced by an eligible small agri-biodiesel producer, and which during the tax year:
- Is sold by such producer to another person: (1) for use by such person in the production of a qualified biodiesel mixture in such other person's trade or business (other than casual off-farm production); (2) for use by such person as a fuel in a trade or business; or (3) who sells such agri-biodiesel at retail to another person, and places such agri-biodiesel in the fuel tank of such other person, or
  - Is used or sold by such producer for any purpose described in the bullet directly above.
- (9) An eligible small agri-biodiesel producer is a person who, at all times during the tax year, has an aggregate productive capacity for agri-biodiesel not in excess of 60 million gallons.
- (10) The small agri-biodiesel producer credit is \$.10 per gallon multiplied by the number of gallons used or sold.
- (11) Line 8, sustainable aviation fuel, is used to claim a credit of sustainable aviation fuel (SAF) mixtures sold or used after December 31, 2022, and prior to January 1, 2025. The person that produces a qualified mixture by mixing SAF with kerosene is the only person eligible to make the claim. The qualified mixture was produced by the claimant in the United States, such mixture was used by the claimant (or sold by the claimant for use) in an aircraft, such sale or use was in the ordinary course of a trade or business of the claimant, and the transfer of such mixture to the fuel tank of such aircraft occurred in the United States. The SAF used to produce the qualified mixture is the portion of liquid fuel that isn't kerosene that:
- Either meets the specifications of one of the ASTM D7566 Annexes, or meets the specifications of ASTM D1655 Annex A1,
  - Isn't derived from coprocessing an applicable material (or materials derived from an applicable material) with a feedstock that isn't biomass,
  - Isn't derived from palm fatty acid distillates or petroleum, and
  - Has been certified in accordance with IRC 40B(e) as having a lifecycle greenhouse gas emissions reduction percentage of at least 50 percent.

- (12) No sustainable aviation fuel credit is allowed under IRC 40B for qualified mixtures produced with a SAF synthetic blending component (SAF that meets the qualifications of an ASTM D7566 Annex), unless the claim includes a Declaration for SAF Qualified Mixture; either, Certificate for SAF Synthetic Blending Component; Certificate for SAF Synthetic Blending Component Using the 40BSAF-GREET 2024 Model, or the Certificate for SAF Synthetic Blending Component using the 40BSAF-GREET 2024 Model and USDA CSA Pilot Program for Corn and Soybean, **and/or** the Certificate for Climate Smart Agriculture Crops; the Statement of SAF Synthetic Blending Component Reseller. Notice 2024-06 and Notice 2024-37 provide guidance on the sustainable aviation fuel credit and claim requirements. The sustainable aviation fuel credit is \$1.25 plus a supplementary amount equal to \$.01 for each percentage point by which the lifecycle greenhouse gas emissions reduction percentage with respect to such fuel exceeds 50 percent. The supplementary amount shall not exceed \$0.50.
- (13) Blenders of sustainable aviation fuel mixtures may claim an excise tax credit under IRC 6426(k) as a payment under IRC 6427(e) or as a refundable income tax credit under IRC 34. Alternatively, a blender of a sustainable aviation fuel qualified mixture may claim a nonrefundable income tax credit under IRC 40B. Only one credit is allowed with respect to any amount of sustainable aviation fuel used in producing an eligible sustainable aviation fuel mixture.
- (14) Blenders of biodiesel (including renewable diesel) mixtures may claim an excise tax credit under IRC 6426(c), as a payment under IRC 6427(e) or as a refundable income tax credit under IRC 34. Alternatively, a blender of a biodiesel (including renewable diesel) mixture may claim a nonrefundable income tax credit under IRC 40A. Only one credit is allowed with respect to any amount of biodiesel or renewable diesel used in producing an eligible biodiesel or renewable diesel mixture.
- (15) Action Required:
- Math verify Form 8864
  - Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.23  
(12-11-2009)

**Form 8896, Low Sulfur  
Diesel Fuel Production  
Credit**

- (1) Section 339 of the American Jobs Creation Act of 2004, P.L. 108-357, created IRC 45H, Credit for Production of Low Sulfur Diesel Fuel. The Credit is claimed on Form 8896, *Low Sulfur Diesel Fuel Production Credit (LSDFPC)*, and is part of the general business credit. Low sulfur diesel is defined as diesel fuel with a sulfur content of 15 parts per million or less.
- (2) The LSDFPC generally is five cents for every gallon of low sulfur diesel fuel produced at a qualified small business refinery during the taxable year. The credit is part of the general business credit.
- (3) For each facility, qualified costs are costs paid or incurred to comply with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency (EPA) during the period beginning January 1, 2003, and ending on the earlier of:
- The date one year after the date on which the refiner must comply with these EPA requirements with respect to such facility, or
  - December 31, 2009.

- (4) The LSDFPC cannot exceed an amount equal to 25 percent of the qualified capital costs incurred by the small business refiner with respect to such facility, reduced by, the aggregate LSDFPC for all prior years for such facility. See the General Instructions for Form 8896 for a reduced percentage. The LSDFPC cannot be carried back to a tax year before 2003.
- (5) The small business refiner must obtain certification from the IRS (which will consult with the Environmental Protection Agency (EPA) that the taxpayer's qualified costs will result in compliance with applicable EPA regulations. See *Rev. Proc. 2007-69*, 2007-49 I.R.B. 1137, for details and for the due date of the certification.
- (6) For TY 2006 and subsequent, the credit is claimed as a general business credit and carried to Form 3800, *General Business Credit*. The allowable credit is then figured on Form 3800.
- (7) *Rev. Proc. 2007-69*, Credit for Production of Low Sulfur Diesel Fuel, explains the procedures for small business refiners to obtain a certification from the Internal Revenue Service. Also, see the General Instructions for Form 8896 for more specific information.
- (8) Action required:
  - a. Math verify Form 8896
  - b. Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.24  
(10-01-2021)

**Form 8900, Qualified  
Railroad Track  
Maintenance Credit**

- (1) Section 245 of the American Jobs Creation Act of 2004, P.L. 108-357, created IRC 45G, Railroad Track Maintenance Credit. This section which originally applied to railroad track maintenance expenditures paid or incurred by an eligible taxpayer for taxable years beginning after December 31, 2004, and before January 1, 2008, has been extended several years. Any taxpayer claiming the IRC 45G credit is required to file Form 8900, *Qualified Railroad Track Maintenance Credit*, whether the taxpayer owns, leases or is assigned the track. For TY 2006 and subsequent years, the credit is claimed as a general business credit on Form 3800, *General Business Credit*. The allowable credit is then figured on Form 3800.
- (2) The railroad track maintenance credit is modified by various legislation. See previous revisions of IRM 21.7.4 for information regarding modified legislation prior to 2014. Below is a listing of the legislation that has extended the qualified railroad track maintenance credit:
  - Section 116 of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit one year for expenditures paid or incurred for taxable years beginning after December 31, 2013 and on or before January 1, 2015.
  - Section 162 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the railroad track maintenance tax credit for two years for expenditures paid or incurred for taxable years beginning after December 31, 2014 and on or before January 1, 2017.
  - Section 40302 of the Bipartisan Budget Act of 2018, P. L. 115-123, extended expenditures paid or incurred in taxable years beginning after December 31, 2016, and before January 1, 2018.
  - Section 112 of the Further Consolidated Appropriations Act of 2020 extended the railroad track maintenance credit for qualified expenditures incurred before January 1, 2023.

- Section 105 of the Consolidated Appropriations Act of 2021, P.L. 116-260, made the credit permanent and changed the credit rate. The credit rate is 40 percent (50 percent in the case of any taxable year beginning before January 1, 2023).
- (3) An eligible taxpayer includes Class II and Class III railroads as defined by the Surface Transportation Board.
- (4) Eligible taxpayers also include persons (including Class I railroad) who:
- Transport property using the rail facilities of a Class II or Class III railroad, or who furnishes railroad-related property or services to a Class II or Class III railroad, but only with respect to miles of railroad track assigned to such person by such Class II or Class III railroad.
- (5) Qualified railroad track maintenance expenditures include expenditures for maintaining railroad track (including roadbed, bridges, and related track structures) owned or leased as of January 1, 2005, by a Class II or Class III railroad. Section 423 of the Tax Relief and Health Care Act of 2006 modifies the definition of qualified railroad track expenditures so that the term means “gross expenditures” (whether or not otherwise chargeable to capital account). See the General Instructions for Form 8900 for additional information regarding maintenance expenditures.
- Note:** Section 162(b) of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, changed “January 1, 2005” to “January 1, 2015” effective for expenditures paid or incurred in tax years beginning after December 31, 2015.
- (6) Taxpayers can carryback any unused credit one year and carry forward for up to 20 years. A taxpayer may never carry over amounts exceeding the credit limitation to another taxable year. See Treas. Reg. Sec. 1.45G-1(c)(2)(iii).
- (7) The credit allowed for any taxable year cannot exceed the product of \$3,500 multiplied by the sum of:
- The number of miles of railroad track owned or leased by the eligible taxpayer as of the close of the taxable year, **and**
  - The number of miles of railroad track assigned to the eligible taxpayer by a Class II or Class III railroad which owns or leases such railroad track as of the close of the taxable year
- (8) Action required:
- a. Math verify Form 8900
  - b. Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.25  
(10-01-2024)

**Form 8906, Distilled  
Spirits Credit**

- (1) Section 11126 of the Safe Accountable, Flexible, and Efficient Transportation Equity Act of 2005, P.L. 109-59, created the Distilled Spirits Credit under IRC 5011.
- (2) Generally, the credit is computed by multiplying the number of cases of bottled distilled spirits purchased or stored during the tax year by the average tax-financing cost per case for the most recent calendar year ending before the beginning of the tax year.
- (3) The number of cases of distilled spirits is:

- An eligible wholesaler is any person who holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits and is not a state or political subdivision thereof, or an agency of either. Eligible wholesalers enter the number of cases bottled in the United States, and which were purchased by wholesalers directly from the bottler, or
  - For taxpayers subject to IRC 5005 and not an eligible wholesaler, enter the number of cases of bottles of distilled spirits stored in a warehouse operated by, or on behalf of, a State or political subdivision thereof, or an agency of either, on which title has not passed on an unconditional sale basis
- (4) The credit is claimed on Form 8906, *Distilled Spirits Credit*. The credit is part of the general business credit and is effective for tax years beginning after September 30, 2005. See the General Instructions for Form 8906 for more specific information and an example on how to compute the credit.
- (5) The average tax-financing cost per case on Line 2 is as follows:

Year	Amount
2014 - 2016	.08456
2017	.11603
2018	.12695
2019	.15878
2020	.19065
2021	.12660
2022	.08456
2023	.14817
2024	.26517

- (6) Action required:
- a. Math verify Form 8906
  - b. Input TC 291 to increase the credit and TC 290 to reduce the credit

21.7.4.4.8.3.26  
(10-01-2023)

**Form 8904, Credit for  
Producing Oil and Gas  
from Marginal Wells**

- (1) Section 341 of the American Jobs Creation Act of 2004, P.L. 108-357, created IRC 45I, Credit for Producing Oil and Gas from Marginal Wells. This section applies to production in taxable years beginning after December 31, 2004.
- (2) The marginal well production credit for any taxable year is an amount equal to the product of:
- The credit amount, and
  - The qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer
- (3) The credit amount is \$3 per barrel of qualified crude oil production, and \$.50 per 1,000 cubic feet of qualified natural gas production.



- (4) The \$3 and \$.50 credits are reduced (but not below zero) as oil and gas prices increase.
- (5) The credit is reduced to zero when the price for a barrel of oil or the price per cubic foot of natural gas exceeds certain limits. The credit was zero every year except tax years 2016 and 2017 when taxpayers claimed the credit on Form 8904, *Credit for Oil and Gas Production From Marginal Wells*. See Notice 2019-37, Notice 2020-34, Notice 2021-34, Notice 2022-18 and Notice 2023-41, 2023-23 I.R.B. 905 for updates to Form 8904.

21.7.4.4.8.3.27  
(10-01-2021)

**Form 8834, *Qualified Electric Vehicle Credit*,  
TY 2006 and Prior**

- (1) Form 8834, *Qualified Electric Vehicle Credit*, applies to qualified electric vehicle passive activity credits from prior years (allowed on Form 8582-CR or Form 8810 for current year). The IRC 30 , Credit for Certain Plug-in Vehicles, was repealed December 19, 2014 by Pub. L. 113-295, Div. A, Title II, IRC 221(a)(2)(A), Dec. 19, 2014, 128 Stat. 4037.
- (2) See the October 1, 2016 and prior revisions of this IRM for information on the Qualified Electric Vehicle Credit that is applicable to TY 2006 and prior.

21.7.4.4.8.3.27.1  
(03-11-2024)

**Form 8834, *Qualified Plug-in Electric and Electric Vehicle Credit***

- (1) Section 1142, Division B, Title I, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, amends IRC 30, Credit for Certain Plug-in Electric Vehicles. The bill restores and updates the electric vehicle credit for plug-in electric vehicles that do not qualify for the larger plug-in electric drive motor vehicle credit provided in IRC 30D.
- (2) The amount of the credit is 10 percent of the cost of any qualified plug-in electric vehicle placed in-service by the taxpayer during the taxable year, and cannot exceed \$2,500.
- (3) **“A qualified plug-in electric vehicle”** is a specified vehicle which:
  - The original use commences with the taxpayer
  - Is acquired for use or lease by the taxpayer and not for resale
  - Is made by a manufacturer
  - Is manufactured primarily for use on public streets, roads, and highways
  - Is either a low speed vehicle or a vehicle with two or three wheels that has a gross vehicle weight rating of less than 14,000 pounds
  - Is propelled to a significant extent by an electric motor which draws electricity from a battery which has a capacity of not less than four kilowatt hours (2.5 kilowatt hours in the case of a vehicle with two or three wheels), and is capable of being recharged from an external source of electricity
- (4) A “specified vehicle” is any vehicle that is a low speed vehicle within the meaning of section 571.3 of title 49, Code of Federal Regulations (as in effect on February 17, 2009), or has two or three wheels.
- (5) The credit is claimed on Form 8834, *Qualified Plug-in Electric and Electric Vehicle Credit*, and is effective for vehicles acquired after February 17, 2009 and before January 1, 2012. If a vehicle is acquired after February 17, 2009 and on or before December 31, 2009, no credit is allowed for the vehicle under this provision if a credit is allowable under IRC 30D.

- (6) Taxpayers with tax years ending after February 17, 2009, who claim the qualified plug-in electric vehicle credit must use the July 2009 revision. Other 2008 filers can use either the February 2009 or July 2009 revision to claim the credit.
- (7) If the credit is due to a vehicle not subject to depreciation (not used in a trade or business), the taxpayer cannot use part of the credit because of the tax liability limit, the unused credit is lost. The unused or excess credit cannot be carried back or forward to other tax years. If the credit is due to a vehicle used in a trade or business, the unused credit may be carried back or forward under the general business credit (IRC 39).
- (8) See IR 2009-045, Tax Breaks Available for Taxpayers Who Purchase Qualified Plug-In Electric Vehicles, for more information.
- (9) *Notice 2009-58*, 2009-30 I.R.B. 163, sets forth interim guidance, pending the issuance of regulations, relating to the qualified plug-in electric vehicle credit under IRC 30. Specifically, the notice provides procedures for a vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to certify to the Internal Revenue Service that a vehicle of a particular make, model, and model year meets the requirements that must be satisfied to claim the specified plug-in electric vehicle credit under IRC 30.
- (10) *Notice 2009-89*, 2009-48 I.R.B. 714, sets forth interim guidance, pending the issuance of regulations, relating to the qualified plug-in electric drive motor vehicle credit under IRC 30D, as in effect for vehicles acquired after December 31, 2009. Specifically, the notice provides procedures for a vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to certify to the Internal Revenue Service both:
  - That a motor vehicle of a particular make, model, and model year meets certain requirements that must be satisfied to claim the qualified plug-in electric drive motor vehicle credit under IRC 30D,
  - The amount of the credit allowable with respect to that motor vehicle.
- (11) This notice also provides guidance to taxpayers who purchase motor vehicles regarding the conditions under which they may rely on the vehicle manufacturer's (or, in the case of a foreign vehicle manufacturer, its domestic distributor's) certification in determining whether a credit is allowable with respect to the vehicle and the amount of the credit.
- (12) For tax years 2011 and 2012, taxpayers were required to report the 17-character alpha-numeric vehicle identification number (VIN) for each vehicle that qualifies for the credit.
- (13) The qualified plug-in electric vehicle credit expired for vehicles, other than those with two- or three- wheels, acquired after December 31, 2011. However, taxpayers that acquired the plug-in electric vehicle before 2012, but placed the vehicle in-service after December 31, 2011, may still claim the credit on Form 8834. Pursuant to new IRC 30D(g), taxpayers can claim a credit for vehicles acquired after 2011 on Form 8936.
- (14) Section 183, Div. P, Title I, of the Path Act extends the section 30D credit for 2-Wheeled Plug-In Electric Vehicles acquired after 12/31/2014 for 2 years through 12/31/2016.

- (15) Section 40405 of the Bipartisan Budget Act of 2018 extends the credit for 2-wheeled vehicles acquired after December 31, 2016 through December 31, 2017.
- (16) Pub. L 116-94 extends the IRC 30D credit for 2-wheeled vehicles acquired after December 31, 2017 through December 31, 2020.
- (17) Pub. L. 116-260 extends the IRC 30D credit for 2-wheeled vehicles acquired after December 31, 2020 through December 31, 2021.

21.7.4.4.8.3.28  
(10-01-2023)

**Form 8910, *Alternative Motor Vehicle Credit***

- (1) Taxpayers use Form 8910, *Alternative Motor Vehicle Credit*, to figure credit for vehicles placed-in-service during the tax year. The credit is attributable to depreciable property (vehicles used for business or investment purposes) and is treated as a general business credit. The credit is available for purchases of fuel cell motor vehicles through December 31, 2021, per IRC 30B(k)(1).
- (2) IRC 30B provides for a credit determined under IRC 30B(b), for certain new qualified fuel cell motor vehicles. The base amount of the new qualified fuel cell motor vehicle credit varies with the gross vehicle weight rating of the vehicle.
- (3) Section 1341, Title XIII, of the Energy Policy Act of 2005, P.L. 109-58, provides the alternative motor vehicle credit for each new alternative motor vehicle placed in-service by the taxpayer during the taxable year. For new qualified hybrid and advanced lean-burn technology vehicles, the credit begins to phase out (or is reduced) during the second calendar quarter after the quarter in which the company sells its 60,000th alternative motor vehicle. The Alternative Motor Vehicle Credit is the sum of the following credits and is claimed on Form 8910:
  - Qualified fuel cell motor vehicle credit
  - Advanced lean burn technology motor vehicle credit
  - Qualified hybrid motor vehicle credit
  - Qualified alternative fuel motor vehicle credit
  - Plug-in conversion credit

**Note:** See paragraph 22 below for the dates that the various vehicles must be purchased by to qualify for the credit. Only the qualified fuel cell motor vehicle credit has been extended.

- (4) A **qualifying fuel cell vehicle** is a motor vehicle that is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle and may or may not require reformation prior to use.
- (5) The amount of credit for a fuel cell vehicle is determined by a base credit amount that depends upon the weight class of the vehicle and, in the case of automobiles or light trucks, an additional credit amount that depends upon the rated fuel economy of the vehicle compared to a base fuel economy. The base fuel economy is the 2002 model year city fuel economy ratings for various weight classes. The credit is available to the vehicle owner, including the lessor of a vehicle subject to a lease.
- (6) The base credit amount for a new **qualified fuel cell motor vehicle** is:

Gross Weight in Pounds	Credit Amount
Not more than 8,500	\$8,000 (\$4,000 - placed in-service after December 31, 2009)
More than 8,500 but not more than 14,000	\$10,000
More than 14,000 but not more than 26,000	\$20,000
More than 26,000	\$40,000

- (7) The credit for a **qualified fuel cell vehicle** weighing less than 8,500 pounds and placed in-service after December 31, 2009 is reduced to \$4,000.
- (8) The table below shows the additional credits for passenger automobiles and light trucks based on their fuel economy:

Credit Amount	If fuel economy of the qualifying fuel cell motor vehicle is:	
	At least	But less than
\$1,000	150 percent of the base fuel economy	175 percent of the base fuel economy
\$1,500	175 percent of the base fuel economy	200 percent of the base fuel economy
\$2,000	200 percent of the base fuel economy	225 percent of the base fuel economy
\$2,500	225 percent of the base fuel economy	250 percent of the base fuel economy
\$3,000	250 percent of the base fuel economy	275 percent of the base fuel economy
\$3,500	275 percent of the base fuel economy	300 percent of the base fuel economy
\$4,000	300 percent of the base fuel economy	

- (9) *Notice 2008-33*, 2008-12 I.R.B. 642, provides procedures for a vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) to certify to the Internal Revenue Service both:
- That a particular make, model, and model year meets certain requirements that must be satisfied to claim the qualified fuel cell motor vehicle credit, and
  - The amount of the credit allowable for the specific vehicle.
- (10) A **qualifying advanced lean burn technology motor vehicle** is a vehicle purchased on or before December 31, 2010 and is a passenger automobile or light truck with an internal combustion engine which:

- Is designed to operate primarily using more air than is necessary for complete combustion of the fuel
  - Incorporates direct injection
  - Achieves at least 125 percent of the 2002 model year city fuel economy
  - In the case of 2004 and later models, has received a certificate that it meets or exceeds certain EPA emissions standards
- (11) The amount of credit is the sum of two components (See chart below at paragraph (14). The conservation credit is the same as for the hybrid vehicle.):
- A fuel economy credit amount that varies with the rated fuel economy of the vehicle compared to a 2002 model year standard as described in a table, **and**
  - A conservation credit based on the estimated lifetime fuel savings of a qualified vehicle compared to a comparable 2002 model year vehicle
- (12) The table below shows the Fuel Economy Credit available to a **qualifying advanced lean burn technology motor vehicle** which achieves a fuel economy (on a gasoline gallon equivalent basis) exceeds that of a base fuel economy:

Credit Amount	If fuel economy of the qualifying advanced lean burn technology motor vehicle is:	
	At least	But less than
\$400	125 percent of the base fuel economy	150 percent of base fuel economy
\$800	150 percent of the base fuel economy	175 percent of the base fuel economy
\$1,200	175 percent of the base fuel economy	200 percent of the base fuel economy
\$1,600	200 percent of the base fuel economy	225 percent of the base fuel economy
\$2,000	225 percent of the base fuel economy	250 percent of the base fuel economy
\$2,400	250 percent of the base fuel economy	

- (13) A **qualifying hybrid motor vehicle** is a motor vehicle that draws propulsion energy from on-board sources of stored energy which includes both an internal combustion engine or heat engine using combustible fuel and a rechargeable energy source system (e.g., batteries). A qualifying hybrid motor vehicle weighing less than 8,500 pounds and purchased on or before December 31, 2010 (December 31, 2009 for vehicles weighing more than 8,500 pounds).
- (14) The amount of credit for the purchase of a **qualifying hybrid motor vehicle** varies with the rated fuel economy of the vehicle compared to a 2002 model year. A qualifying hybrid automobile or light truck which has a gross vehicle weight rating of not more than 8,500 pounds, must have a maximum available

power from the rechargeable energy storage system of at least four percent. In the case of an automobile or light truck, the amount of credit is the **sum** of two components:

- A fuel economy credit amount that varies with the rated fuel economy of the vehicle compared to a 2002 model year standard, and
- A conservation credit based on the estimated lifetime fuel savings of a qualifying vehicle compared to a comparable 2002 model year vehicle

- (15) The table below shows the Fuel Economy Credit available to a **qualifying hybrid passenger automobile or light truck** whose fuel economy (on a gasoline gallon equivalent basis) exceeds that of a base fuel economy:

Credit Amount	If Fuel Economy of the Hybrid Motor Vehicle Is:	
	At least	But less than
\$400	125 percent of the base fuel economy	150 percent of the base fuel economy
\$800	150 percent of the base fuel economy	175 percent of the base fuel economy
\$1,200	175 percent of the base fuel economy	200 percent of the base fuel economy
\$1,600	200 percent of the base fuel economy	225 percent of the base fuel economy
\$2,000	225 percent of the base fuel economy	250 percent of the base fuel economy
\$2,400	250 percent of the base fuel economy	

- (16) The table below shows the conservation credit

Estimated Lifetime Fuel Savings (gallons of gasoline)	Conservation Amount
At least 1,200 but less than 1,800	\$250
At least 1,800 but less than 2,400	\$500
At least 2,400 but less than 3,000	\$750
At least 3,000	\$1,000

- (17) A credit is also available for certain new **qualified heavy hybrid vehicles** with a gross vehicle weight rating in excess of 8,500 pounds. A qualifying heavy hybrid motor vehicle also draws propulsion energy from on-board sources of stored energy both an internal combustion or heat engine using consumable fuel, and a rechargeable energy storage system. See *Notice 2007-46*, 2007-23 I.R.B. 1342, for more specific information.
- (18) The amount of credit is determined by the estimated increase in fuel economy and the incremental cost of the hybrid vehicle compared to a comparable



vehicle powered solely by a gasoline or diesel internal combustion engine comparable in weight, size, and use of the vehicle.

- (19) A **qualified alternative fuel motor vehicle** is a vehicle that uses alternative fuels such as compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid fuel that is at least 85 percent methanol. They operate only on qualifying alternative fuels incapable of operating on gasoline or diesel (except in the extent gasoline or diesel fuel is part of a qualified mixed fuel, described below).
- (20) Certain mixed fuel vehicles using a combination of an alternative fuel and petroleum-based fuels, are eligible for a reduced credit. If the vehicle operates on a mixed fuel that is at least 75 percent alternative fuel, the vehicle is eligible for 70 percent of the credit. If the vehicle operates on a mixed fuel that is at least 90 percent alternative fuel, the vehicle is eligible for 90 percent of the credit.
- (21) The credit for the purchase of a new alternative fuel vehicle is 50 percent of the incremental cost of the vehicle, (the difference between the manufacturer's suggested retail price for the vehicle and the same vehicle with a gasoline or diesel fuel engine), plus an additional 30 percent if the vehicle meets certain emissions standards, between \$4,000 and \$32,000 depending upon the weight of the vehicle. The table below shows the maximum permitted incremental cost for the purpose of calculating the credit by the applicable weight class:

Vehicle Gross Weight Rating in Pounds	Maximum Allowable Incremental Cost
Less than 8,500	\$5,000
8,500 or more, but less than 14,000	\$10,000
14,000 or more, but less than 26,000	\$25,000
More than 26,000	\$40,000

- (22) Section 142 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 extends the credit for property purchased after December 31, 2020, through December 31, 2021. See the table below for the ending date that the vehicle must be purchased on or before:

Vehicle type	Must be Purchased on or Before (see IRC 30B(k))
Qualified Fuel Cell Motor Vehicles	Section 193 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the credit through December 31, 2016

Vehicle type	Must be Purchased on or Before (see IRC 30B(k))
Qualified Hybrid Motor Vehicles include automobiles and light trucks, and advanced lean-burn technology Vehicles	December 31, 2010
Qualified Hybrid Motor Vehicles include Medium and Heavy Trucks	December 31, 2009
Qualified Alternative Fuel Vehicles	December 31, 2010

- (23) See Form 8910 and the *Instructions for Form 8910* for more specific information. See IR-2006-012 and *Notice 2006-9*, 2006-6 I.R.B. 413, for guidance for the process manufacturers can use to certify the amount of credit the purchaser of a hybrid or lean burn vehicle can claim. Taxpayers who purchase these vehicles can rely on the manufacturer's certification when they claim the credit. See the October 1, 2009 revisions of this IRM for the notices and news releases issued in 2007. For additional information, see *About Form 8910, alternative Motor Vehicle Credit*.
- (24) Beginning with tax year 2011, taxpayers must report the 17-character alphanumeric Vehicle Identification Number (VIN) for each vehicle that qualifies for the credit.
- (25) Section 193, Div. P, Title I, of the Path Act extends the credit for new qualified fuel cell motor vehicles purchased after 12/31/2014 for 2 years through 12/31/2016.
- (26) Section 40403 of the Bipartisan Budget Act of 2018 extended the fuel cell motor vehicle credit described in Code section 30B(b), for property purchased after December 31, 2016 through December 31, 2017.
- (27) Section 124 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 extended the credit for alternative fuel cell motor vehicle property purchased after December 31, 2017 through December 31, 2020.
- (28) Section 142 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 extended the credit for fuel cell motor vehicle property purchased after December 31, 2020 through December 31, 2021.
- (29) Action required:
- Math verify Form 8910
  - Input TC 291 to increase the credit and TC 290 to decrease the credit.

21.7.4.4.8.3.28.1  
(04-23-2009)

**Conversion Kits,  
Qualified Plug-in Electric  
Drive Motor Vehicle**

- (1) Section 1143, Division B, Title I, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, amends IRC 30B by allowing a credit for Converted Kits for any motor vehicle which is converted to a qualified plug-in electric drive motor vehicle. The credit is 10 percent of so much of the cost of converting the vehicle as does not exceed \$40,000.
- (2) A new **“qualified plug-in electric drive motor vehicle”** is a motor vehicle which:

- Is acquired for use or lease by the taxpayer and not for resale
- Is treated as a motor vehicle for purposes of title II of the Clean Air Act
- Has a gross vehicle weight rating of less than 14,000 pounds, **and**
- Is propelled to a significant extent by an electric motor which draws electricity from a battery which has a capacity of not less than four kilowatt hours, and is capable of being recharged from an external source of electricity

- (3) The credit is available for vehicles placed in-service after February 17, 2009. The credit is not available for conversions made after December 31, 2011. The credit is allowed under this provision regardless of whether a credit is allowed for the vehicle under IRC 30B (other than subsection (i)) in any preceding taxable year. The credit is claimed on Form 8910, *Alternative Motor Vehicle Credit*.

21.7.4.4.8.3.29  
(03-11-2024)

**Form 8911, *Alternative Fuel Vehicle Refueling Property Credit***

- (1) IRC 30C, as amended by Section 13404 of the Inflation Reduction Act, P.L. 117-169, provides for a 30% credit for the cost of qualified alternative fuel vehicle refueling property placed in-service by the taxpayer before January 2023, up to a maximum of \$30,000 for property used in a trade or business, or held for the production of income or \$1,000 in any other case. For qualified alternative fuel vehicle refueling property placed in service between January 1, 2023, and December 31, 2032, the applicable rate is 6% for property of a character subject to an allowance for depreciation (business/investment use property) and 30 percent for each property of a character not subject to an allowance for depreciation (personal use property) up to a maximum of \$100,000 for property used in a trade or business, or held for the production of income or \$1,000 in any other case. The 6% rate may be increased to 30% if the qualified alternative fuel vehicle refueling property is part of a project for which construction begins 60 days after the Secretary publishes prevailing wage and apprenticeship guidance and which meets those requirements.
- (2) Form 8911, **Alternative Fuel Vehicle Refueling Property Credit**, is used to claim the credit for property placed in service during the tax year. The part of the credit attributable to business/investment use is treated as a general business credit. Any part of the credit not attributable to business/investment use is treated as a personal credit.
- (3) Partnerships and S corporations must file this form to claim the credit. All other taxpayers aren't required to complete or file this form if their only source for this credit is a partnership or S corporation. Instead, they can report this credit directly on Part III of Form 3800, General Business Credit.
- (4) For tax years beginning after 2022, S Corporations or Partnerships may make an elective payment transfer under IRC 6418, in conjunction with the alternative fuel vehicle refueling property credit. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers, for additional information on facility registration requirements for making an elective payment transfer. In addition to completing Form 8911, when making an elective payment transfer, the credit amount must also be reported on the applicable line of Form 3800, Part III.
- (5) Qualified alternative fuel vehicle refueling property is any property (not including a building and its structural components) where the original use begins with the taxpayer. Personal use property must be installed on property which is used as the principal residence (within meaning of section 121) of the

taxpayer and is for the recharging of motor vehicles propelled by electricity and located at the point where the motor vehicles are recharged or is for storage or dispensing of the following:

- Any fuel consisting of at least 85 percent by volume of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, or a combination thereof, into the tank of a motor vehicle propelled by such fuel at the point where such fuel is delivered into the fuel tank of the motor vehicle,
  - Any mixture made up of a combination (at least 2) of biodiesel, diesel fuel, or kerosene where at least 20 % by volume is biodiesel determined without regard to kerosene in the mixture,
  - Electricity,
  - Or, for years after December 31, 2024, transportation fuel as defined in IRC 45Z(d)(5).
- (6) Additional rules and restrictions that apply for the IRC 30C credit include basis reduction, credit recapture, and the exclusion of property used outside the United States.
- (7) Qualified alternative fuel vehicle refueling property placed in service after December 31, 2022 must be located in an eligible census tract, either as defined in IRC 45D(e) or not an urban area under Bureau of the Census and Department of Commerce guidance.
- (8) See Form 8911 instructions for additional information.
- (9) Action required:
- Math verify Form 8911
  - Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.30  
(10-01-2024)

**Form 7213, Nuclear  
Power Production Credit**

- (1) Section 1306 of the Energy Policy Act of 2005, P.L. 109-58, added the Credit for Production from Advanced Nuclear Power Facilities under IRC 45J, which allows for an income tax credit for the production and sale of electricity from an advanced nuclear power facility to an unrelated person. To claim the credit, taxpayers must attach a copy of the acceptance letter from the IRS described in *Notice 2023-24*, section 6.05.
- (2) Pub. L. 117-169, commonly known as the Inflation Reduction Act (IRA) 2022 added IRC 45U, the zero-emission nuclear power production credit for electricity produced at a qualified nuclear power facility and sold by the taxpayer to an unrelated person in tax years beginning after December 31, 2023, and before January 1, 2033. To claim this credit, taxpayers must attach a copy of the permit or license number from the Nuclear Regulatory Commission.
- (3) Taxpayers must file a separate Form 7213 for each advanced nuclear power facility or each qualified nuclear power facility. Taxpayers, partnerships, S corporations, estates, or trusts that own and operate an advanced nuclear power facility or a qualified nuclear power facility must file a separate Form 7213.
- (4) All others are generally not required to complete or file this form if their only source for any IRC 45J or IRC 45U nuclear power production credit is a partnership, S corporation, estate, or trust. Instead, they can report this credit directly on Form 3800, General Business Credit. This does not apply to estates

or trusts in which the source credit can be allocated to beneficiaries. See Form 7213 instructions for additional information.

- (5) An advanced nuclear power facility under IRC 45J, is any nuclear facility that uses nuclear energy to produce electricity, the reactor design for which was approved after December 31, 1993 by the Nuclear Regulatory Commission, is owned by the taxpayer, and uses nuclear energy to produce electricity.
- (6) The advanced nuclear power facility credit is the lesser of the tentative credit (1.8 cents multiplied by the kilowatt hours of qualifying electricity) for the facility for the tax year multiplied by the taxpayer's credit percentage; or \$125,000,000 per 1,000 megawatts of the facility national megawatt capacity limitation (NMCL) that is allocated to the taxpayer. See Form 7213 instructions for additional information
- (7) Certain owners, called qualified public entities, of advanced nuclear power facilities can elect to transfer all or a portion of their credit to an eligible project partner under IRC 45J(e). A qualified public entity must provide to the eligible project partner the statement described in Notice 2023-24 , section 7.02. The eligible project partner must attach the statement to its Form 7213 .
- (8) The zero- emission nuclear power credit is calculated by multiplying the kilowatt hours of electricity produced and sold during the tax year by 0.3 cents (adjusted for inflation), and then subtracting the "reduction amount" for such tax year. See Form 7213 instructions for additional information.
- (9) S Corporations or Partnerships may make an elective payment transfer under IRC 6418, in conjunction with the zero- emission nuclear power credit under IRC 45U. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers, for additional information on facility registration requirements for making an elective payment transfer. In addition to completing Form 7213 for each qualified facility, when making an elective payment transfer, the credit amount for each facility must also be reported on the applicable line of Form 3800, Part III.
- (10) Action Required:
  - Math Verify Form 7213
  - Input TC 291 to increase the credit and TC 290 to decrease the credit.

21.7.4.4.8.3.31  
(05-09-2011)

**Credit for Investment in  
Clean Coal Facilities**

- (1) The subsection has been moved to IRM 21.7.4.4.8.3.1.2, *Credit for Investment in Coal Facilities*.

21.7.4.4.8.3.32  
(10-01-2024)

**Credit for Business  
Installation of Qualified  
Fuel Cell, Qualified  
Microturbine and  
Combined Heat and  
Power Property**

- (1) Section 1336, Title XIII, of the Energy Policy Act of 2005, P.L. 109-58, added a 30 percent credit for investment in a qualified fuel cell power plant and a 10 percent credit for investment in qualified microturbine property.
- (2) For property placed in service after December 31, 2022, a qualified fuel cell power plant is defined as the following:  
A qualified fuel cell power plant is an integrated system composed of fuel cell stack assembly, or linear generator assembly, and associated balance of plant components that:

- Convert a fuel into electricity using electrochemical or electromechanical means
  - Has an electricity-only generation efficiency of greater than 30 percent, and
  - Has a nameplate capacity of at least 0.5 kilowatts (1 kilowatt in the case of a fuel cell power plant with a linear generator assembly) of electricity using an electrochemical or electromechanical process
- (3) Qualified microturbine property means a stationary microturbine power plant which:
- Has a nameplate capacity of less than 2,000 kilowatts, **and**
  - Has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions
- (4) The credit is non-refundable. In the case of qualified fuel cell placed in-service during the taxable year, the credit cannot exceed an amount equal to \$1,500 for each 0.5 kilowatt of capacity of such property. There is also a limitation for microturbine property. The credit cannot exceed an amount equal to \$200 for each kilowatt of capacity of such property.
- (5) The credit is available for qualified fuel cell property and qualified microturbine property the construction of which began on or before December 31, 2024. The credit is claimed on Form 3468, *Investment Credit*.
- (6) Section 103(b), Division B, Title I, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, provides that the energy credit may be used against the alternative minimum tax effective for tax years beginning after 10/3/2008 and to carryback of such credits.
- (7) Section 103(c), Division B, Title I, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, added an energy credit for combined heat and power system property. Under IRC 48(c)(3)(A)(iv), the credit is currently available for combined heat and power system property the construction of which began on or before December 31, 2024.
- (8) The Inflation Reduction Act (IRA), P. L. 117-169, made changes to IRC 48 including Business Installation of Qualified Fuel Cell, Qualified Microturbine and Combined Heat and Power Property. See IRM 21.7.4.4.8.3.1, Form 3468, *Investment Credit* for additional information.
- (9) Action required:
- Math verify
  - Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.33  
(10-01-2023)

**Form 8923, *Mine Rescue Team Training Credit***

- (1) Section 405, Division A, Title IV, of the Tax Relief and Health Care Act of 2006, P.L. 109-432, created the *Mine Rescue Team Training Credit*, under IRC 45N, and is claimed on Form 8923, *Mine Rescue Team Training Credit*. The provision is effective for taxable years beginning after December 31, 2005. IRC 45N shall not apply to taxable years beginning after December 31, 2021. Taxpayers may claim a credit for each qualified mine rescue team employee equal to the lesser of:



- 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training of qualified mine rescue team employee (including wages while attending a program), or
  - \$10,000.00.
- (2) Taxpayers who employ individuals as miners in underground mines in the United States use Form 8923. A qualified mine rescue team employee is any full-time employee of the taxpayer who is a miner eligible for more than six months of a taxable year to serve as a mine rescue team member by either:
- Having completed at a minimum the initial 20-hour course prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or
  - Received at least 40 hours of refresher training in such instructions.
- (3) The mine rescue team training credit is modified by various legislation. See previous revisions of IRM 21.7.4 for legislation prior to 2015. Below is a listing of the legislation that has extended the mine rescue team training credit:
- Section 117, Division A, Title I of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year to taxable years beginning after December 31, 2013 and before January 1, 2015.
  - Section 163, Div. Q, Title I, of the Path Act extends the credit for two years for taxable years through 12/31/2016.
  - Section 40303 of the Bipartisan Budget Act of 2018 extended the credit for taxable years beginning after December 31, 2016 to December 31, 2017.
  - Section 113 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 extends the credit for taxable years beginning after December 31, 2017 to December 31, 2020.
  - Section 136 of the Consolidated Appropriations Act, 2021, (P.L. 116-260), extends the IRC 45N credit for taxable years beginning after December 31, 2020 through December 31, 2021.
- (4) Action required:
- Math Verify Form 8923
  - Input TC 291 to decrease the credit and TC 290 to reduce the credit
- (5) See the general instructions for Form 8923 for more information.

21.7.4.4.8.3.34  
(10-01-2024)

**Form 8908, *Energy Efficient Home Credit***

- (1) Section 1332, Title XIII, of the Energy Policy Act of 2005, P.L. 109-58, created new IRC 45L, New Energy Efficient Home Credit. Eligible contractors use Form 8908, *Energy Efficient Home Credit*, to claim the credit for each qualified new energy efficient home sold or leased during the taxable year. The new energy efficient home credit is part of the general business credit and cannot be carried back to any tax year ending before 2006.
- (2) As originally enacted, a qualified new energy efficient home is:
- A dwelling unit located in the United States.
  - Whose construction is substantially completed after August 8, 2005, and acquired by sale or lease after 2005, but on or before December 31, 2007.

- (3) The new energy efficient home credit is modified by various legislation. Below is a listing of the recent legislation that has extended the new energy efficient home credit. See previous revisions of this IRM for legislation that extended the credit prior to January 1, 2012:
- Section 408(a), Title IV of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years to any qualified new energy efficiency home acquired after December 31, 2011 and before January 1, 2014, and updated the energy savings requirements for a home to qualify for the credit.
  - Section 156, Division A, Title I of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year to any qualified new energy efficient home acquired after December 31, 2013 and before January 1, 2015.
  - Section 188, Division Q, Title I of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the credit for two years to any qualified new energy efficient home acquired after December 31, 2014 and before January 1, 2017.
  - Section 40410, Division D, Title 1 of the Bipartisan Budget Act of 2018, P.L. 115-123, extended the credit for one year to any qualified new energy-efficient home acquired after December 31, 2016 and before January 1, 2018.
  - Section 129 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, P.L. 116-94, extended the credit for three years to any qualified new energy-efficient home acquired after December 31, 2017 and before January 1, 2021.
  - Section 146 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, P.L. 116-260, extended the credit for one year to any qualified new energy-efficient home acquired after December 31, 2020 and before January 1, 2022.
  - Section 13304 of the Inflation Reduction Act (IRA), P.L. 117-169, retroactively extended the credit requirements in place prior to the enactment of the IRA for dwelling units acquired after December 31, 2021 and through December 31, 2022. For dwelling units acquired after December 31, 2022, the IRA updated the credit requirements and extended the credit through December 31, 2032.
- (4) An eligible contractor is:
- The person who constructed the qualified new energy efficient home and owned and had a basis in the home during its construction ,**or**
  - For manufactured homes, the person who produced the home and also owned and had a basis in the home during its production **or**
  - The person who hires a third-party contractor to construct the home.
- Note:** The person who hires a third-party contractor must satisfy all the requirements under IRC 45L to claim the credit on Form 8908.
- Note:** The third-party contractor will not be the eligible contractor.
- (5) The home is required to be certified and meet certain energy savings requirements. Construction includes substantial reconstruction and rehabilitation.
- (6) The credit is based on the qualified new energy efficient home meeting the eligibility and energy saving requirements established for the type of dwelling unit sold or leased during the tax year.

- (7) See the General Instructions for Form 8908 for the energy savings requirements to compute the credit and for the certification requirements.
- (8) Action required:
  - Math verify Form 8908
  - Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.35  
(08-04-2008)

**Form 8931, *Agricultural Chemicals Security Credit***

- (1) Section 15343, of the Food, Conservation, and Energy Act of 2008, P.L. 110-246, created IRC 45O, Agriculture Chemicals Security Credit. The credit is part of the IRC 38 general business credit. The credit is claimed on Form 8931, *Agricultural Chemicals Security Credit*.
- (2) The credit is 30 percent for qualified chemical security expenditures for the taxable year of an eligible agriculture business as defined in IRC 45O(e). The Credit for any taxable year cannot exceed \$100,000 per facility, reduced by the aggregate amount of the credit allowed for the facility in the five prior taxable years (\$100,000 facility limitation). The amount of the credit for any taxpayer for any taxable year cannot exceed \$2,000,000.
- (3) Section 45O(d) lists the qualified chemical security expenditures paid or incurred that qualify for the credit. The qualified chemicals security expenditures must be paid or incurred to protect specified agriculture chemicals as defined in IRC 45O(f).
- (4) Section 45O applies to amounts paid or incurred after May 22, 2008 and before January 1, 2013. The credit does not apply to any amount paid or incurred after December 31, 2012.
- (5) Action required:
  - Math Verify Form 8931
  - Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.36  
(10-01-2023)

**Form 8909, *Energy Efficient Appliance Credit***

- (1) Section 1334, Title XIII, of the Energy Policy Act of 2005, P.L. 109-58, created the Energy Efficient Appliance Credit under IRC 45M. Manufacturers of qualified energy efficient appliances (dishwashers, clothes washers, and refrigerators) produced in calendar year 2006 and 2007 claim the credit on Form 8909, *Energy Efficient Appliance Credit*. The energy efficient appliance credit is part of the general business credit and cannot be carried back to any tax year ending before 2006.
- (2) Section 45M was repealed by Pub. L. 115-141, Div. U, Title IV, section 401(d)(2)(A), March 23, 2018, 132 Stat. 1208. See the October 1, 2016 and prior revisions of this IRM for information on the claiming the Energy Efficient Appliance Credit for TY 2006 through TY 2011.

21.7.4.4.8.3.36.1  
(02-28-2013)  
**Energy Efficient  
Appliance Credit -  
American Taxpayer  
Relief Act, P.L. 112-240**

- (1) Section 409, Title IV, of the American Taxpayer Relief Act of 2012, P.L. 112-240, Extension of Credit for Energy-Efficient Appliance, extends the credit for two years for certain appliances produced in 2012 and 2013.

**Note:** The credit is not available for appliances manufactured after 2013.

- (2) The credit for dishwashers manufactured in 2012 and 2013 is as follows:

The credit for dishwashers that use no more than	and the number of gallons it uses per cycle is no more than	or, for dishwashers designed for greater than 12 place settings and the number of gallons it uses per cycle is no more than	then the credit is
295 Kilowatt hours	4.25	4.75	\$50
280 Kilowatt hours	4	4.5	\$75

- (3) The credit for clothes washers manufactured in 2012 and 2013 is as follows:

- \$225 for a top-loading clothes washer which meets or exceeds a 2.4 modified energy factor and does not exceed a 4.2 water consumption factor
- \$225 for a front-loading clothes washer which meets or exceeds a 2.8 modified energy factor and does not exceed a 3.5 water consumption factor

- (4) The credit for refrigerators manufactured in 2012 and 2013 is as follows:

- \$150 for a refrigerator which consumes at least 30 percent less than the 2001 energy conservation standards, and
- \$200 for a refrigerator which consumes at least 35 percent less than the 2001 energy conservation standards

- (5) The Energy Efficient Appliance Credit is not available for appliances manufactured after 2013.

- (6) See IRM 21.7.4.4.8.3.36, *Form 8909, Energy Efficient Appliance Credit*, and the General Instructions for Form 8909 for more specific information.

- (7) Action required:

- Math verify Form 8909
- Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.37  
(10-01-2024)

**Form 8933, *Carbon  
Oxide Sequestration  
Credit***

- (1) Section 115, Div. B, Title I, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, created the Credit for Carbon Oxide Sequestration under IRC 45Q. The credit is available for carbon oxide that is captured at a qualified facility and disposed of in secure geological storage or used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project.
- (2) Form 8933, *Carbon Oxide Sequestration Credit*, is used to claim the IRC 45Q carbon oxide sequestration credit. Taxpayers must file a separate Form 8933 for each qualified facility.
- (3) Taxpayers, other than partnerships or S Corporations, whose only source of this credit is from those pass-through entities are not required to file Form 8933. Instead, they report the credit directly on the Form 3800, *General Business Credit*.
- (4) Qualified Carbon Oxide is carbon dioxide, or other qualified carbon oxide captured from an industrial source which:
  - a. Would otherwise be released into the atmosphere as industrial emission of greenhouse gas, and
  - b. Is measured at the source of capture and verified at the point of disposal or injection.
- (5) Qualified carbon oxide includes the initial deposit of captured carbon oxide used as a tertiary injectant. However, it does not include carbon oxide that is re-captured, recycled, or re-injected as part of the enhanced oil and natural gas recovery process.
- (6) A qualified facility is any direct air capture or industrial facility which is owned by the taxpayer, at which carbon capture equipment is placed in service, and which captures not less than 500,000 metric tons of carbon oxide during the taxable year. The capture requirements were updated in the 2018 Bipartisan Budget Agreement (BBA), to require qualified facilities to capture:
  - a. In the case of a facility which emits not more than 500,000 metric tons of carbon oxide into the atmosphere during the taxable year, not less than 25,000 metric tons of qualified carbon oxide during the taxable year which is utilized in a manner described in IRC 45Q(f)(5),
  - b. In the case of an electricity generating facility which is not described in subparagraph (A), not less than 500,000 metric tons of qualified carbon oxide during the taxable year, or
  - c. In the case of a direct air capture facility or any facility not described in subparagraph (A) or (B), not less than 100,000 metric tons of qualified carbon oxide during the taxable year.
- (7) Only carbon oxide captured and disposed of in the United States (within the meaning of IRC 638(1) or a possession of the United States (within the meaning of IRC 638(2)), qualifies for the credit.
- (8) The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and the Secretary of the Interior, issued final regulations, effective January 13, 2021 for determining adequate security measures for the geological storage of carbon oxide so that the carbon oxide does not escape into the atmosphere. The pre-2018 BBA IRC 45Q credit applies with respect to qualified carbon oxide captured before the end of the tax year in which the Secretary, in consultation with the Administra-

tor of the Environmental Protection Agency, certifies that 75,000,000 metric tons of qualified carbon oxide have been taken into account for the credit.

- (9) The credit for carbon oxide captured at a qualified facility is \$20 per metric ton if disposed of in secure geological storage or \$10 per metric ton (adjusted for inflation) under the pre-2018 BBA 45Q credit regime, if used as a tertiary injectant in a qualified enhanced oil or natural gas recovery project. The 2018 BBA altered the credit values to be valued at \$35 (for utilization or EOR) and \$50 (for secure geological storage) in 2026 and using linear interpolation to determine the value of the credit for the years leading up to 2026.
- (10) Section 1131, Division B, Title I, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, amends IRC 45Q to include Application of Monitoring Requirements to Carbon Dioxide Used as a tertiary injectant. As a result, the carbon oxide sequestration credit for any taxable year is an amount equal to the sum of:
  - a. \$20 per metric ton of qualified carbon oxide which is captured by the taxpayer at a qualified facility, and disposed of by the taxpayer in secure geological storage and not used by the taxpayer as a tertiary injectant, **and**
  - b. \$10 per metric ton of qualified carbon oxide which is captured by the taxpayer at a qualified facility and used by the taxpayer as a tertiary injectant in a qualified enhanced oil **or** natural gas recovery project, and disposed of in secure geological storage.
- (11) The provision requires that carbon oxide used as a tertiary injectant and is sequestered by the taxpayer in secure geological storage to qualify for the credit. This amendment also clarified that un-minable coal seams and oil and gas reservoirs qualify as a secure geological storage. See the General Instructions for Form 8933 for definitions and more specific instructions.
- (12) *Notice 2009-83*, 2009-44 I.R.B. 588, provides guidance on determining eligibility for the carbon oxide sequestration credit under IRC 45Q and the amount of the credit, as well as rules regarding adequate security measures for secure geological storage of CO<sub>2</sub>. The notice also sets forth a separate reporting requirement for taxpayers claiming the IRC 45Q credit.
- (13) *Notice 2011-25*, 2011-14 I.R.B. 604, modifies Notice 2009-83 by removing section 4.07 of the Notice. Section 4.07 of Notice 2009-83 provided that for purposes of IRC 45Q, qualified carbon oxide (CO<sub>2</sub>) does not include CO<sub>2</sub> that is captured and sequestered in a project as required under an agreement entered into in connection with the qualifying advanced coal project program of IRC 48A or the qualifying gasification project program of IRC 48B. Accordingly, qualified CO<sub>2</sub>, as defined under IRC 45Q(b)(1), does not exclude CO<sub>2</sub> that is required to be captured and sequestered under the IRC 48A program or the IRC 48B program.
- (14) Beginning after 2009, inflation adjusts the \$20 and \$10 rates. The inflation adjustment factor for each calendar year is published during the year in the Federal Register. See the chart below for the notice number, inflation adjustment factor and the amount of the credit under IRC 45Q:



Calendar Year	Notice Number	Inflation Adjustment Factor	Credit Under IRC 45Q(a)(1)	Credit Under IRC 45Q(a)(2)
2013	<i>Notice 2013-34, 2013-23</i> I.R.B. 1198	1.0626	\$21.25	\$10.63
2014	<i>Notice 2014-40, 2014-27</i> I.R.B. 100	1.0754	\$21.51	\$10.75
2015	<i>Notice 2015-44, 2015-26</i> I.R.B. 1140	1.0924	\$21.85	\$10.92
2016	<i>Notice 2016-53, 2016-39</i> I.R.B. 421	1.1071	\$22.14	\$11.07
2017	<i>Notice 2017-32, 2017-22</i> I.R.B. 1255	1.1238	\$22.48	\$11.24
2018	<i>Notice 2018-40, 2018-20</i> I.R.B. 583	1.1437	\$22.87	\$11.44
2019	<i>Notice 2019-31, 2019-31, 2019-20</i> I.R.B. 1181	1.1702	\$23.40	\$11.70
2020	<i>Notice 2020-40, 2020-25</i> I.R.B. 952	1.1908	\$23.82	\$11.91
2021	<i>Notice 2021-35, 2021-46</i> I.R.B. 723	1.2049	\$24.10	\$12.05
2022	<i>Notice 2022-38, 2022-39</i> I.R.B. 239	1.2534	\$25.07	\$12.53

Calendar Year	Notice Number	Inflation Adjustment Factor	Credit Under IRC 45Q(a)(1)	Credit Under IRC 45Q(a)(2)
2023	Notice 2023-46, I.R.B. 2023-26 1086	1.3471	\$26.94	\$13.47
2024	Notice 2024-39, I.R.B. 2024-24 1611	1.3877	\$27.75	\$13.88

- (15) Section 41119 of the Bipartisan Budget Act of 2018 (BBA), provides a credit for Carbon Dioxide - IRC 45Q provides a credit for carbon dioxide sequestration (carbon oxide refers to carbon dioxide, or other qualified carbon oxide). The credit is available to taxpayers that capture qualified carbon dioxide at a qualified facility – such as a coal power plant or manufacturing facility. Taxpayers dispose of the captured CO<sub>2</sub> in a secure geological storage, or use it as an injectant in an enhanced oil or natural gas recovery project. The provision amends IRC 45Q by:

- Allowing facilities that have started construction within 7 years of enactment to qualify
- Allowing qualified taxpayers to claim the credit for 12 years
- Expanding the credit to include carbon oxide disposed of through utilization in another end product
- Increasing the credit amounts for geologic storage and enhanced oil recovery

The effective date of this amendment applies to taxable years beginning after December 31, 2017. More information is found at *Section 41119 of the Bipartisan Budget Act of 2018*.

- (16) Section 121 P.L. 116-260, of the Consolidated Appropriations Act 2021, amends IRC 45Q(d)(1) and extends the constructions start date for facilities that qualify for the carbon oxide sequestration credit to January 1, 2026.
- (17) Section 13104 of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA), amends IRC 45Q in many ways. Generally, the IRA modifies IRC 45Q by adjusting credit amounts; extending the deadline for beginning construction of a qualified facility from January 1, 2026 to January 1, 2033; broadening the definition of a “qualified facility” by reducing the required carbon capture thresholds; modifying the rules applicable to direct air capture (DAC) facilities and electric generating units; and providing a new election to restart the IRC 45Q credit period for qualified facilities at which carbon capture equipment is placed in service in an area subsequently affected by a federally declared disaster (as defined by IRC 165(i)(5)(A) ). Other amendments made by the IRA to IRC 45Q increase the credit amount if certain prevailing wage and apprenticeship re-

quirements are satisfied. The IRA also provides an election for certain taxpayers to receive an elective payment or to transfer the credit under IRC 45Q.

- (18) For tax years beginning after 2022, S Corporations or Partnerships may make an elective payment election (EPE) under IRC 6417, or transfer payment under IRC 6418. In addition to completing Form 8933 for each qualified facility, the credit amount for each qualified facility must also be reported on the applicable line of Form 3800, Part III. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers.
- (19) *T.D. 9944, 86 FR 4760, Jan. 15, 2021*, contains final regulations that provide guidance regarding the credit for carbon oxide sequestration under IRC 45Q of the Internal Revenue Code (Code). These final regulations affect persons who physically, or contractually ensure the capture and disposal of qualified carbon oxide, use of qualified carbon oxide as a tertiary injectant in a qualified enhanced oil or natural gas recovery project, or utilization of qualified carbon oxide in a manner that qualifies for the credit. The effective date of these regulations is January 13, 2021.
- (20) See Form 8933 instructions for additional information.
- (21) Action required:
  - a. Math verify Form 8933
  - b. Review Part III of Form 3800 to determine if the taxpayer reported an elective payment election (EPE) for Form 8933, Carbon Oxide Sequestration Credit. If so, see IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA) Superseding and Amended Return Processing; Elective Payment Elections (EPE) or Transfers, for processing information and to verify if adjustment is allowable.
  - c. If no elective payment election (EPE) has been made: Input TC 291 to increase the credit and TC 290 to decrease the credit.

21.7.4.4.8.3.38  
(10-01-2024)  
**Form 8936, Clean  
Vehicle Credits**

- (1) Section 1141, Division B, Title I, of the American Recovery and Reinvestment Act of 2009, P.L. 111-5, amended the credit for New Qualified Plug-in Electric Drive Motor Vehicles under IRC 30D. The bill modified the tax credit for qualified plug-in electric drive motor vehicles acquired after December 31, 2009. See IRM 21.7.4.4.8.3.38.1, *Form 8936, Qualified Two or Three-Wheeled Plug-In Electric Vehicle*, (prior form name), for claiming the credit for qualified two or three-wheeled plug-in electric drive motor vehicles.
- (2) Section 13401 of P. L. 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA) of 2022, amended IRC 30D, and renamed the provision to **Clean Vehicle Credit**, applicable to new clean vehicles. The bill modified the tax credit for new clean vehicles acquired after December 31, 2022, with some exceptions. The credit may be in part a personal credit and in part a General Business Credit and is claimed on Form 8936 and flows through to Form 3800 except for certain entities.. Under IRC 30D, taxpayers must report the 17 character alpha-numeric Vehicle Identification Number (VIN) for each vehicle that qualifies for the credit.
- (3) For vehicles placed in service prior to January 1, 2022, the base amount of the credit is \$2,500. In addition to the base amount, the credit has a battery capacity amount. If the qualified vehicle draws propulsion from a battery with at

least five kilowatt hours of capacity, the credit is increased by \$417, plus another \$417 for each kilowatt hour of battery capacity in excess of five kilowatt hours up to \$5,000. Thus, the total available credit under this section is \$7,500.

- (4) For vehicles placed in service after December 31, 2022, each vehicle is eligible for \$3,750 in the case of a vehicle that meets certain critical minerals requirements and \$3,750 in the case of a vehicle that meets certain battery components requirements.
- (5) For a motor vehicle to satisfy the critical minerals requirement, with respect to the battery from which the electric motor of such vehicle draws electricity, the percentage of the value of the applicable critical minerals (as defined in IRC 45X(c)(6)) contained in such battery that were:
  - (i) Extracted or processed or in any country with which the United States has a free trade agreement in effect, or
  - (ii) Recycled in North America, is equal to or greater than the applicable percentage.
- (6) The applicable percentage for the critical minerals requirement varies based on when the vehicle is placed in service. In the case of a vehicle placed in service after April 17, 2023, and before January 1, 2024, the applicable percentage is 40%. In the case of a vehicle placed in service during calendar year 2024, 2025, and 2026, the applicable percentage is 50%, 60%, and 70%, respectively. In the case of a vehicle placed in service after December 31, 2026, the applicable percentage is 80% .
- (7) For a motor vehicle to satisfy the battery components requirement with respect to the battery from which the electric motor of such vehicle draws electricity, the percentage of the value of the components contained in such battery that were manufactured or assembled in North America is equal to, or greater than the applicable percentage. The applicable percentage for the battery components requirement varies based on when the vehicle is placed in service. In the case of a vehicle placed in service after April 17, 2023, and before January 1, 2024, the applicable percentage is 50 %. In the case of a vehicle placed in service during calendar year 2024 or 2025, the applicable percentage is 60 %. In the case of a vehicle placed in service during calendar year 2026, 2027, and 2028, the applicable percentage is 70 %, 80 %, and 90 %, respectively. In the case of a vehicle placed in service after December 31, 2028, the applicable percentage is 100 %.
- (8) In the event of a vehicle placed in service after December 31, 2024, with respect to which any of the applicable critical minerals contained in the battery of such vehicle were extracted, processed, or recycled by a foreign entity of concern (as defined in section 40207(a)(5) of the Infrastructure Investment and Jobs Act (**42 U.S.C. 18741(a)(5)**)), the motor vehicle will not be considered a “new clean vehicle”.
- (9) In the event of a vehicle placed in service after December 31, 2023, with respect to which any of the components contained in the battery of such vehicle were manufactured or assembled by a foreign entity of concern (as so defined), the motor vehicle will not be considered a “new clean vehicle”.
- (10) For vehicles placed in service prior to January 1, 2023, the credit for vehicles with at least four wheels is subject to a phase-out (reduction) once the vehicle

manufacturer (or, for a foreign manufacturer, its U.S. distributor) sells 200,000 of these vehicles to a retailer for use in the United States after 2009. During the phase-out period, only the applicable percentage of the credit otherwise allowable will be allowed for the manufacturer's vehicles. The phase-out period begins with the second calendar quarter following the calendar quarter which includes the date on which the number of a manufacturer's new qualified plug-in electric drive motor vehicles, sold for use in the United States, after December 31, 2009, reaches at least 200,000. The applicable percentage is:

- 50 percent for the first two calendar quarters of the phase-out period
- 25 percent for the 3rd and 4 calendar quarters of the phase-out period, **and**
- 0 percent for each calendar quarter thereafter

**Note:** Vehicles placed in service after December 31, 2022, are not subject to the phase-out requirement.

(11) For vehicles placed in service prior to January 1, 2023, a new “**qualified plug-in electric drive motor vehicle**” is a motor vehicle which:

- The original use commences with the taxpayer
- Is acquired for use or lease by the taxpayer and not for resale
- Is made by a manufacturer
- Is treated as a motor vehicle for purposes of title II of the Clean Air Act
- Has a gross vehicle weight rating of less than 14,000 pounds, and
- Is propelled to a significant extent by an electric motor which draws electricity from a battery which has a capacity of not less than four kilowatt hours and is capable of being recharged from an external source of electricity

(12) For vehicles placed in service after December 31, 2022, a “new clean vehicle” is a motor vehicle which:

- The original use of the motor vehicle must commence with the taxpayer.
- Is acquired for use or lease by the taxpayer and not for resale.
- Is made by a qualified manufacturer.
- Is treated as a motor vehicle for purposes of title II of the Clean Air Act.
- Has a gross vehicle weight rating of less than 14,000 pounds.
- Is propelled to a significant extent by an electric motor which draws electricity from a battery that has a capacity of not less than 7 kilowatt hours, and is capable of being recharged from an external source of electricity.
- The final assembly of the motor vehicle must occur within North America.
- The person who sells any vehicle to the taxpayer must furnish a report to the taxpayer and to the Secretary containing the following six items:
  - 1) The name and taxpayer identification number of the taxpayer.
  - 2) The vehicle identification number of the vehicle, unless, in accordance with any applicable rules promulgated by the Secretary of Transportation, the vehicle is not assigned such a number.
  - 3) The battery capacity of the vehicle.
  - 4) Verification that original use of the vehicle commences with the taxpayer.
  - 5) The maximum credit under IRC 30D allowable to the taxpayer with respect to the vehicle.
  - 6) In the case of a taxpayer who makes an election to transfer the credit

under IRC 30D(g)(1) (described below), any amount described in IRC 30D(g)(2)(C) which has been provided to such taxpayer.

- (13) A “**motor vehicle**” is any vehicle which is manufactured primarily for use on public streets, roads and highways, has at least four wheels, and is not operated exclusively on a rail or rails. See the General Instructions for Form 8936 for more specific information.
- (14) The term “battery capacity” means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.
- (15) For vehicles placed in service prior to December 31, 2022, *Notice 2009-89*, 2009-48 I.R.B. 714, sets forth a process that allows manufacturers to certify to the Internal Revenue Service that a particular vehicle meets the requirements of IRC 30D. Taxpayers purchasing such vehicles can rely on the domestic manufacturer’s (or, in the case of a foreign manufacturer, its domestic distributor’s) certification that both a particular make, model, and model year of vehicle qualifies as a plug-in electric drive motor vehicle under IRC 30D, and the amount of the credit allowable with respect to the vehicle. Notice 2009-89 amplifies *Notice 2009-54*, 2009-26 I.R.B. 1124 and *Notice 2009-58*, 2009-30 I.R.B. 163, and Notice 2009-89 also supersedes Notice 2009-54, effective for plug-in electric drive motor vehicles acquired after December 31, 2009.
- (16) For vehicles placed in service after December 31, 2022 “qualified manufacturer” means any manufacturer (within the meaning of the regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act), which enters into a written agreement with the Secretary under which such manufacturer agrees to make periodic written reports to the Secretary (at such times and in such manner as the Secretary may provide) providing vehicle identification numbers and such other information related to each vehicle manufactured by such manufacturer as the Secretary may require. Rev. Proc. 2022-46, I.R.B. 2022-56, sets forth a process that allows qualified manufacturers to enter into a written agreement with the Secretary and certify that a particular vehicle meets the requirements of IRC 30D.
- (17) For vehicles placed in service after December 31, 2022, “final assembly” means the process by which a manufacturer produces a new clean vehicle at, or through the use of, a plant, factory, or other place from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle.
- (18) For vehicles placed in service after December 31, 2022, new clean vehicle shall include any new qualified fuel cell motor vehicle (as defined in IRC 30B(b)(3)), which meets the requirements the final assembly and seller report, described above.
- (19) The following rules apply to all clean vehicles:
- The basis of any property for which a credit is allowable under IRC 30D(a) shall be reduced by the amount of such credit so allowed (determined without regard to IRC 30D(c)).



- The amount of any deduction or other credit allowable for a vehicle for which a credit is allowable under IRC 30D(a) shall be reduced by the amount of credit allowed under such subsection for such vehicle (determined without regard to IRC 30D(c)).
  - No credit shall be allowable under IRC 30D(a) with respect to any property referred to in IRC 50(b)(1).
  - No credit shall be allowed under IRC 30D(a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.
  - A vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with - (i) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and (ii) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.
- (20) For vehicles placed in service after December 31, 2022, the following rules shall also apply:
- The credit under IRC 30D(a) shall only be allowed once with respect to such vehicle, as determined based upon the vehicle identification number of such vehicle, including any vehicle with respect to which the taxpayer elects to transfer the credit to an eligible entity.
  - No credit shall be allowed under IRC 30D with respect to any vehicle unless the taxpayer includes the vehicle identification number of such vehicle on their tax return for the taxable year.
  - No credit shall be allowed under IRC 30D(a) for any taxable year if the lesser of - (i) the modified adjusted gross income of the taxpayer for such taxable year, or (ii) the modified adjusted gross income of the taxpayer for the preceding taxable year, exceeds the following: \$300,000 in the case of a joint return or surviving spouse, \$225,000 in the case of a head of household, and \$150,000 in the case of all other taxpayers.
  - No credit shall be allowed under IRC 30D(a) for a vehicle with a manufacturer's suggested retail price in excess of the following: \$80,000 in the case of a van, sport utility vehicle, or pickup truck, and \$55,000 in the case of any other vehicle.
- (21) For vehicles placed in service after December 31, 2022, a taxpayer who acquires a new clean vehicle, may elect to transfer their credit under IRC 30D(a), to an eligible entity specified in such election (and not to such taxpayer), under the following rules:
- The term eligible entity means, with respect to the vehicle for which the credit is allowed under IRC 30D, the dealer which sold such vehicle to the taxpayer and has - (i) registered with the Secretary, at such time, and in such form and manner, as the Secretary may prescribe; (ii) prior to the election to transfer the credit and not later than at the time of such sale, disclosed to the taxpayer purchasing such vehicle the manufacturer's suggested retail price, the value of the credit allowed and any other incentive available for the purchase of such vehicle, and, the amount provided by the dealer to such taxpayer as a condition of the election; (iii) not later than at the time of such sale, made payment to such taxpayer (whether in cash or in the form of a partial payment or down payment for the purchase of such vehicle) in an amount equal to

the credit otherwise allowable to such taxpayer, and (iv) with respect to any incentive otherwise available for the purchase of a vehicle for which a credit is allowed under this section, including any incentive in the form of a rebate or discount provided by the dealer or manufacturer, ensured that the availability or use of such incentive shall not limit the ability of a taxpayer to make a transfer election, and such election shall not limit the value or use of such incentive.

- The transfer election shall be made by the taxpayer not later than the date on which the vehicle for which the credit is allowed under IRC 30D(a) is purchased.
- Upon determination by the Secretary that a dealer has failed to comply with the requirements described above, the Secretary may revoke the registration of such dealer.
- The transfer of the credit under IRC 30D(a) shall not be includible in the gross income of the taxpayer, and with respect to the dealer, shall not be deductible.
- The term “dealer” means a person licensed by a State, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, an Indian tribal government, or any Alaska Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)) to engage in the sale of vehicles.
- The term “Indian tribal government” means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this subsection pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

- (22) The following sub-sections provide information and guidance on responding to inquiries related to the various credits claimed on Form 8936, Clean Vehicle Credits.

21.7.4.4.8.3.38.1  
(03-11-2024)

**Form 8936, *Qualified Two or Three-Wheeled Plug-In Electric Vehicle***

- (1) Section 403, Title I, of the American Taxpayer Relief Act of 2012, P.L. 112-240, adds a new credit for Two- and Three-Wheeled Plug-In Electric Vehicles under IRC 30D(g). The credit is available for certain two- or three-wheeled plug-in electric vehicles acquired after December 31, 2011 and on or before December 31, 2013 and is claimed on Form 8936. The credit for qualified two- or three-wheeled plug-in electric vehicles expired for vehicles acquired after 2013. However, if the vehicle was acquired before 2014, but placed it in-service during 2014, taxpayers may still be able to claim the credit for 2014.
- Section 183 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the tax credit for two years to any qualified new 2-wheeled plug-in electric vehicle only, acquired after December 31, 2014 and on or before December 31, 2016.
  - Section 40405 of the Bipartisan Budget Act of 2018 extends this credit to for 2-wheeled plug-in electric vehicles acquired after December 31, 2016 through December 31, 2017.
  - Section 126 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, extends this credit for 2-wheeled plug-in electric vehicles acquired after December 31, 2017 through December 31, 2020.

- Section 144 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, extends 2-wheeled plug-in vehicle credit to vehicles acquired after December 31, 2020 through December 31, 2021.
- (2) The amount of the credit is 10 percent of the cost of any qualified plug-in electric vehicle placed in-service by the taxpayer during the taxable year, and cannot exceed \$2,500.
  - (3) A qualified two or three-wheeled plug-in electric vehicle is a new vehicle with two or three wheels that:
    - Is capable of achieving a speed of 45 miles per hour or greater.
    - Is propelled to a significant extent by an electric motor which draws electricity from a battery which (i) has a capacity of not less than 2.5 kilowatt hours, (ii) is capable of being recharged from an external source of electricity.
    - Has a gross vehicle weight rating of less than 14,000 pounds.
  - (4) To qualify for the credit, taxpayers must follow these requirements:
    - The original use commences with the taxpayer
    - The vehicle is placed in-service during the tax year
    - Is acquired for use or lease by the taxpayer and not for resale
    - Is made by a manufacturer
    - Is manufactured primarily for use on public streets, roads, and highways
    - The vehicle is used primarily in the United States
  - (5) Two or three wheeled plug-in electric motor vehicles acquired after December 31, 2011, and before January 1, 2014, or two wheeled plug-in electric motor vehicles acquired after December 31, 2014, and before January 1, 2022, are not eligible for the credit.
  - (6) See IRM 21.7.4.4.8.3.38, *Form 8936, Qualified Plug-in Electric Drive Motor Vehicle Credit*, and the General Instructions for Form 8936 for more specific information.
  - (7) Action required
    - Math verify Form 8936
    - Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.38.2  
(03-11-2024)

**Form 8936, Qualified  
Plug in Electric Drive  
Motor Vehicle Credit  
(placed in service 2022  
or prior)**

- (1) Under Internal Revenue Code 30D, taxpayers who bought a new, qualified plug-in electric vehicle (EV) in 2022 or prior may be eligible for a clean vehicle tax credit up to \$7,500.
- (2) The credit equals:
  - \$2,917 for a vehicle with a battery capacity of at least 5 kilowatt hours (kWh)
  - Plus \$417 for each kWh of capacity over 5 kWh

The maximum credit is \$7,500 and is non-refundable.
- (3) To qualify, a vehicle must:
  - have an external charging source,
  - have a gross weight rating of less than 14,000 pounds, and

- be made by a manufacturer that hasn't sold more than 200,000 EV's in the U.S.

**Note:** The credit for vehicles with at least four wheels is subject to a phaseout (reduction) once the vehicle manufacturer (or, for a foreign manufacturer, it's U.S. distributor) sells 200,000 of these vehicles to a retailer for use in the United States after 2009. The phaseout begins in the second calendar quarter after the quarter in which the 200,000th vehicle was sold. Then, the phaseout allows 50% of the full credit for 2 quarters, 25% of the full credit for 2 additional quarters, and no credit thereafter.

For qualified EV's bought or delivered between August 17, 2022 and December 31, 2022, the vehicle must also undergo final assembly in North America.

- (4) Taxpayers who purchase a qualified EV between August 16, 2022 and December 31, 2022, but don't take delivery of the vehicle until 2023 will need to qualify under the Credit for New Clean Vehicles Purchased in 2023 and Subsequent. See IRM 21.7.4.4.8.3.38.3, Form 8936, New Clean Vehicle Credit (placed in service 2023 or subsequent).
- (5) See IRM 21.7.4.4.8.3.38 and *Form 8936, Clean Vehicle Credits*, and the form instructions for specific information.
- (6) Action Required:
  - Math verify Form 8936

**Note:** Taxpayers are directed to use the January 2023 revision of Form 8936 for tax years beginning in 2022 or later, until a later revision is issued. Use prior revisions of the form for earlier tax years. All revisions are available at [www.irs.gov/Form8936](http://www.irs.gov/Form8936)

  - Input TC 291 to increase the credit and TC 290 to decrease the credit

21.7.4.4.8.3.38.3  
(05-23-2024)

**Form 8936, New Clean Vehicle Credit (placed in service 2023 or subsequent)**

- (1) Section 13401 of P. L. 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA) of 2022, amended IRC 30D, and renamed the provision to *New Clean Vehicles*. The bill modified the tax credit for new clean vehicles acquired after December 31, 2022, with some exceptions. The credit does not apply to vehicles acquired after 2032. The credit may be in part a personal credit and in part a General Business Credit and is claimed on Part II of Form 8936 and flows through to Form 3800 except for certain entities.

**Note:** Returns that contain this credit, and meet specific criteria for further review at processing, will have a posted TC 971 AC 831 in the tax module and will contain a MISC> field with "CVC". The account will also have a TC 570 with a -R freeze. See IRM 21.5.6.4.35, -R Freeze, for additional information.

- (2) To qualify for the credit, taxpayers must purchase a qualified new clean vehicle meeting the following requirements:
  - Has a battery capacity of at least 7 kilowatt hours,
  - Has a gross vehicle weight rating of less than 14,000 pounds,
  - Be made by a qualified manufacturer,
  - Undergo final assembly in North America, and

- Meet critical mineral and battery component requirements (as of April 18, 2023)

In addition, the vehicle's manufacturer suggested retail price (MSRP) can't exceed:

- \$80,000 for vans, sport utility vehicles and pickup trucks
- \$55,000 for other vehicles

- (3) The amount of the credit is based on the service date of the vehicle. For vehicles placed in service **January 1 to April 17, 2023:**

- \$2,500 base amount
- Plus \$417 for a vehicle with at least 7 kilowatt hours of battery capacity
- Plus \$417 for each kilowatt hour of battery capacity beyond 5 kilowatt hours
- Up to \$7,500 total

In general, the minimum credit will be \$3,751 (\$2,500 + 3 times \$417), the credit amount for a vehicle with the minimum 7 kilowatt hours of battery capacity.

- (4) For vehicles placed in service **April 18, 2023 and subsequent**, vehicles will have to meet the same criteria listed above, plus meet new critical mineral and battery component requirements for a credit up to:

- \$3,750 if the vehicle meets the critical minerals requirement only
- \$3,750 if the vehicle meets the battery components requirement only
- \$7,500 if the vehicle meets both

A vehicle that does not meet either requirement will not be eligible for a credit.

- (5) See IRM 21.7.4.4.8.3.38, *Clean Vehicle Credits - Form 8936*, the instructions for Form 8936, and [www.irs.gov/clean-vehicle-tax-credits](http://www.irs.gov/clean-vehicle-tax-credits) for more specific information.
- (6) To claim a clean vehicle credit (CVC), the taxpayer must provide a completed Form 8936, Clean Vehicle Credits, and a Schedule A (Form 8936) for each qualifying vehicle claimed on their tax return. All claims for clean vehicle credits must include the VIN on Schedule A (Form 8936). Refer to paragraph (7) below for instructions on how to validate the VIN.

**Note:** If the **only** source of this credit is derived from affiliation with a partnership or S corporation, entities can report this credit directly in Part III of Form 3800, General Business Credit. Partnerships and S corporations must file Form 8936 to claim the credit.

- (7) Research VIN(s) listed on Schedule A (Form 8936) using AMS VIN Lookup Tool.

- From AMS, select Tools > CLEAN ENERGY > VIN Lookup

**Note:** Input the full 17 characters of the VIN, or the first 6 characters of the VIN followed by an asterisk (\*) to search for the VIN. The tool will respond by listing the VIN. If the VIN is not found, the tool will respond "VIN is invalid".

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If	And	Then
Form 8936 Sch A VIN(s) match original return VIN(s)	CVC credit allowed for same VIN(s) on original return	Follow No Consideration Procedures in IRM 21.5.3.4.6, <i>No Consideration and Disallowance of Claims and Amended Returns</i> . Send 916C letter, explaining the credit was previously allowed for the specified VIN(s) on the original return.
Form 8936 Sch A VIN(s) match original return VIN(s)	CVC credit <b>NOT</b> allowed for the same VIN(s) on original return	<ul style="list-style-type: none"> <li>• If VIN(s) can be validated and the CVC credit amount is verified; continue processing.</li> <li>• If VIN(s) not valid; Follow No Consideration Procedures in IRM 21.5.3.4.6, <i>No Consideration and Disallowance of Claims and Amended Returns</i>. Send 916C letter with an open paragraph explaining the VIN(s) provided could not be verified.</li> </ul>



If	And	Then
Form 8936 Sch A VIN(s) do not match original return VIN(s)	placed in service date is before 01/01/ 2023	Follow Procedures in IRM 21.5.3.4.6, <i>No Consideration and Disallowance of Claims and Amended Returns</i> . Send a letter with an open paragraph explaining the placed in service date as the reason for the disallowance.
Form 8936 Sch A VIN(s) do not match original return VIN(s)	CVC credit exceeds \$7,500 (per vehicle) (Part II, Form 8936, Schedule A)	Follow Procedures in IRM 21.5.3.4.6 , <i>No Consideration and Disallowance of Claims and Amended Returns</i> . Send a letter with an open paragraph explaining the allowable/lesser New Clean Vehicle Credit amount as the reason for the partial disallowance.
Form 8936 Sch A VIN(s) do not match original return VIN(s)		
Form 8936 Sch A VIN(s) do not match original return VIN(s)		

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- (8) Action Required:
- Math verify Form 8936
  - Input TC 291 to increase the credit and TC 290 to decrease the credit.

21.7.4.4.8.3.38.4  
(05-23-2024)  
**Form 8936, Qualified  
Commercial Clean  
Vehicle Credit**

- (1) Section 13403 of P. L. 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA) of 2022, added Internal Revenue Code (IRC) 45W. Businesses and tax-exempt organizations that buy a qualified commercial clean vehicle after 2022 may qualify for a clean vehicle tax credit of up to \$40,000 under IRC 45W. There is no limit on the number of credits a business can claim. For businesses, the credits are nonrefundable. The credit can be carried over as a general business credit and is claimed on Part II of Form 8936 and flows through to Form 3800, except for certain entities. The credit does not apply to vehicles acquired after 2032.

**Note:** A Qualified Commercial Clean Vehicle Credit (IRC 45W) is not allowed if a New Clean Vehicle credit (IRC 30D), was also allowed for the same vehicle on the taxpayers tax return.

**Note:** Returns that contain this credit, and meet specific criteria for further review at processing, will have a posted TC 971 AC 831 in the tax module and will contain a MISC> field with "CVC". The account will also have a TC 570 with a -R freeze. See IRM 21.5.6.4.35, -R Freeze, for additional information.

- (2) Under IRC 6417, certain tax-exempt and governmental entities (Form 990-T filers) that generally do not benefit from income tax credits, can elect to treat the qualified commercial clean vehicle credit as a payment of income tax. Resulting overpayments may result in refunds for these entity types. See IRM 21.7.4.4.9.5 , Inflation Reduction Act (IRA), Superseding and Amended Return Processing; Elective Payment Elections (EPE) or Transfers, for additional information.
- (3) The credit equals the lesser of:
- 15% of your basis in the vehicle (30% if the vehicle is not powered by gas or diesel), or
  - The incremental cost of the vehicle

The maximum credit is \$7,500 for qualified vehicles with gross vehicle weight ratings (GVWRs) of under 14,000 pounds and \$40,000 for all other vehicles.

- (4) To qualify for the credit, business entities must purchase a qualified new clean vehicle meeting the following requirements:
- Be made by a qualified manufacturer
  - Be used for business, not for resale
  - Be for use primarily in the United States

In addition, the vehicle must either be:

- Treated as a motor vehicle for purposes of title II of the Clean Air Act and manufactured primarily for use on public roads (not including a vehicle operated exclusively on a rail or rails); or
- Mobile machinery as defined in IRC 4053(8) (including vehicles that are not designed to perform a function of transporting a load over a public highway)

The vehicle or machinery must also either be:

- A plug-in electric vehicle that draws significant propulsion from an electric motor with a battery capacity of at least 7 kilowatt hours if the

- gross vehicle weight rating (GVWR) is under 14,000 pounds; or 15 kilowatt hours if the GVWR is 14,000 pounds or more; or
- A fuel cell motor vehicle that satisfies the requirements of IRC 30B(b)(3)(A) and (B)

- (5) See the instructions for Form 8936, and [www.irs.gov/clean-vehicle-tax-credits](http://www.irs.gov/clean-vehicle-tax-credits) for more specific information.
- (6) To claim a qualified commercial clean vehicle credit, the taxpayer must provide a completed Form 8936, Clean Vehicle Credits, and a Schedule A (Form 8936) for each qualifying vehicle claimed on their tax return. All claims for clean vehicle credits must include the VIN on Schedule A (Form 8936).

**Note:** If the **only** source of this credit is derived from affiliation with a partnership or S corporation, entities can report this credit directly in Part III of Form 3800, General Business Credit. Partnerships and S corporations must file Form 8936 to claim the credit.

- (7) Research VIN(s) listed on Schedule A (Form 8936) using AMS VIN Lookup Tool.
- From AMS, select Tools > CLEAN ENERGY > VIN Lookup

**Note:** Input the full 17 characters of the VIN, or the first 6 characters of the VIN followed by an asterisk (\*) to search for the VIN. The tool will respond by listing the VIN, if valid. If the VIN is not found, the tool will respond “VIN is invalid”.

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If	And	Then
Form 8936 Sch A VIN(s) match original return VIN(s)	CVC credit allowed for same VIN(s) on original return	Follow No Consideration Procedures in IRM 21.5.3.4.6, <i>No Consideration and Disallowance of Claims and Amended Returns</i> . Send 916C letter, explaining the credit was previously allowed for the specified VIN(s) on the original return.

If	And	Then
Form 8936 Sch A VIN(s) match original return VIN(s)	CVC credit <b>NOT</b> allowed for the same VIN(s) on original return	<ul style="list-style-type: none"> <li>• If VIN(s) can be validated and the CVC credit amount is verified; continue processing.</li> <li>• If VIN(s) not valid; Follow No Consideration Procedures in IRM 21.5.3.4.6, <i>No Consideration and Disallowance of Claims and Amended Returns</i>. Send 916C letter with an open paragraph explaining the VIN(s) provided could not be verified.</li> </ul>
Form 8936 Sch A VIN(s) do not match original return VIN(s)	placed in service date is before 01/01/2023	Follow Procedures in IRM 21.5.3.4.6, <i>No Consideration and Disallowance of Claims and Amended Returns</i> . Send a letter with an open paragraph explaining the placed in service date as the reason for the disallowance.

If	And	Then
Form 8936 Sch A VIN(s) do not match original return VIN(s)	Credit amount claimed is not the lesser of line 24 or 25 on Part V, Form 8936 Schedule A	Follow Procedures in IRM 21.5.3.4.6 , <i>No Consideration and Disallowance of Claims and Amended Returns</i> . Send a letter with an open paragraph explaining the allowable/lesser Commercial Clean Vehicle Credit amount as the reason for the partial disallowance.
Form 8936 Sch A VIN(s) do not match original return VIN(s)		
Form 8936 Sch A VIN(s) do not match original return VIN(s)		

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## (8) Action required:

- Math verify Form 8936
- Input TC 291 to increase the credit and TC 290 to decrease the credit.

21.7.4.4.8.3.39  
(10-01-2019)**Form 5884–B, New Hire Retention Credit**

- (1) Section 102, Business Credit for Retention of Certain Newly Hired Individuals in 2010, of P.L. 111-147, the Hiring Incentives to Restore Employment Act, was signed into law by the President on March 18, 2010. Under the provision, the general business credit is increased by the lesser of; \$1,000, or 6.2 percent of the wages (as defined in IRC 3401(a)) paid by the taxpayer for each retained worker that satisfies a minimum employment period. It is effective after February 3, 2010, and before January 1, 2011.
- (2) The term “retained worker” means any “qualified individual” (see paragraph 3 below) as defined in paragraph (d)(3) of IRC 3111 or paragraph (c)(3) of IRC 3221.

- Who was employed by the taxpayer on any date during the taxable year

- Who was so employed by the taxpayer for a period of not less than 52 consecutive weeks, **and**
  - Whose wages (as defined in IRC 3401(a)) for such employment during the last 26 weeks of such period equaled at least 80 percent of such wages for the first 26 weeks of such period
- (3) IRC 3111(d)(3) and IRC 3221(c)(3) has been repealed.
- (4) Under section 102(c) of P.L. 111-147, no portion of the unused business credit under IRC 38 for any taxable year which is attributable to the increase in the current year business credit under Act section 102 is carried to a taxable year beginning before the date of enactment (DOE). No increase in the credit determined under IRC 38(b) against United States income taxes for any taxable year must be taken into account with respect to any person:
- To whom a credit is allowed against taxes imposed by the possession by reason of Act section 102 for such taxable year, **or**
  - Who is eligible for a payment under a plan described in Act section 102(d)(1)(B) with respect to such taxable year
- (5) The credit is claimed on Form 5884-B, *New Hire Retention Credit, December 2010 Revision*. Partnerships and S corporations report the credit amount on Schedule K; all others, report the credit amount on the applicable line of Form 3800, *General Business Credit* (e.g., line 1aa of the 2011 Form 3800).
- (6) See the FAQ on the IRS Web site at [www.irs.gov](http://www.irs.gov), questions and answers involving the credit as well as information regarding who is a “qualified individual.” Also, see the General Instructions for Form 5884-B for more specific information.

21.7.4.4.8.3.40  
(03-10-2023)  
**Black Liquor Credit  
Claims**

- (1) The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152) amended the definition of cellulosic biofuel, effective for fuels sold or used after December 31, 2009. Under the amendment, the cellulosic biofuel producer credit ceased to be available for fuels containing significant water, sediment, or ash content, such as black liquor. Thus, no credit is allowable under IRC 40(b)(6) for black liquor sold or used after December 2009. See the October 1, 2016 and prior revisions of this IRM for information on the Black Liquor Credit Claims.

21.7.4.4.8.3.41  
(10-01-2024)  
**Form 8941, Credit for  
Small Employer Health  
Insurance Premiums**

- (1) Section 1421, Credit for Employee Health Insurance Expenses of Small Business, of the Patient Protection and Affordable Care Act, P. L. No. 111-148, enacted March 23, 2010, added IRC 45R to the Internal Revenue Code. IRC 45R, Employee Health Insurance Expenses of Small Business, offers a tax credit to certain eligible small employers that provide health insurance coverage to their employees.
- (2) Eligible small employers use Form 8941, *Credit for Small Employer Health Insurance Premiums*, to figure the credit for small employer health insurance premiums for the tax years beginning after 2009. For tax years beginning after 2013, the credit is only available for a two consecutive tax year period. Both taxable employers and organizations described in IRC 501(c) exempt from tax under IRC 501(a) (tax-exempt employers) may be eligible for the IRC 45R credit.
- (3) In order to qualify for the section 45R credit the employer must have:



- Paid a uniform percentage of the premiums for health insurance coverage provided to employees through a qualifying arrangement. They may meet this requirement in all taxable years if they paid a uniform percentage (not less than 50 percent) of the premium for each employee enrolled in single (employee-only) coverage and no less than an equivalent amount for each employee enrolled in family coverage. See IRC 45R(d)(4).
  - Fewer than 25 full-time equivalent employees (FTEs) for the taxable year. See the Instructions to Form 8941 for how to determine who is an FTE for section 45R purposes.
  - Average annual wages of its employees for TY 2017 must be less than \$53,000 per FTE. The amount is increased to \$54,000 for TY 2018, and \$55,000 for TY 2019. The amount is increased to \$55,600 for 2020 and 2021 under *Rev. Proc. 2020-45*. The dollar amount for TY 2022 is \$57,400. See *Rev. Proc. 2021-45* for adjustments. The dollar amount for TY 2023 is \$61,400. See *Rev. Proc. 2022-38* for adjustments. The dollar amount for TY 2024 is \$64,800. See *Rev. Proc. 2023-34* for adjustments. See earlier revisions of this section for amounts prior to 2017. See the *Instructions for Form 8941*, for how determine who is an FTE for section 45R purposes.
- (4) Beginning in 2014, an eligible small employer must have participated in the Small Business Health Options Program (SHOP). For tax years beginning in 2014, health insurance coverage generally means coverage provided to employees enrolled in a qualified health plan offered through a Small Business Health Options Program (SHOP) in order to claim the credit.
- (5) For taxable years beginning in 2010 through 2013, the health insurance credit amount for any eligible small employer **is equal to 35 percent** (25 percent in the case of a tax-exempt eligible small employer) **of the lesser of** the premiums paid by the employer, subject to a cap determined by the small group market in the rating area in which the employee enrolls for coverage.
- (6) For tax years 2014 and subsequent, the maximum health insurance credit is generally equal to 50 percent (35 percent for tax-exempt small employers) of the lesser of the premiums paid by the employer, subject to a cap determined by the small group market in the rating area in which the employee enrolls for coverage.
- (7) The credit phases out gradually for eligible small employers if the number of FTEs exceeds 10 or if the average annual wages exceed the amounts for the tax periods and applicable revenue procedures listed below. See earlier revisions of IRM 21.7.4 for phase out amounts prior to 2017.

Tax Year	Dollar amount in effect under IRC 45R(d)(3)(B)	Revenue Procedure
2017	\$26,000	<i>Notice 2016-75</i>
2018	\$26,700	<i>Rev. Proc. 2018-27</i>
2019	\$27,100	<i>Rev. Proc. 2018-57</i>
2020	\$27,600	<i>Rev. Proc. 2019-44</i>

Tax Year	Dollar amount in effect under IRC 45R(d)(3)(B)	Revenue Procedure
2021	\$27,800	<i>Rev. Proc. 2020-45</i>
2022	\$28,700	<i>Rev. Proc. 2021-45</i>
2023	\$30,700	<i>Rev. Proc. 2022-38</i>

See the *Instructions for Form 8941* for specific information on figuring the phase-out credit.

- (8) For a tax-exempt eligible small employer, the credit is a refundable credit. See IRM 21.7.7.6.16.7, *Form 8941 Claims*, for more information on Tax Exempt Organizations claiming the credit on Form 990-T. In addition, the 45R credit claimed on Form 990-T is subject to sequestration. IMF taxpayers can claim the credit when filing Schedule C or Schedule F as sole proprietors with employees, Schedule H household employers, or Schedule E filers. See IRM 21.6.3.4.1.39, *Form 8941, Credit for Small Employer Health Insurance Premiums*, for more information on IMF taxpayers claiming the credit.
- (9) For tax years 2014 and subsequent, the credit is limited to 2 consecutive taxable years. Original returns claiming the credit are coded to show the year the credit is claimed. Command Codes (CC) ENMOD and CC BMFOLE will display a 45R year indicator (in a 45R YR1>YYYY / 45R YR2 >YYYY format). Therefore, taxpayers who claim the credit in 2014 and 2015 cannot claim the credit in 2016.
- (10) *Notice 2010-44*, provides detailed guidelines on IRC 45R as in effect for taxable years beginning before January 1, 2014, and also includes transition relief for taxable years beginning in 2010 with respect to the requirements for a qualifying arrangement under IRC 45R. It also has more than a dozen examples to help small employers determine whether they qualify for the credit and estimate the amount of the credit. Also, see *Notice 2010-82*, 2010-51 I.R.B. 857, which expands the guidance provided in *Notice 2010-44* and provides guidance on additional issues relating to the small employer tax credit.
- (11) The credit is calculated on Form 8941, *Credit for Small Employer Health Insurance Premiums*, and is claimed on an eligible small employer's annual income tax return and offsets an employer's actual tax liability for the year. For an eligible small employer that is not a tax-exempt employer, the credit is a general business credit and any unused credit amount carried back one year and carried forward 20 years.
- (12) Individual shareholders of an S corporation (Form 1120-S) and partners in a partnership (Form 1065) will claim the credit on their individual income tax return (Form 1040).
- (13) For tax year 2014 and subsequent years amended returns, verify the SHOP checkbox on Form 8941 is checked yes.
  - If the taxpayer checked the yes box, verify that CC ENMOD reads correctly. If needed, update the 45R year indicator (see paragraph (14) below, and allow the claim.

- If it is checked no, disallow the claim unless the taxpayer is filing for a partnership, S corporation, cooperative, estate, trust, or tax-exempt eligible small employer that received from another entity a credit that must be reported on line 15. See the instructions for line 15 of the *Instructions for Form 8941* for more information.
  - If checked yes and no, or is blank, reject as an incomplete claim.
- (14) If an amended return claiming the credit is received, review CC TXMOD and/or CC BMFOL to determine if the credit was previously reported and adjust accordingly. Also, verify that the command codes correctly reflect that the credit was claimed. To update the year, input command code ENREQ by overlaying the year in the field that reads: 45R YR1 > YYYY or 45R YR2 > YYYY. For example:
- To add 2014 as the first year claimed, input: 45R YR1 > 2014.
  - To remove 2014, input 45R YR1> 9999

Caution: Updates to the 45R year indicator cannot be input along with an address change or name change.

- (15) In addition, beginning with tax year 2014, if an amended return claiming the credit is received follow the instruction in paragraph (13) above and verify that this is either the first year the credit is being claimed, or, if it is the second year it is being claimed, verify that it is the consecutive year following the first year it was claimed.
- If it is the first or the second consecutive year, adjust accordingly.
  - If it is not a consecutive year and was only claimed once, send 916C and follow no consideration procedures. Advise the taxpayer that the credit can only be claimed in consecutive years.
  - If it was claimed in consecutive years and is being claimed for a third year, disallow the claim, send 105C and advise taxpayer the credit can only be claimed in two consecutive years.
- (16) For tax year 2014 and subsequent, control amended returns claiming the 45R credit using category code ACAX. Control 45R correspondence with category code ACA1.
- (17) For calendar year 2014, SHOP Marketplaces in certain counties of in the states of Washington and Wisconsin did not have qualified health plans available for employers to offer to employees. Transition relief allowed employers with a principal business address in the counties listed in the 2014 *Instructions for Form 8941*, to claim the credit for their tax year beginning in 2014. Certain employers with a 2014 health plan year that continues into 2015 can claim the credit for the corresponding portion of the 2015 taxable year. See the 2015 Instructions for Form 8941 for the counties impacted. Also, see *Notice 2014-6*, 2014-2 I.R.B. 279, for more details.
- (18) For calendar year 2015, SHOP Marketplaces in certain counties of Iowa did not have qualified health plans available for employers to offer to employees. Transition relief allowed employers with a principal business address in the counties listed in the 2015 Instructions for Form 8941 to claim the credit for their tax year beginning in 2015. Certain employers with a 2015 health plan year that continues into 2016 can claim the credit for the corresponding portion of the 2016 taxable year. See *Notice 2015-08*, 2015-06 I.R.B. 589, for more details.

- (19) For calendar year 2016, SHOP Marketplaces in certain counties of Wisconsin did not have qualified health plans available for employers to offer to employees. Transition relief allowed employers with a principal business address in the counties listed in the 2016 *Instructions for Form 8941*, to claim the credit for their tax year beginning in 2016. Certain employers with a 2016 health plan year that continues into 2017 can claim the credit for the corresponding portion of the 2016 taxable year. See *Notice 2016-75*, 2016-51 I.R.B. 832, for more details.
- (20) For more specific information, see:
- *Instructions for Form 8941*
  - Regulations sections 1.45R-0 through 1.45R-5
  - Find tax tips, guides and answers to frequently asked questions on the IRS Web site at [www.irs.gov](http://www.irs.gov).
  - *Small Business Health Care Tax Credit and the SHOP Marketplace*
- (21) Action required:
- Math verify Form 8941
  - Input TC 290 to decrease the credit and TC 291 to increase the credit. Input item reference number 870 along with the TC 290/TC 291 when adjusting the credit for Small Employer Health Insurance Premium. For example, when increasing the credit for \$750.00, input a item reference number 870 for \$750.00 along with your TC 291 for \$750.00-)

**Note:** Item reference number 870 is effective for tax year 2011 and subsequent.

21.7.4.4.8.3.42  
(10-01-2024)

**Rehabilitation Credit  
Limited to Certified  
Historic Structures**

- (1) *Tax Cuts and Jobs Act of 2017 (TCJA), Section 13402, Rehabilitation Credit Limited to Certified Historic Structures*, revised IRC 47 . The TCJA repealed the 10-percent credit for pre-1936 buildings and modified the rules for claiming the 20 percent credit for certified historic structures.
- (2) Section 47 now provides a credit for qualified rehabilitation expenditures with respect to a qualified rehabilitated building that is a certified historic structure. The credit is calculated based on 20 percent of qualified rehabilitation expenditures and is spread ratably over the 5-year period beginning with the taxable year in which the qualified rehabilitated building is placed-in-service.
- (3) A certified historic structure means any building listed in the National Register or located in a registered historic district. See *IRC 47(c)(3)*, for more information.
- (4) The Rehabilitation credit is a non-refundable credit claimed on Form 3468, *Investment Credit*, which is reported on Form 3800, *General Business Credit*. See the following for actions required:
- Input TC 290 to decrease the credit, and TC 291 to increase the credit using the correct blocking series (BS).

21.7.4.4.8.3.43  
(03-11-2024)  
**Form 7207, Advanced  
Manufacturing  
Production Credit**

- (1) Pub. L. 117-169, commonly known as the Inflation Reduction Act (IRA) 2022 added IRC Sec. 45X to claim the credit for the sale and production of eligible components produced and sold after December 31, 2022. Eligible components include solar energy components, wind energy components, inverters, qualifying battery components, and applicable critical minerals. See Form 7207 instructions for additional information.
- (2) To qualify for the credit, the eligible components must be produced within the United States or territories (including continental shelf area), and sold in trade or business to unrelated persons. Special rules apply to sales between related persons. For the latest information concerning qualified sales and related person rules, see *irs.gov/Form7207*.
- (3) Taxpayers must file a separate Form 7207 for each facility operated to produce and sell eligible components.
- (4) Partnerships and S corporations must also file a Form 7207 for each facility operated to produce and sell eligible components. All other entities are generally not required to complete or file this form if their only source for this credit is from a partnership or S corporation. Instead, they can report this credit directly on Form 3800, General Business Credit.
- (5) S Corporations or Partnerships may make an elective payment election (EPE) under IRC 6417 or transfer payment under IRC 6418. In addition to completing Form 7207 for each facility operated to produce and sell eligible components when making an EPE, the credit amount for each facility must also be reported on the applicable line of Form 3800, Part III. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers.
- (6) The credit for advanced manufacturing production will phase out for eligible components sold after 2029, except applicable critical minerals. See the Form 7207 instructions for additional information.
- (7) Action Required:
  - a. Math Verify Form 7207
  - b. Review Part III of Form 3800 to determine if the taxpayer reported an elective payment election (EPE) for Form 7207, Advanced Manufacturing Production Credit. If so, see IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA) Superseding and Amended Return Processing; Elective Payment Elections (EPE) or Transfers, for processing information and to verify if adjustment is allowable.
  - c. If no elective payment election (EPE) has been made:  
Input TC 291 to increase the credit or TC 290 to reduce the credit.

21.7.4.4.8.3.44  
(03-11-2024)  
**Form 7210, Clean  
Hydrogen Production  
Credit**

- (1) Pub. L. 117-169, commonly known as the Inflation Reduction Act (IRA) 2022 added IRC Sec. 45V to claim the credit for the production of qualified clean hydrogen produced after 2022 at a qualified clean hydrogen production facility during the 10-year period beginning on the date the facility is originally placed in service. This credit is effective for hydrogen produced after December 31, 2022. See Form 7210 instructions for additional information on modification of existing facilities.
- (2) To qualify for the credit, the clean hydrogen must be produced in either the United States, or a territory of the United States, in the ordinary course of a



trade or business of the taxpayer, for its sale or use. The hydrogen must be produced through a process that results in a lifecycle greenhouse gas emissions rate of not greater than 4 kilograms of CO<sub>2</sub>e per kilogram of hydrogen. Additionally, the production and sale or use of such clean hydrogen must be verified by an unrelated party.

- (3) Taxpayers must file a separate Form 7210 for each qualified clean hydrogen production facility for which they claim the Clean Hydrogen Production Credit.
- (4) Partnerships and S corporations that own and operate a qualified clean hydrogen production facility must file a separate Form 7210. All other filers are generally not required to complete or file this form if their only source for this credit is from a partnership or S corporation. Instead, they can report this credit directly on Form 3800, General Business Credit.
- (5) Partnerships and S corporations must complete and attach a separate Form 7210 for each qualified clean hydrogen production facility or property even if **they** cannot claim the credit.
- (6) S Corporations or Partnerships may make an elective payment election (EPE) under IRC 6417 or transfer payment under IRC 6418. In addition to completing Form 7210 for each qualified facility, when making an EPE, the credit amount for each facility must also be reported on the applicable line of Form 3800, Part III. See IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return Processing Elective Payment Elections (EPE) or Transfers.
- (7) The clean hydrogen production credit for any tax year is adjusted annually for inflation. The credit is calculated by multiplying an applicable amount by the kilograms of qualified clean hydrogen produced. The applicable amount is an amount equal to the applicable percentage of \$0.60. The applicable percentage ranges from 20% to 100% depending on the level of lifecycle greenhouse gas emissions associated with the production of the hydrogen. See instructions for Form 7210 for additional information on applicable amounts.
- (8) The amount of the credit depends on the emissions intensity of the hydrogen produced and the taxpayer's compliance with certain prevailing wage and apprenticeship requirements during the qualified clean hydrogen production facility's construction, alteration, and repair. For facilities that do not meet certain prevailing wage and apprenticeship requirements, the credit amount ranges from \$0.12 to \$0.60 per kilogram of qualified clean hydrogen produced. For facilities that meet certain prevailing wage and apprenticeship requirements, the credit amount is multiplied by five. The applicable amount ranges from \$0.60 to \$3.00 per kilogram if the qualified clean hydrogen production facility meets certain prevailing wage and apprenticeship requirements, depending on the lifecycle greenhouse gas emissions rate. See Form 7210 instructions for additional information on applicable amounts.
- (9) For any qualified clean hydrogen production facility that satisfies one of the following requirements, the amount of the credit is multiplied by 5:
  - A facility the construction of which begins prior to January 29, 2023, and which satisfies the prevailing wage requirements with respect to alterations and repairs occurring after January 29, 2023.

**Note:** See Notice 2022-61 for additional information on the increased credit amount for qualified clean hydrogen production Facilities, and the Form 7210



## (10) Action Required:

- a. Math Verify Form 7210
- b. Review Part III of Form 3800 to determine if the taxpayer reported an elective payment election (EPE) for Form 7210, Clean Hydrogen Production Credit. If so, see IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA) Superseding and Amended Return Processing; Elective Payment Elections (EPE) or Transfers, for processing information and to verify if adjustment is allowable.
- c. If no elective payment election (EPE) has been made: Input TC 291 to increase the credit or TC 290 to reduce the credit.

21.7.4.4.8.4  
(10-01-2023)

**Form 8903, Domestic  
Production Activities  
Deduction**

- (1) The IRC 199 Domestic Production Activities Deduction (DPAD) was repealed by section 13305 of the 2017 Tax Cuts and Jobs Act (TCJA) for taxable years beginning after December 31, 2017. The IRC 199 DPAD was an annual use-it-or-lose-it deduction that could **not** create or increase a net operating loss (NOL). Any taxable years that could have reported the IRC 199 DPAD should be closed years. Form 8903 is no longer in use to report the IRC 199 DPAD.
- (2) Although the IRC 199 DPAD was repealed, a deduction under IRC 199A(g) for income attributable to domestic production activities is allowed to “specified agricultural or horticultural cooperatives” as defined in IRC 199A(g)(4) for taxable years beginning after December 31, 2017. These cooperatives may, but are not required to, utilize Form 8903, as applicable, to calculate the IRC 199A(g) deduction. Cooperatives utilizing Form 8903 to compute a deduction under IRC 199A(g), must write “SPECIFIED COOPERATIVE DPAD” across the top of Form 8903. The Form 8903 must be attached to the cooperative’s return.

21.7.4.4.8.5  
(10-01-2019)

**Amortization of  
Research and  
Experimental  
Expenditures**

- (1) *Tax Cuts and Jobs Act of 2017 (TCJA), Section 13206, Amortization of Research and Experimental Expenditures*, requires that for taxable years beginning after December 31, 2021, amounts defined as specified research or experimental expenditures must be capitalized and amortized ratably over a 5-year period, that begins at the midpoint of the taxable year in which the specified research or experimental expenditures were paid or incurred for businesses within the U.S.
- (2) TCJA, Section 13206, also requires that for taxable years beginning after December 31, 2021, specified research or experimental expenditures attributable to research that is conducted outside of the U.S. must be capitalized and amortized ratably over a 15-year period that begins at the midpoint of the taxable year in which such expenditures were paid or incurred.
- (3) The amortization of research and experimental expenses is the result of the repeal of the Alternative Minimum Tax (AMT). For taxable years beginning after December 31, 2021, taxpayers can no longer elect to amortize those expenditures over a period of 60 months.

21.7.4.4.8.6  
(10-01-2022)

**Form 8994, Employer  
Credit for Paid Family  
and Medical Leave**

- (1) The employer credit for paid family and medical leave was added by the Tax Cuts and Jobs Act of 2017 (TCJA), Public Law 115-97, Section 13403 and is a non-refundable credit claimed on Form 8994, *Employer Credit for Paid Family and Medical Leave*. This credit is reported on Form 3800, *General Business Credit*.

- (2) *IRC 45S* establishes a business credit for eligible employers that provide paid family and medical leave. The credit is equal to a percentage of wages (ranging from 12.5 percent to 25 percent) paid to qualifying employees on family and medical leave. The purposes for which an employee may take family and medical leave under Section 45S are the same purposes for which an employee may take family and medical leave under Title I of the Family and Medical Leave Act of 1993, as amended (FMLA), Pub. L. 103-3; 29 U.S.C. sec. 2601 *et seq.* The credit is available for wages paid in taxable years beginning after December 31, 2017, and before January 1, 2026. For more information on the credit, see *Notice 2018-71*.
- (3) Section 142 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, P.L. 116-94, amended Section 45S(i) to extend the credit for wages paid in taxable years beginning after December 31, 2019 and before January 1, 2021.
- (4) Section 119 of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, P.L. 116-260, amended Section 45S(i) to extend the credit for wages paid in taxable years beginning after December 31, 2020 and before January 1, 2026.
- (5) If the taxpayer is requesting a carryback/carryforward, see IRM 21.5.9.2, *What is a Carryback?*, and/or IRM 21.5.9-1, *General Business Credits, Foreign Tax Credit, and Other Non-refundable Credits - Availability for Carryback/Carryforward*, to determine if the taxpayer is entitled to claim the credit.
- (6) An employer must have a written policy that satisfies certain requirements to claim the credit. See the following eligibility requirements below:
  - a. The policy must cover all qualifying employees; that is, all employees who were employed for a year or more and were paid not more than a specified amount during the preceding year. In general, in determining whether an employee is a qualifying employee, the employee must not have had compensation from the employer of more than \$72,000. This amount could change yearly for cost-of-living increases. See section 45S(d)(2) and section 414(q)(1)(B)(i) for additional information.
  - b. The policy must provide at least two weeks of annual paid family and medical leave for each full-time qualifying employee and at least a proportionate amount of leave for each part-time qualifying employee.
  - c. The policy must provide for payment of at least 50 percent of the qualifying employee's wages while the employee is on leave.
  - d. If an employer employs qualifying employees not covered by Title I of the FMLA, the employer's written policy must include language providing "non-interference" protections, as described in IRC 45S(c)(2)(A). Any leave paid by a State or local government or required by State or local law is not considered for any purpose in determining the amount of paid family and medical leave provided by the employer.
- (7) The credit with respect to any qualifying employee for any taxable year cannot exceed an amount equal to the product of the employee's normal hourly wage rate for each hour (or fraction thereof) of actual services performed for the employer and the number of hours (or fraction thereof) for which family and medical leave is taken. Until further guidance is issued, an employer may use any reasonable method to convert the normal wages paid to an employee who is not paid an hourly wage rate, to an hourly rate.
- (8) See IRM 21.5.3-3, *Examination Criteria (CAT-A) - Credits*, for applicable criteria before processing the claim.

## (9) When adjusting the account:

- If Form 8994 or Form 3800 is not attached, follow procedures in IRM 21.5.2.4.19, *Verifying complete Adjustments*, for missing or incomplete claims, otherwise:
- Verify Form 8994 is complete and reported on the Form 3800.
- Verify the correct amount from Form 3800 is reported on the applicable income tax return.
- Input a TC 290 with a money amount to decrease the credit.
- Input a TC 291 with a money amount to allow / increase the credit with a minus sign (-).

(10) Use Category Code **TRFC** when addressing correspondence for Form 1120, Form 1041, or Form 1065, with a Form 8994 attached. Report your time using OFP 710-85379.

(11) Use Category Code **TRFX** when addressing amended/claim return for Form 1120, Form 1041, or Form 1065, with a Form 8994 attached. Report your time using OFP 710-85377.

21.7.4.4.8.7  
(10-01-2022)

**COVID-19-related Tax  
Credits for Paid Sick  
and Paid Family Leave**

- (1) The Families First Coronavirus Response Act (FFCRA) was signed on March 18, 2020, provides small and mid-size employers refundable tax credits that reimburse them, dollar-for-dollar, for the cost of providing paid sick and family leave wages to their employees for leave related to COVID-19. These COVID-19 related credits are separate from the IRC 45S credit above and are claimed on employment tax returns or Schedule H (Form 1040), not on form 8994 or Form 3800. See *COVID-19-Related Tax Credits for Paid Sick and Paid Family Leave: Overview*, for additional information.
- (2) The refundable credits as enacted under the FFCRA were amended and extended by the COVID-related Tax Relief Act of 2020 (Relief Act) for paid sick and family leave taken in the first quarter of 2021, from January 1, 2021 through March 31, 2021. The Relief Act was enacted as Subtitle B of Title H of Division N of the Consolidated Appropriates Act, 2021, P.L. 116-260, 134 Stat. 1182 on December 27, 2020. For more information, see *Tax Credits for Paid Leave Under the Families First Coronavirus Response Act for Leave Prior to April 1, 2021 FAQs*.
- (3) The American Rescue Plan Act of 2021 (ARP), P.L. 117-2, 135 Stat. 4, enacted March 11, 2021, amended and extended the tax credits for paid sick and family leave for wages paid with respect to the period of leave beginning April 1, 2021, and ending on September 30, 2021. These FAQs will be updated as more information becomes available. For more information, see *Tax Credits for Paid Leave Under the American Rescue Plan Act of 2021 for Leave After March 31, 2021*.

21.7.4.4.9  
(01-01-2005)

**Refundable Credits,  
Income Tax Returns**

- (1) A refundable credit is a credit to reduce a tax liability. If the tax is reduced to zero (or reported as zero) and the credit remains, it is refundable.
- (2) Form 1041, Form 990-C/1120-C, Form 990-T, or certain Form 1120 series returns can claim refundable credits. The taxpayer is required to submit various forms or schedules to substantiate credits applicable to the return. Refer to Document 6209 for the correct Credit Reference Number (CRN) to adjust refundable credits.

21.7.4.4.9.1  
(03-10-2023)  
**Form 4136, Credit for  
Federal Tax Paid on  
Fuels**

- (1) Form 4136 is filed to claim a refundable credit for federal excise tax for certain nontaxable uses (or sales) of fuel (including alternative fuel), the biodiesel or renewable diesel mixture credit, the sustainable aviation fuel credit, the alternative fuel credit, a credit for blending a diesel-water fuel emulsion, and a credit for exporting dyed fuels or gasoline blendstocks. See Publication 510, *Excise Taxes*, for more information.
- (2) Form 4136 is filed with the taxpayer's income tax return to claim an annual credit for excise **fuel taxes only**. Form 8849, *Claim for Refund of Excise Taxes*, is filed to claim a periodic refund of fuel taxes and various other excise taxes, instead of waiting to claim an annual fuel tax credit on Form 4136. Form 8849 is worked in Excise. Route Forms 8849 to:  
  
Internal Revenue Service  
Excise Tax Operation  
7940 Kentucky Dr.  
Mail Stop 5701G  
Florence, KY 41042
- (3) Each type of fuel is assigned its own Credit Reference Number (CRN). For example, the nontaxable use of gasoline is assigned CRN 362. See the table in IRM 4.24.22.4.5.2, *Form 8849, Schedule 1, Nontaxable Use of Fuels*, for the credit reference numbers that apply to both Form 4136 and Form 8849.
- (4) The ultimate purchasers of various fuels used for certain nontaxable purposes may claim a credit of the excise tax paid on those fuels. The registered ultimate vendor of certain fuels sold for certain nontaxable purposes may claim a credit of the excise tax paid on those fuels. In certain circumstances, a credit card issuer may claim a credit of the excise tax paid on those fuels, if it meets certain requirements.
- (5) An estate, trust, or corporation can claim this credit on their income tax return. A partnership must attach, to Form 1065, a statement showing the gallons of fuel allocated to each partner, type of use, and applicable tax rates. Each individual partner must claim their portion of the credit on their individual income tax return.

**Exception:** Form 1065-B filers can take the credit on Form 1065-B. It is not passed through to the individual members of the partnership.

- (6) Action required on Form 4136 adjustments:

c. Input TC 290 \$.00 with the correct CRN (see paragraph 3 above) and blocking series (based on the form type, i.e., Form 1120)

- (7) Prior to 2016, fuel credits processed with the original return posted to master-file without a credit reference number (CRN). Beginning in 2016, fuel credits post to master-file as a CRN 450 when the original return posts. In 2016, subsequent adjustments to fuel credits input to IDRS post to master file without a CRN. Beginning in 2017, adjustments to fuel credits input to IDRS will post with a CRN 450.

#  
#

21.7.4.4.9.2  
(10-01-2022)

**Credits for Taxes Paid  
on Undistributed Capital  
Gains of Regulated  
Investment Company  
(RIC) or Real Estate  
Investment Trusts (REIT)**

- (1) A shareholder of a RIC or REIT can claim a credit or refund for tax paid by the RIC or REIT on undistributed long-term capital gains on the income tax return for the shareholder's year that includes the last day of the taxable year of the RIC or REIT for which the tax was imposed, as below:

- Shareholders that are corporations must report this amount on Schedule D (Form 1120).
- The amount shown on line 2, Form 2439, *Notice to Shareholder of Undistributed Long-Term Capital Gains*, can be claimed as a credit on the income tax return.
- The shareholder must attach Copy B of Form 2439 to the income tax return.

**Exception:** Copy A is attached to Form 1120-RIC or Form 1120-REIT.

- Exempt organizations can claim the credit by filing Form 990-T.

- (2) Route all Form 990-T returns claiming the credit and all claims from exempt organizations claimed on Form 2439 to Ogden AM. See IRM 21.7.7.6.3.6, *Form 2439 - Regulated Investment Company Shareholders' Refunds*, for more information concerning Exempt Organizations and Form 2439. If the case involves an IMF taxpayer who did not receive the credit send the case to Accounts Management in whichever campus the taxpayer filed their Form 1040 return.

- (3) Action required:

- a. Input TC 290 \$.00 and TC 766 with a positive amount to allow the credit.
- b. Input TC 290 \$.00 and TC 767 with a negative amount to reduce the credit.

21.7.4.4.9.2.1  
(11-02-2010)

**Form 2439, Notice to  
Shareholder of  
Undistributed  
Long-Term Capital  
Gains, for Individual  
Retirement Account  
(IRA) Trusts**

- (1) Taxpayers claiming credits on IRA trusts for Form 2439, *Notice to Shareholder of Undistributed Long-Term Capital Gains*, must be claimed by the custodian or trustee on Form 990-T. Notice 90-18, allows custodians of multiple IRA trusts to file a consolidated Form 990-T to report the income (gain) and to claim the credit. See IRM 3.11.12.8.3, *Consolidated Return*, for additional information on composite Forms 990-T.

- (2) Action required:

If	Then
A Form 843 is received from the individual shareholder or nominee	Disallow the claim and explain the credit must be claimed on Form 990-T
Any completed Form 990-T claiming the credit is received	Route all Form 990-T returns claiming the credit to: EO Accounts Management in Ogden



21.7.4.4.9.2.2  
(06-06-2007)  
**Loose Form 2439,  
Copies A and B**

- (1) Loose Form 2439, *Notice to Shareholder of Undistributed Long-Term Capital Gains*, Copies A and B, can be filed by the nominee if they are not the actual owner of the shares for which the form is issued. The nominee prepares Form 2439 for each involved shareholder. The shareholder's Copy A is attached to the nominee's Copy B.
- (2) Action required:
  - a. Associate both Copies A and B (Copy B marked "nominee") with the nominee's income tax return
  - b. Do not adjust
  - c. If Copy B (marked nominee) is sent without Copy A, correspond or phone the taxpayer (nominee) for Copy A
  - d. Associate Copy A (not marked nominee) with the taxpayer's Form 1120-RIC or Form 1120-REIT income tax return

21.7.4.4.9.3  
(02-06-2020)  
**Prior Sequestration of  
Form 8827 Credit -  
General Information**

- (1) On March 1, 2013, the President issued a sequestration order in accordance with section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, 2 U.S.C. 901a. The order required that budgetary resources in each non-exempt budget account be reduced by the amount calculated by the Office of Management and Budget (OMB) in its report to Congress, entitled OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013. These required reductions (referred to as "Sequestration") include a reduction to a refundable credit for corporations requesting a refund from Form 8827, *Credit for Prior Year Minimum Tax – Corporations*. Any refundable portion of the credit was subject to a pre-defined percentage reduction to the credit claimed on the corporate return.
- (2) On October 4, 2019, the Office of Management and Budget (OMB) determined payments issued for refunds under IRC 168 (k)(4) of title 26, U.S. Code do not require "direct spending" within the meaning of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), and therefore, **are not** subject to sequestration. OMB determined refundable AMT credits that the corporations were authorized to take in lieu of bonus depreciation in IRC 168(k)(4) should similarly not be subject to sequestration. Accordingly, OMB requested the Department of Treasury take appropriate steps to recover the amounts previously sequestered for these refundable AMT credits. See IRM 21.7.4.4.9.3.1, *Previously Sequestered Corporate Alternative Minimum Tax (AMT) Recovery*, for recovery guidance.
- (3) For additional information on sequestration of the refundable amount of the alternative minimum tax credit on Form 8827, see the archived 3-2014 through 12-2019 revisions of IRM 21.7.4.

21.7.4.4.9.3.1  
(02-06-2020)  
**Previously Sequestered  
Corporate Alternative  
Minimum Tax (AMT)  
Recovery**

- (1) The Office of Management and Budget (OMB) determined that the refundable corporate alternative minimum tax (AMT) credit claimed under IRC 168(k)(4) of title 26, U.S. Code is not subject to sequestration. This policy change requires reinstating credits timely claimed and allowed under IRC 168(k)(4) but sequestered since 2013.
- (2) The Chief Financial Officer (CFO) identified the accounts requiring an adjustment to allow the previously sequestered amounts. CFO shared the listing of accounts requiring adjustments with Accounts Management (AM) Headquarters by the CFO. The AM HQ analyst provides site-specific listings to Ogden and Cincinnati AM.



- (3) The credit appears on Command Code (CC) TXMOD and CC BMFOLT as a TC 766. Beginning January 2013, returns claiming Form 8827, *Credit for Prior Year Minimum Tax - Corporations*, credit is identified with TC 766 credit reference number (CRN) 334. For returns processed after December 31, 2016, the Form 8827 credit is identified with CRN 793. Use the same CRN posting the original credit to reinstate the sequestered amounts.
- (4) Follow the procedures in the table below to reinstate the previously sequestered accounts.

**Reminder:** Follow normal procedures for any addressing freeze codes, manual refunds, or restricted penalty/interest conditions. Contact the AM HQ Analyst if you have any questions concerning unique account issues.

If	Then
Reinstating a sequestered credit previously posted with CRN 334	<p>Input TC 290 adjustment for zero (.00), accompanied with CRN 334 (entered as a positive amount) for a sum <b>equal</b> to the previously sequestered tax credit. This will result in the generation of a TC 766 CRN 334. Initiate Letter 1721C explaining the additional credit an/or offset using the following paragraph:  <i>We have determined you are entitled to an increase in credit for previously sequestered amounts from Form 8827, Credit for Prior Year Minimum Tax - Corporations, which you claimed on your 201X Form 1120. We have increased the credit by \$XXXX.XX. You can expect a refund of this amount in two to four weeks if you owe no other taxes or legal obligations we are required to collect.</i></p> <p><b>Note:</b> If the normal statute for credit and/or refund (i.e., Refund Statute Expiration Date [RSED]) has passed, input the adjustment using the statute override code “S” and a Refund Statute Control Date (RFSCDT) <b>identical to</b> the posted RSED on the module. These actions will enable the adjustment to post and any resulting overpayment to systemically refund and/or offset.</p> <p><b>Caution:</b> Since the CFO-identified reinstatement credit is not subject to the provisions of IRC 6611(e)(2) or IRC 6611(e)(3), do <b>not</b> include in the adjustment to allow the credit either an “AMD-CLMS-DT” or a Priority Code 3.</p> <p><b>Note:</b> Consider issuing a manual refund when the 45-day interest-free period of IRC 6611(e)(1) is in jeopardy and the overpayment to be refunded is \$5,000 or more -see IRM 20.2.4.7.5, <i>45-Day Rule</i>. The 45-day period of IRC 6611(e)(1) tolls from the later of the un-extended due date of the original tax return, received date of the original return, or the date the original return was received in processible form.</p>

If	Then
Reinstating a sequestered credit previously posted with CRN 793	<p>Input TC 298 adjustment for zero (.00), accompanied with CRN 793 (entered as a positive amount) for a sum <b>equal to</b> the previously sequestered tax credit. Input the INT-CMP-DT which is required by the TC 298, using the return due date of the tax period being adjusted without considering any extensions. This will result in the generation of a TC 766 CRN 793 credit appropriately dated. Initiate Letter 1721C explaining the additional credit and/or offset using the following paragraph:</p> <p><i>We have determined you are entitled to an increase in credit for previously sequestered amounts from Form 8827, Credit for Prior Year Minimum Tax - Corporations, which you claimed on your 201X Form 1120. We have increased the credit by \$XXXX.XX. You can expect a refund of this amount in two to four weeks if you owe no other taxes or legal obligations we are required to collect.</i></p> <p><b>Note:</b> If the normal statute for credit and/or refund (i.e., Refund Statute Expiration Date [RSED]) has passed, input the adjustment using the statute override code "S" and a Refund Statute Control Date (RFSCDT) <b>identical to</b> the posted RSED on the module. These actions will enable the adjustment to post and any resulting overpayment to systemically refund and/or offset.</p> <p><b>Caution:</b> Since the CFO-identified reinstatement credit is not subject to the provisions of IRC 6611(e)(2) or IRC 6611(e)(3), do <b>not</b> include in the adjustment to allow the credit either an "AMD-CLMS-DT" or a Priority Code 3.</p> <p><b>Note:</b> Consider issuing a manual refund when the 45-day interest-free period of IRC 6611(e)(1) is in jeopardy and the overpayment to be refunded is \$5,000 or more -see IRM 20.2.4.7.5, <i>45-Day Rule</i>. The 45-day period of IRC 6611(e)(1) tolls from the later of the un-extended due date of the original tax return, received date of the original return, or the date the original return was received in processible form.</p>

- (5) Update the appropriate columns in the template provided by your P & A Analyst of the actions taken, (i.e., a manual refund was sent, the amount of interest on the manual refund, if the credit was allowed to systemically refund, and date of correction). Send the completed template to your P & A Analyst who forwards to the AM HQ Analyst by COB each Friday until all accounts have been corrected.

21.7.4.4.9.3.2  
(05-13-2020)

**Repeal of Alternative  
Minimum Tax (AMT), and  
Repeal of Corporate  
AMT Sequestration**

- (1) For taxable years beginning before January 1, 2018, a corporation that can claim an additional first-year depreciation deduction under IRC 168(k)(4) can choose instead to accelerate the use of its prior year minimum tax credits, treating the accelerated credits as refundable credits. Corporations making this section 168(k)(4) election and claiming a refund of prior year minimum tax credits should complete Form 8827, *Credit for Prior Year Minimum Tax - Corporations*.

- (2) The Tax Cuts and Jobs Act of 2017 (TCJA), Section 12001, repealed the alternative minimum tax for corporations for taxable years beginning after December 31, 2017.
- (3) TCJA Section 12002 amended IRC 53 to allow corporations to treat a portion of their prior year minimum tax credit carryover as refundable. The amount of the refundable credit is equal to 50 percent for taxable years beginning in 2018, 2019, or 2020 (100 percent in taxable years beginning in 2021) of the excess (if any) of the minimum tax credit carryover to the taxable year over the amount of the otherwise allowable credit against regular tax liability. The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) provides a modification of the prior year minimum tax credit allowing for 100 percent refund of the credit. See IRM 21.7.4.4.9.4 for additional information.
- (4) Recently, Treasury determined taxpayers who claim IRC 53 credit on their income tax returns are no longer subject to sequestration for tax periods beginning on or after January 1, 2018.
- (5) For tax years beginning after December 31, 2017, TCJA section 12001(b)(13) repeals IRC 168(k)(4). Payments of refunds for minimum tax credits greater than the amounts of tax liabilities do not require direct spending under the Balanced Budget and Emergency Deficit Control Act of 1985 and, therefore, are not subject to sequestration.

21.7.4.4.9.3.3  
(03-11-2024)

**Processing Amended  
Returns with Form 8827,  
or Certain Cares Act  
Form 1139 Applications ,  
with Form 8827**

- (1) Amended returns or Forms 1139, *Corporation Application for Tentative Refund* could present the following issues:
  - Form 8827, if included, reporting an amount on 2020 and 2021 Forms 8827, line 3 (2019 Forms 8827 report an amount on line 5c, and 2018 and prior report an amount on line 8c), which increases or decreases amounts reported on an original return, or
  - Form 8827, if included, reporting a new initial claim for the refundable AMT credit, or
  - Without Form 8827, but contain other adjustments, which could increase or decrease AMT credits claimed on the original return. See paragraph (3) below on how to identify if the credit is claimed on the original return.
  - Form 1139 or 1120X without Form 8827 but contains other adjustments, which could increase or decrease AMT credits claimed on the original return. See paragraph (3) below on how to identify if the credit is claimed on the original return.
  - Amended returns (Form 1120X) with Form 8827 attached, filed under Section 2305 of the Coronavirus Aid, Relief and Economic Security Act (CARES Act). Follow normal amended return processing procedures below for Form 1120X. Do not expedite these claims.
  - Form 1139, Corporation Application for Tentative Refund, which includes Form 1120X, and is not received via the Temporary EFAF Process. Route it to your site's Carryback team for processing. See IRM 21.5.9.5.10.8.9, *Form 1139 Requesting Refundable Credit for Prior Year Minimum Tax for Corporations - Cares Act*, and IRM 21.5.9.5.10.8.10, *TENTS Received via the Temporary EFAF Process*, for more information regarding this temporary procedure. See IRM 21.5.9.5.12.3 , **Released Credits Available for Carryback/Carryforward**, paragraph 4, for regular claims other than CARES Act.

- (2) Route any amended return that meets the criteria in paragraph (1) directly above, to the Large Corp unit in Cincinnati or Ogden, with the exception of the Form 1139 applications received requesting Corp. AMT refunds. See below for the specific reassignment numbers.
  - Cincinnati - Route to Large Corp, Stop 537G, Team D402. Reassign these cases to IDRS number 0235226918.
  - Ogden - Assign or reassign scanned CII cases to IDRS number 0434904470.
- (3) The Form 8827 credit claimed on original returns processed prior to January 1, 2015 were assigned credit reference number (CRN) 334 and could include other refundable credits. Use CRN 793 for original returns processed on or after January 1, 2015. If the Form 8827 credit on the adjustment module was assigned CRN 334, adjust with CRN 334. If the Form 8827 credit on the adjustment module has CRN 793, adjust with CRN 793.
- (4) Check for CAT-A Criteria and route to Exam per IRM 21.5.3-2, *Examination Criteria (CAT-A) - General*, or IRM 21.5.3-3, *Examination Criteria (CAT-A) - Credits*, note the reason for the CAT-A referral on CII.
- (5) Action required to adjust the credit:
  - Math verify Form 8827.
  - To increase the credit, input TC 298 for zero (.00) and CRN 793 as a positive amount for returns filed on or after January 1, 2015. Input the INT-CMP-DT, which is required by the TC 298, using the return due date of the tax period being adjusted without considering any extensions. If adjusting an account with a tax year prior to January 1, 2015, and CRN 334 was previously used, input TC 290 for zero (.00) and use CRN 334. Use an amended claims date (AMD-CLMS-DT) on the adjustment per IRM 20.2.4.7.5.4, *45-Day Rule and Master File (Amended Returns and Claims)*.
  - To decrease the credit, follow normal claims procedures and input TC 290 for zero (.00) as a negative amount and the proper CRN used on the original credit, either CRN 793 or CRN 334. This work is specialized to Large Corp and is worked under category TECT.

21.7.4.4.9.4  
(05-13-2020)

**Coronavirus Aid, Relief  
and Economic Security  
Act of 2020 (CARES Act)  
(PL 116-136, Section  
2305)**

- (1) The Coronavirus Aid, Relief and Economic Security Act (CARES Act) Section 2305 became law on March 27, 2020, as Public Law 116-136. Section 2305 amends IRC 53(e)(1) and (2), by accelerating the timing for corporations to claim the refundable minimum tax credit under Section 53(e). As amended by the CARES Act, such credit is equal to 50 percent (100 percent in the case of a taxable year beginning in 2019) of the excess (if any) of (A) the minimum tax credit determined under section 53(b) for the taxable year, over (B) the minimum tax credit allowed under Section 53(a) (before application of Section 53(e) for such a tax year). Taxpayers report the refundable minimum tax credit on line 5c of Form 8827, *Credit for Prior Year Minimum Tax - Corporations*, for tax years 2018 and 2019.
- (2) CARES Act Section 2305 also amended Code Section 53(e) by adding new paragraph (5), which allows a corporation to elect to take its entire accumulated refundable minimum tax credit in the corporations first taxable year beginning in 2018. Under Section 2305, taxpayers request a refund of the Corp AMT credit by utilizing Form 1139, *Corporation Application for Tentative*

*Refund*, and attach Form 8827. See IRM 21.5.9.5.10.8.9, *Form 1139 Requesting Refundable Credit for Prior Year Minimum Tax for Corporations - Cares Act*, and IRM 21.5.9.5.10.8.10, *TENTS Received via the Temporary EFAX Process*, for more information.

- (3) For Form 1120X amended return processing procedures, see IRM 21.7.4.4.9.3.3.

21.7.4.4.9.5  
(10-01-2024)

**Inflation Reduction Act (IRA), Superseding and Amended Return Processing; Elective Payment Elections (EPE) or Transfers**

- (1) IRC 13801 of Public Law 117-169, commonly known as the Inflation Reduction Act of 2022 (IRA), enacted IRC 6417 and IRC 6418. IRC 6417 allows “applicable entities” to elect to treat certain credits as a payment of federal income tax, or in the case of partnerships or S corporations, to allow payments to the partnerships or S corporations in the amount of the credits. Applicable entities eligible to make the elective payment election under IRC 6417 are organizations tax exempt under IRC 501, state and local governments, the Tennessee Valley Authority, Indian tribal governments, Alaska Native Corporations, and rural electric cooperatives. Taxpayers other than applicable entities may elect to be treated as an applicable entity for purposes of the credits under IRC 45Q, IRC 45V, and IRC 45X. IRC 6418 allows “eligible taxpayers” to elect to transfer all or a portion of certain credits to unrelated taxpayers. Eligible taxpayers are any taxpayer that is not an applicable entity under IRC 6417.

- (2) Applicable entities wishing to make the IRC 6417 elective payment election and eligible taxpayers wishing to make the IRC 6418 transfer election are required to use the electronic pre-filing registration process. A registration number for each facility must be obtained prior to making an elective payment election or a transfer election. See *register for elective payment or transfer of credits*, for additional information.

**Note:** Completion of the pre-filing registration requirements and receipt of a registration number does not, by itself, mean that the applicable entity or electing taxpayer will receive a payment.

- (3) The elections under IRC 6417 and IRC 6418 are irrevocable and apply with respect to the credit on a facility-by-facility basis for the taxable year for which the election is made. However, for certain credits, the elections under IRC 6417 and IRC 6418 apply for a period of years. For example, an election under IRC 6418 applies for a period of years for the following credits:
- For the Renewable Electricity Production Credit (IRC 45), the Clean Hydrogen Production Credit (IRC 45V), and the Clean Electricity Production Credit (IRC 45Y), the election applies for each taxable year during the 10-year period beginning on the date the facility was originally placed in service.
  - For the Carbon Oxide Sequestration Credit (IRC 45Q), the election applies for each year during the 12-year period beginning on the date the carbon capture equipment was originally placed in service.
- (4) An election under IRC 6417 by a taxpayer that is not an “applicable entity” as defined in 6417(d)(1)(A) may make elections under 6417(d)(1)(B), (C), and (D) to be an applicable entity but only for purposes of the IRC 45Q, IRC 45V, and IRC 45X credits, respectively. For these taxpayers, the credits under IRC 45Q, IRC 45V, and IRC 45X are valid for the taxable year the facility or equipment is



placed in service and the 4 subsequent taxable years which end before January 1, 2033. The taxpayer may revoke the election. The revocation may not be subsequently revoked.

- (5) A registration number, assigned to a taxpayer for a particular facility, is only valid for the tax year for which it was obtained. It must be renewed if an election is sought in a subsequent year. Changes with respect to one or more credit facilities, including changes in ownership, require the applicable entity or electing taxpayer to file an amended registration.
- (6) Taxpayers can claim the IRA Elective Payment Elections (EPE) (formerly called Deemed Payment Elections (DPE)) on their original or superseding return.

**Note:** Returns that contain EPE will not post to master file before the return due date. This prevents a refund from releasing prior to the return due date, and applies to the entire refund, even the portion not associated with EPE.

**Note:** Returns that are selected for further review of the EPE after processing and pre-refund, will have a posted TC 971 AC 831 on the tax module with a MISC> field that will contain the literal "EPE". This will create a -R freeze condition that will prevent the refund from releasing until TEGE/LB&I have taken action to release the refund. This applies to the entire refund, even the portion not associated with the EPE. See IRM 21.5.6.4.35 , -R Freeze, for additional information.

- (7) The EPE will not be considered valid when the return received date is later than the latter of the return due date (RDD)/extended return due date (XDD)/disaster due date (DDD). Master File will not generate the TC 766 with the applicable EPE CRN to the tax module on a late filed return. Taxpayers reporting EPE on a late filed return will receive a math error notice with the following information: "Any Elective Payment Election made in Part III on Form 3800, General Business Credit, is invalid because you didn't make the election on a timely filed original return as required by law and described in the form instructions. As a result, we won't treat any applicable credit as a payment on your tax return."
- (8) The non-refundable portion of the EPE (applied to the tax liability) is identified on CC TXMOD and CC BMFOLT with a **TC 970 AC 004**. The literal for the credit allowed or disallowed as EPE is listed below the TC 970 AC 004 transaction.
- (9) For 202301 through 202311 fiscal and short year income tax returns, the timing of the IRA legislation only allowed the IRS to change tax form instructions, and not tax forms. Refundable EPE credits were reported on a temporary shared Credit Reference Number (CRN) of either 000, blank, or 334 depending upon the return filed. For more information on EPE credits reported in PY23, see the October 1, 2023 revision of IRM 21.7.4.
- (10) Beginning with processing year 2024 (tax period 202312 and subsequent), the non-refundable portion of an EPE is adjusted using the IRN's in the table below. Refundable EPE credits are reported and adjusted using the following CRN's on their applicable tax forms shown in the table below:
  - MFT 02 for Forms 1120, 1120-C, 1120-F, 1120-H, 1120-L, 1120-PC; 1120-POL, 1120-REIT, 1120-RIC, 1120-S
  - MFT 05 for Forms 1041, 1041-N, 1041-QFT



- MFT 06 for Forms 1065
- MFT 34 for Forms 990-T

IRC	EPE Credit	EPE IRN (non refundable)	EPE CRN (refundable)	Applicable MFT
48	Energy Property Credit	959	465	34
48C	Qualifying Advanced Energy Project Credit	948	466	34
48D	Advanced Manufacturing Investment Credit	951	455	02,05,06,34
48E	Clean Electricity Investment Credit	955	467	34
45	Renewable Electricity Production Credit	949	457	34
30C	Alternative Fuel Vehicle Refueling Property Credit	953	456	34
45Q	Carbon Oxide Sequestration Credit	956	458	02,05,06,34
45U	Zero Emission Nuclear Power Production Credit	954	459	34
45V	Clean Hydrogen Production Credit	950	460	02,05,06,34
45W	Qualified Commercial Clean Vehicle Credit	957	461	34
45X	Advanced Manufacturing Production Credit	947	462	02,05,06,34
45Y	Clean Electricity Production Credit	958	463	34
45Z	Clean Fuel Production Credit	952	464	34

(11) Use the instructions in the tables below to allow or disallow EPE reported in Part III of Form 3800, General Business Credits:

**Note:** In any scenario shown below, if there is an open control base of “EPER” present, or if the account contains an unreversed TC 971 AC 831 with MISC

EPE (indicating the original return is still pending prepayment compliance

#  
#**Amended Return (Paper or MeF):**

If	And	Then
Facility was not previously reported/allowed		Disallow - Follow disallowance procedures in IRM 21.5.3.4.6.1, <i>Disallowance and Partial Disallowance Procedures</i> . Use the following paragraph or similar verbiage: <i>"The elective payment elections made in Part III of Form 3800 are invalid because you did not make the election on a timely filed original return as required by law and described in the form instructions. As a result, we will not be treating the amount claimed as the elective payment election as a separate payment on your tax return."</i>
Facility previously reported/allowed	Decrease/removing EPE credit	Allow using the appropriate IRN and CRN listed above. See IRM 21.7.4.4.9.5.1, Adjusting Accounts with Elective Payment Election Sequestration
Facility previously reported/allowed		Allow using the appropriate IRN and CRN listed above. See IRM 21.7.4.4.9.5.1, Adjusting Accounts with Elective Payment Election Sequestration
Facility previously reported/allowed		

#  
##  
#  
#**Superseding Return - Paper:**

If	And	Then
Facility previously reported/allowed	Decrease/removing EPE credit	Allow using the appropriate IRN and CRN listed above. See IRM 21.7.4.4.9.5.1, Adjusting Accounts with Elective Payment Election Sequestration

If	And	Then	
Facility previously reported/ allowed		Allow using the appropriate IRN and CRN listed above. See IRM 21.7.4.4.9.5.1, Adjusting Accounts with Elective Payment Election Sequestration	# #
Facility previously reported/ allowed			# # #
No registration number provided			# # #
Registration number provided is not 12 digits (alpha/numeric) (less than 12 or more than 12)			# # #
Registration number is 12 digits (alpha/numeric)		Allow using the appropriate IRN and CRN listed above. See IRM 21.7.4.4.9.5.1, Adjusting Accounts with Elective Payment Election Sequestration	# #
Registration number is 12 digits (alpha/numeric)			# # #

**Superseding Return - MeF:**

If	And	And	Then	
Facility previously reported/allowed	Decrease/removing EPE credit		Allow using the appro- priate IRN and CRN listed above. See IRM 21.7.4.4.9.5.1, Adjusting Accounts with Elective Payment Election Se- questration	
No registration number provided				# # # #
Registration number provided is not 12 digits (alpha/numeric) (less than 12 or more than 12)				# # # #

If	And	And	Then	
Registration number is 12 digits (alpha/numeric)	New Facility or increase of previously reported/allowed facility	EUP shows registration number does not match	No Consider- Follow procedures in IRM 21.5.3.4.6.3, <i>No Consideration Procedures</i> Use the following paragraph or similar verbiage: <i>We can't process your elective payment election because we can't verify the registration number you provided on Part III of Form 3800.</i>	
Registration number is 12 digits (alpha/numeric)	New Facility or increase of previously reported/allowed facility	EUP shows registration	Allow using the appropriate IRN and CRN listed above. See IRM 21.7.4.4.9.5.1, Adjusting Accounts with Elective Payment Election Sequestration	# # #
Registration number is 12 digits (alpha/numeric)	New Facility or increase of previously reported/allowed facility	EUP shows registration		# # # #

21.7.4.4.9.5.1  
(10-01-2024)

**Adjusting Accounts with  
Elective Payment  
Election Sequestration**

- (1) IRC 13801 of Public Law 117-169, 136 Stat. 1818 (August 16, 2022), commonly known as the Inflation Reduction Act (IRA) of 2022, implemented the elective payment election and transfer provisions under IRC 6417 and IRC 6418. Under specific rules, taxpayers now have an option to make "elective payment election" (EPE) claims that would monetize what are normally non-refundable general business credits taken for certain energy production or investment. This means taxpayers can claim the credit as payment ("payment equivalent") toward their tax liability, and any excess credit is considered an overpayment which would be refunded.
- (2) Pass-through entities generally have no tax liability. However, they may make an elective payment election which would allow the total credit to be refunded (without flowing through to its shareholders/partners).
- (3) EPE claims effectively process like other IRS refundable credits; if the credit exceeds the total tax liability, the excess credit results in a refund.
- (4) Under the Balanced Budget and Emergency Deficit Control Act (BBEDCA) of 1985, certain federal government subsidies or direct spending to taxpayers are subject to budgetary sequestration, or reduction. The current sequestration reduction rate is 5.7% (through 2030). Under the BBEDCA, IRA EPE credit refunds (the excess over total tax liability) are subject to sequestration.

- (5) In anticipation of this reduction, the IRA EPE statute allows for a 6.0445% “gross-up” or increase calculation on the credit refund that would effectively offset the sequestration reduction (except in math rounding situations).
- (6) IRA EPE credit refund transactions will differ from other business credit refund transactions, such as tax-exempt bonds, and IRC 45R where the refund has an intended reduction. See IRM 21.7.6.16.7, *Form 8941 Claims*, for more information on Tax Exempt Organizations claiming the credit on Form 990-T
- (7) Sequestered amounts of EPE credits are identified by a TC 767.
- (8) When Master File (MF) posts an adjustment to reduce any refundable credit by the sequestered amount, the original posted credit amount is updated with the reduced amount, and a TC 766R also posts with the specified reduced amount from the adjustment. When an EPE credit is reduced by sequestration, the sequestered amount will systemically post as a TC 767.
- (9) TC 971 AC 356 is the transaction that identifies the credit amount prior to sequestration.
  - a. The first three digits in the TC 971 AC 356 MISC field identifies the elective payment election CRN.
  - b. The remaining digits in the TC 971 AC 356 MISC field provides the “gross-up” amount for the CRN, right justified, and without a decimal for the cents.
  - c. The TC 971 AC 356 MEMO-MONEY-AMT provides the elective payment election credit amount.

**Note:** When multiple TC 971 AC 356’s are present with the same CRN in the first three digits of the TC 971 AC 356 MISC field, the latest posted TC 971 AC 356 is the updated transaction reflecting the cumulative (adjusted) gross up and EPE credit amounts.

- (10) If there are multiple credits claimed and the total (or a portion of the) credits result in a refund, then a hierarchy, or ordering rule, will be used to calculate which CRN amount(s) exceeded the total tax liability and resulted in the disbursement. (See eligible EPE credits, listed in hierarchy order, in the table below). The CRN amounts that exceed the total tax liability will be sequestered, if sequestration is applicable.

**Note:** CRN 455, Advanced Manufacturing Investment Credit is not subject to sequestration.

CRN	EPE Credit	IRC	Applicable MFT
464 (pays tax first)	Clean Fuel Production Credit	45Z	34
463	Clean Electricity Production Credit	45Y	02,05,06,34

CRN	EPE Credit	IRC	Applicable MFT
462	Advanced Manufacturing Production Credit	45X	02,05,06,34
461	Qualified Commercial Clean Vehicle Credit	45W	34
460	Clean Hydrogen Production Credit	45V	02,05,06,34
459	Zero Emission Nuclear Power Production Credit	45U	34
458	Carbon Oxide Sequestration Credit	45Q	02,05,06,34
456	Alternative Fuel Vehicle Refueling Property Credit	30C	34
457	Renewable Electricity Production Credit	45	34
467	Clean Electricity Investment Credit	48E	34
455	Advanced Manufacturing Investment Credit ( <i>not subject to sequestration</i> )	48D	02,05,06,34
466	Qualifying Advanced Energy Project Credit	48C	34
465 (pays tax last)	Energy Property Credit	48	34

- (11) When an amended or superseding return may affect sequestered amounts and it is determined the adjustment is allowable following guidance in IRM 21.7.4.4.9.5, Inflation Reduction Act (IRA), Superseding and Amended Return



Processing; Elective Payment Elections (EPE) or Transfers, **refer the case to your local Planning & Analysis staff, so they can forward to the HQ Analyst (author of this IRM).**

21.7.4.4.10  
(10-01-2024)

**Federal Income Tax  
Withheld (FITW)/Backup  
Withholding (BUWH) on  
Income Tax Returns**

- (1) Under IRC 3406, four conditions exist under which payers must have backup withholding on reportable payments to a recipient. Two of the conditions involve the receipt of IRS notices under backup withholding programs, pursuant to IRC 3406(a)(1)(B) and (C) . See IRM 5.19.3, *Backup Withholding Program*, for more information.
  - a. The “B” BUWH program (Regulation 31.3406(d)-5(d)) provides notices to payers (a financial institution, business or person) who file information returns (see Forms 1099 below) with incorrect or missing Taxpayer Identification Numbers (TINs). The notices, CP 2100 and CP 2100A, advise payers that backup withholding could become necessary if payees (recipients of Forms 1099) fail to certify their TIN. The CP 2100 and CP 2100A Notices also list accounts with missing TIN's on which payers should have been backup withholding under IRC 3406(a)(1)(A).
  - b. The “C” BUWH program (Regulation 31.3406(c)-1) provides notices to payees (recipient of Forms 1099) who have under-reported their interest or dividend income or failed to file a tax return reporting such income when required. These notices inform the payee what is required to prevent BUWH. The “C” program includes Forms 1099-DIV, INT, OID, and PATR information returns.
- (2) See IRM 21.7.2.4.8.3, *BUWH Claims on Form 945*, for backup withholding rates.
- (3) The payor is required to report the amount withheld on Form 1099 to the payee. The payee must claim the credit for BUWH on its related income tax return. For example:
  - A trust on Form 1041
  - A corporation on Form 1120
  - An exempt organization on Form 990-T, *Exempt Organization Business Income Tax Return*

**Note:** Exempt organizations which file Form 990, as well as organizations exempt from filing Form 990, must file Form 990-T to receive their credit for BUWH.

- Form 990-PF, *Return of Private Foundation*, filers on Form 990-PF
- (4) Shareholders of an S corporation (Form 1120-S) and the partners in a partnership (Form 1065) claim the credit for BUWH on their tax returns . BUWH is credited to a partner, S corporation shareholder, or trust beneficiaries on Schedule K-1, or Form 1099. Reject any claim received on Form 843, Form 1120-S, or Form 1065. Explain that the withholding must be claimed on an individual income tax return (Form **1040** or Form **1040-X**) and to attach Form W-2 and Form 2439 to Form 1040 or 1040-SR. If you received a Form W-2C (a corrected Form W-2), attach your original Forms W-2 and any Forms W-2C. Attach Form W-2G and Form 1099-R to Form 1040 or 1040-SR if tax is withheld. See IRM 21.6.3.4.2.2 *Withholding (W/H) Tax Credit*, for more information on IMF claims.

be supported by either Form 1099, or confirmed using CC IRPTR. Allow

- (5) Form 990-T and Form 990-PF used for refund of erroneous BUWH are not considered a “claim for refund”. Therefore, do not route these cases to the Area Office. Schedule K-1 or Form 1099 must be attached when the taxpayer

dures in IRM 21.7.7.6.3.5, **Backup Withholding**, if not received.

- (6) Beginning January 2017, Form 1120 corporate series returns claiming FITW/BUWH posting in cycle 201703 and subsequent, to tax period 201601 and subsequent, will post as a TC 766 with Credit Reference Number (CRN) 399.
- When adjusting FITW/BUWH on **Form 1120 corporate** return for tax period 201601 and subsequent that posted in cycle 201703 and subsequent, input CRN 399. CRN 399 for a positive amount will generate TC 766 for an increase in the credit. CRN 399 for a negative amount will generate TC 767 for a decrease in the credit.
  - When adjusting FITW/BUWH on Form 1120 corporate returns for tax period 201512 and prior, posting before cycle 201703, input TC 766/TC 767 without a CRN.
  - When adjusting BUWH on **Form 1041** accounts, input TC 766/TC 767 without a CRN. Adjust FITW on Form 1041 modules with Transaction Code (TC) 806 to increase withholding and TC 807 to decrease withholding. See the *Instructions for Form 1041*, Schedule G, Part II, Line 14, Federal Income Tax Withheld, for more information on FITW on Form 1041.
- (7) FTP penalty programming does not yet recognize CRN 399 as a tax prepayment credit. Therefore, until programming is updated, FTP penalty must be addressed as follows when decreasing withholding credit using CRN 399:
- a. If the tax shown on the return is no longer fully paid following the adjustment, FTP must be computed on the unpaid tax from the return due date to the 23C date of the adjustment (or to the date of payment, if earlier). See IRM 20.1.2.3.8.4, *Failure to Pay Tax Shown on the Return—IRC 6651(a)(2)*.
  - b. If the tax shown on the return is still fully paid following the adjustment, and the adjustment will result in a balance due because of a prior refund, FTP penalty must be restricted (TC 270 \$.00) to prevent the computer from starting to accrue FTP penalty on the withholding adjustment.
  - c. Unpaid tax shown on the return is determined without regard to any refund or offset out of the module.

21.7.4.4.11  
(10-01-2024)  
**Form 8621, Return by a  
Shareholder of a  
Passive Foreign  
Investment Co. or  
Qualified Electing Fund**

- (1) A U.S. person that owns stock of a foreign corporation and elects to treat such stock as the stock of a qualifying insurance corporation under the alternative facts and circumstances test within the meaning of IRC 1297 (f)(2) must file Form 8621, **Return by a Shareholder of a Passive Foreign Investment Co. or Qualified Electing Fund**.
- (2) Generally, a U.S. person that is a direct or indirect shareholder of a Passive Foreign Investment Company (PFIC) must file Form 8621 for each tax year under IRC 1298(f) and the regulations thereunder unless an exception applies.

- (3) Generally, if a U.S. person meets an exception to the Form 8621 annual reporting requirement under IRC 1298(f) and the regulations, a U.S. person that is a direct or indirect shareholder of a PFIC still must file Form 8621 for each tax year under the following five circumstances if the U.S. person:
- Receives certain direct or indirect distributions from a PFIC, or
  - Recognizes gain on a direct or indirect disposition of PFIC stock, or
  - Is reporting information with respect to a Qualified Electing Fund (QEF), or market to market election, or
  - Is making an election reportable in Part II of the form, or
  - Is otherwise required to file an annual report pursuant to IRC 1298(f)

**Note:** A separate Form 8621 must be filed for each PFIC in which stock is held directly or indirectly. In the case of a chain ownership, under IRC 1298(f) and the five circumstances described above, unless otherwise provided, if the shareholder owns one PFIC and through that PFIC owns one or more other PFICs, the shareholder must file a Form 8621 for each PFIC in the chain. See the instructions for Form 8621 for more information.

- (4) Attach Form 8621 to the shareholder's tax return and file both by the due date, including extensions, of the shareholder's income tax return, where the tax return is required to be filed. If the taxpayer is not required to file a tax return for the tax year, the taxpayer should file Form 8621 directly at the Internal Revenue Service Campus, Ogden, UT 84201-0201.
- (5) For a taxpayer making a IRC 1294 election, line 9c of Form 8621 shows the amount of deferred tax. Corporations must enter this tax on their Form 1120, Schedule J, in brackets to the left of the entry space for total tax (line 11 of Schedule J), subtract it from the totals of line 7, 8 and 10, and enter the difference on line 11. Some Form 1041 filers can also make this election, however: the current Form 8621 Instructions do not provide information on where to enter the amount on Form 1041. Therefore, it is possible the deferred amount may not be recognized on initial processing.
- (6) Loose Forms 8621 are scanned at the campus of receipt. Research IDRS and attach Form(s) 8621 to the income tax return with a Source Document Adjustment for the period for which it's filed. The CII image is the source document and will remain in CII for further recall if needed. For additional information, see IRM 21.5.1.5.3, **CII Source Documentation**.

**Note:** If there is no return on file, or no indication that one has been received and is being processed, route the Form(s) 8621 to the Ogden Campus Files Function, Mail Stop 6722 with the remarks; "**For Storage in Alpha File**".

- (7) Any claim or correspondence regarding this deferral of tax is worked at the campus of receipt. If the taxpayer was assessed tax which was permitted to be deferred by making an IRC 1294 election on Form 8621, delete the tax. Tax amounts subject to deferral under IRC 1294 are included in the Form 1120, TC 150 amount. To remove the tax deferred under IRC 1294, the Form 1120, TC 150 amount must be adjusted accordingly. Actions taken for adjustments to the Form 1120 account as a result of information reported on Form 8621:
- Input TC 290 for a tax increase
  - Input TC 291 for a tax decrease

**Note:** If you cannot determine if the IRC 1294 election on Form 8621 is valid, refer the inquiry to the Exam Classifier for verification before deleting the tax.

21.7.4.4.12  
(11-07-2022)  
**Form 8865, Return of  
U.S. Persons With  
Respect to Certain  
Foreign Partnerships**

- (1) Form 8865, *Return of U.S. Persons With Respect to Certain Foreign Partnerships*, reports information required under IRC 6038 (reporting with respect to controlled foreign partnerships), IRC 6038B (reporting of transfers to foreign partnerships), or Section 6046A (reporting of acquisitions, dispositions, and changes in foreign partnership interests). Form 8865 also reports certain information by a U.S. transferor with respect to section 721(c) partnership. A U.S. person qualifying under one or more of the categories detailed in the instruction must file Form 8865. See the *Instructions for Form 8865* for more information.
- (2) The new Schedule K-2, *Partners' Distributive Share Items - International*, is an extension of Schedule K of the Form 8865 and is used to report items of international tax relevance from the operation of a partnership. The new Schedule K-3, *Partner's Share of Income, Deductions, Credits, etc.-International*, is an extension of Schedule K-1 (Form 8865) and is generally used to report the share of the items reported on Schedule K-2. The information reported on Schedule K-3 is generally used to report information on a partner's tax or information returns.
- (3) Any person that is required to file Form 8865, Schedule K, with respect to a partnership that has items relevant to the determination of U.S. tax under the international provisions of the Internal Revenue Code must complete the relevant parts of Schedules K-2 and K-3. For more information regarding Schedules K-2 and K-3, see IRM 21.7.4.4.2.4.1, *Schedule K-2 and Schedule K-3*.
- (4) *Notice 2021-39* announces transition relief for taxable years that begin in 2021 with respect to Schedules K-2 and K-3 required for Forms 8865. Section 2 provides background on the new schedules and the penalties that may apply for failure to furnish information required by section 6038. Section 3 provides transition relief from the penalties described in Section 2 if the filer establishes to the satisfaction of the Commissioner that it made a good faith effort to comply with the new filing requirements. See *Schedules K-2 and K-3 Frequently Asked Questions (Forms 1065, 1120S, and 8865)* for more information regarding clarifications and additional exceptions for tax year 2021.
- (5) Taxpayers attach Form 8865 to their income tax, partnership, REMIC, or exempt organization return, as applicable. If the taxpayer is not required to file any of those returns, they should file Form 8865 at the time and place they would be required to file one of those returns.
- (6) If a Form 8865 is received in Accounts Management, associate it with the taxpayer's income tax, partnership, REMIC, or exempt organization return. If the taxpayer is not required to file a return (has no income tax filing requirements), forward the Form 8865 to the Accounts Management Technical Unit in Ogden at Mail Stop 6731.

21.7.4.4.13  
(10-01-2022)

**Form 8875, Taxable Real Estate Investment Trust (REIT) Subsidiary Election**

- (1) Form 8875, *Taxable REIT Subsidiary Election*, is used by an eligible corporation (other than a REIT) and a REIT to jointly elect to treat the corporation as a taxable REIT subsidiary under IRC 856(l). The election can be made for tax years beginning after December 31, 2000. The election does NOT require IRS consent. Form 8875 should NOT be attached to the corporation's or REITs tax returns. It should be filed separately at:

Department of the Treasury  
Internal Revenue Service  
Ogden, UT 84201

- (2) The corporation and the REIT can make the election at any time during the tax year. However, the effective date of the election depends upon when Form 8875 is filed. The effective date of the election on line 11 cannot be more than:
  - a. Two months and 15 days prior to the date of filing the election; or
  - b. Twelve months after the date of filing the election.
- (3) Ogden Submission Processing (SP) employees process Form 8875. Per IRM 3.13.2.8.21, *Form 8875, Taxable REIT Subsidiaries (OSPC only)*, if the form is completed correctly, SP inputs TC 971 AC 360 to the taxable REIT subsidiary EIN, found on line 2 of Form 8875, and records the election on the tax module. Form 8875 must be signed by an officer of the taxable REIT subsidiary and by an officer of the electing REIT. If either signature is missing, or if the name or EIN cannot be determined by SP, they return Form 8875 to the taxpayer.
- (4) If the taxpayer requests verification that Form 8875 is accepted, research IDRS for the TC 971 A/C 360 on the account. If TC 971 A/C 360 is not on the module and it has been more than 6 weeks since the taxpayer submitted form 8875, advise the taxpayer to send another copy to the OSPC address in (1) above.
- (5) Once the election is made, it is irrevocable, unless both the corporation and REIT consent to revocation. The revocation **DOES NOT** require IRS consent. However, IRS must be notified of the revocation by jointly filing a new Form 8875 and writing "Revocation" across the top. The revocation is effective on the date the new Form 8875 is filed.
- (6) See the General Instructions for Form 8875 for more information.

21.7.4.4.14  
(10-01-2024)

**Form 8873, Extraterritorial Income Exclusion**

- (1) Form 8873, *Extraterritorial Income Exclusion*, is used to figure the amount of "extraterritorial income" excluded from gross income for the tax year under IRC 114. The exclusion generally applies to both corporate and non-corporate taxpayers and to transactions after September 30, 2000 and before January 1, 2005. The repeal is subject to transition rules; in the context of one of these transition rules, *DWA Holdings LLC v. United States*, 889 F.3d 1361 (2018), the Federal Circuit addressed the issue of the meaning and timing of "transaction"(s) associated with the recognition of income in certain years. A taxpayer must attach Form 8873 to its income tax return.
- (2) The exclusion does not apply to any transaction in the ordinary course of a trade or business involving a Foreign Sales Corporation (FSC) that occurs:
  - a. Before January 1, 2002, or



- b. After December 31, 2001, pursuant to a binding contract which is between the FSC (or any related person), and any person which is not a related person, and which is in effect on September 30, 2000, and all times thereafter.

**Note:** The Tax Increase Prevention and Reconciliation Act of 2005 repealed the FSC (and ETI) binding contract rules for taxable years beginning after May 17, 2006. See Chief Counsel Memorandum IRS AM 2007-001.

- (3) See Form 8873 and the *Instructions for Form 8873*, for more details on qualifying foreign trade income and other information.
- (4) Section 101 of the American Jobs Creation Act (AJCA) of 2004, P.L. 108-357, repealed the extraterritorial income (ETI) exclusion provisions for transactions after 2004, subject to a transition rule provided in AJCA section 101(d) for transactions entered into during 2005 and 2006. This transition rule allows taxpayers to exclude from gross income a percentage of the amount of income that would have been excluded as ETI if the ETI provision had not been repealed. Under the transition rule, taxpayers may claim 80 percent of the otherwise-applicable pre-repeal ETI exclusion for transactions during 2005, and 60 percent of such amount for transactions during 2006. In *DWA Holdings LLC v. United States*, 889 F.3d 1361, (2018), the Federal Circuit interpreted this provision as also covering later-recognized income from transactions entered into during 2005 and 2006.
- (5) Under AJCA section 101(f), the general repeal of the ETI exclusion provisions did not apply to transactions in the ordinary course of a trade or business which occur pursuant to a binding contract which is between the taxpayer and a person who is not a related person as in effect on the day before the date of the enactment, and which is in effect on September 17, 2003, and all times thereafter. But the Tax Increase Prevention and Reconciliation Act of 2005 repealed the ETI (and FSC) binding contract rules for taxable years beginning after May 17, 2006. See Chief Counsel Memorandum IRS AM 2007-001.
- (6) Foreign corporations that elect treatment as domestic corporations (on line 3 of Form 8873) could, under certain circumstances, revoke such election before October 22, 2005, without recognition of gain or loss, see AJCA section 101(e).
- (7) Document Perfection is responsible for processing Part I of Form 8873, "Elections and Other Information". Identify elections by the input of Command Code FRM77 with Transaction Code "971" and IDRS Action Code "361", "362", or "363" depending on which election was made. See IRM 3.11.16.12, *Form 8873 - Extraterritorial Income Exclusion*, for more information.

21.7.4.4.15  
(10-01-2024)  
**Form 3115, Application  
for Change in  
Accounting Method**

- (1) Generally, a taxpayer must obtain consent from the IRS before changing its method of accounting (that is, a change in the overall plan of accounting for gross income, deductions, or a change in the treatment of any material item used in such plan). Taxpayers should follow the voluntary change in accounting method procedures in *Rev. Proc. 2015-13* (or successor) to request consent for the change. Under these procedures, a method of accounting is changed prospectively (that is, on a yet to be filed tax return) generally by filing a Form 3115, *Application for Change in Accounting Method*. *Rev. Proc. 2015-13* (or successor) provides two procedures under which an applicant may request a change in accounting method: automatic and non-automatic consent procedures.



- (2) The two procedures which an applicant may request a change are outlined below:
- a. **Automatic Change Form 3115.** Taxpayers **must** use the automatic change procedures (described in section 6 of Rev. Proc. 2015-13) if the accounting method change is described in the List of Automatic Changes in *Rev. Proc. 2024-23* (or its successor) for the requested year of change **and** the taxpayer is within the scope of those procedures for the requested year of change. An automatic change Form 3115 is filed in duplicate unless otherwise stated in the guidance. The original automatic change Form 3115 must be attached to the filer's timely filed (including extensions) federal income tax return for the year of change. When required, a copy of the automatic change Form 3115 is filed with the IRS (See *Rev. Proc. 2024-01*, 2024-1 I.R.B.1, Sec. 9.06, for how and where to file the form) no earlier than the first day of the year of change and no later than when the original is filed with the federal income tax return for the year of change. No user fee is required. The filer of an automatic change Form will not receive an acknowledgment. See page 2 of the General Instructions for Form 3115, for the applicable address for mailing. For more information, see IRM 4.11.6.6 , **Procedures for Obtaining Consent to change a Method of Accounting** and IRM Exhibit 4.11.6-3 , **Differences Between Non-Automatic and Automatic Voluntary Method Change Procedures - Rev. Proc. 2015-13**.
  - b. **Non-Automatic - Form 3115**, Part III. If the taxpayer is not within the scope of the automatic change procedures for the requested year of change **or** the accounting method change is not included in the List of Automatic Change for the requested year of change, then the taxpayer must file a Form 3115 under the non-automatic change procedures (also described in section 6 of Rev. Proc. 2015-13). If the non-automatic Form 3115 is approved, the taxpayer will receive a letter ruling on the requested change. A user fee is required. See Appendix A of Rev. Proc. 2024-1, 2024-1 I.R.B. 1 (or its successor) for the schedule of user fees. A non-automatic Form 3115 must be filed with the IRS National Office during the tax year for which the change is requested. If the tax year is less than 12 months, the non-automatic change must be filed by the last day of the short tax year. A non-automatic change Form 3115 should be filed as early as possible during the year of change to provide adequate time for the IRS to respond prior to the due date of the taxpayer's return for the year of change. See Sec. 9.05 of Rev. Proc. 2024-1 for how and where to file the form.
- (3) Each automatic method change has a designated change number (DCN). The number may be found in the list of DCNs provided in *Rev. Proc. 2024-23*, 2024-23 I.R.B.1334, (or successor). A taxpayer should provide the DCN for its change on Line 1 a. of the current Form 3115.
- (4) **Late application.** In general, a taxpayer who does not timely file a Form 3115 will not be granted an extension of time to file, except in unusual and compelling circumstances. See Regulations section 301.9100-3 for the standards that must be met. For information on the period of limitations, see section 5.03(2) of *Rev. Proc. 2024-01*, 2024-1 I.R.B. 1, (or successor). In certain circumstances, an automatic extension of time to file is available for automatic change Forms 3115. See section 6.03(4)(a) of *Rev. Proc. 2015-13*, 2015-5 I.R.B. 419, for details.

- (5) Generally, Rev. Proc. 2015-13 (which is a successor to Rev. Proc. 97-27, 1997-21 I.R.B. 10, and *Rev. Proc. 2011-14*, 2011-4 I.R.B. 330) applies to Forms 3115 filed on or after January 16, 2015 for a year of change ending on or after May 31, 2014. If a taxpayer is filing for an automatic change of accounting method for a tax year ending on or after May 31, 2014, and on or before January 31, 2015, existing provisions in Rev. Proc. 2015-13 (before modifications by *Rev. Proc. 2015-33*, 2015-24 I.R.B. 1067) allow taxpayers to use either Rev. Proc. 2011-14 or Rev. Proc. 2015-13 if the taxpayer files the automatic change Form 3115 by the due date of the taxpayer's timely filed original return (including extensions) for the year of the requested change. Under existing procedures of Rev. Proc. 2015-13 (before modifications by Rev. Proc. 2015-33) taxpayers with tax years ending after January 31, 2015 cannot request an automatic change under the procedures of Rev. Proc. 2011-14, 2011-4 I.R.B. 330.
- (6) Per Rev. Proc. 2015-33, the IRS has made several modifications to Rev. Proc. 2015-13 that taxpayers must follow to obtain either an automatic change request or a non-automatic change request to change their accounting method. Specifically, Rev. Proc. 2015-33:
  - Modifies the transition rules under section 15.02(1)(a)(ii) of Rev. Proc. 2015-13 to provide additional time to file Forms 3115 under Rev. Proc. 2011-14. If a taxpayer is filing an automatic change Form 3115 for a tax year ending on or after May 31, 2014, and beginning before January 1, 2015, Rev. Proc. 2015-33 allows taxpayers to use either Rev. Proc. 2011-14 or Rev. Proc. 2015-13 if the taxpayer files the automatic Form 3115 by the due date of the taxpayer's timely filed original return (including extensions) for the requested year of change
  - Clarifies when the automatic change procedures do not apply if the taxpayer engages, within the requested year of change, in a transaction to which section 381 applies; and
  - Clarifies the meaning of the "three-month window" under section 8.02(1)(a)(ii) of Rev. Proc. 2015-13 for a taxpayer with a 52 to 53-week taxable year

21.7.4.4.15.1  
(10-01-2024)  
**Loose Form 3115  
Procedures**

- (1) Stamp the received date on loose Forms 3115. Enter postmark date in the upper margin of the form and staple the envelope (or postmark portions of an oversized envelope) to the form.
- (2) Sort Forms 3115 into four groups.
- (3) The first group consists of Forms 3115 filed under automatic change procedures and includes:
  - a. The list of automatic changes in *Rev. Proc. 2024-23*, 2024-23 I.R.B. 1334, and the voluntary accounting method change procedures in *Rev. Proc. 2015-13*, 2015-5 I.R.B. 450
  - b. Regulations Section 1.448-1(h)(2) "[Automatic Rule For Changes To An Overall Accrual Method - Section 448] with or without 'Automatic Change to Non-accrual Experience Method - Section 448'", filed for tax years beginning before Jan. 1, 2018
- (4) The above list is not comprehensive. All references to Rev. Proc. 2015-13, 2015-5 I.R.B. 419, as clarified and modified by *Rev. Proc. 2015-33*, 2015-24 I.R.B. 1067, and as modified by *Rev. Proc. 2021-34*, 2021-35 I.R.B. 337, by

*Rev. Proc. 2017-59, 2017-48 I.R.B. 543, by Rev. Proc. 2021-26, 2021-22 I.R.B. 1163, and by section 17.02(b) and (c) of Rev. Proc. 2016-1, 2016-1 I.R.B. 1.*

(5) The other three groups consist of:

- a. Forms 3115 filed under Rev. Proc. 91-51
- b. Forms 3115 revision date before December 2015
- c. Forms 3115 received with remittance for the user fee (see IRM 21.7.4.4.15.1.4) and all others

(6) Use OFP 710–01010 for processing loose Forms 3115.

21.7.4.4.15.1.1  
(10-01-2024)

**Forms 3115 Filed Under  
Automatic Change  
Procedures**

- (1) Determine if Form 3115 is timely filed. In general, a Form 3115 filed for an automatic change must be filed with the taxpayer's timely filed original tax return (including extensions) for year of change on Form 3115. However:
- a. A Form 3115 for an automatic change filed under section 1.448-1(h), Automatic Rule For Changes To An Overall Accrual Method-Section 448, can be filed after the original return is filed, but no later than the due date of the taxpayer's federal income tax return for the year of change (including extensions).
  - b. Forms 3115 filed with a designated change number (DCN) 107 under Automatic Consent procedures can be filed with an amended return for the tax year in which the taxpayer disposed of the depreciable or amortizable property, if the period of limitation for assessment under IRC 6501(a) has not expired for that tax year. The taxpayer would report DCN 107 on Form 3115, Part I, Line 1a.
  - c. A Form 3115 for an automatic method change is also timely if filed within six months after the due date of the return for year of change (excluding extensions) if the taxpayer:
    - (1) Timely filed its federal tax return for the year of change (including extensions)
    - (2) Files an amended return within the six-month extension period in a manner consistent with the new method of accounting
    - (3) Attaches the original automatic change Form 3115 to its amended return
    - (4) Files a copy of the automatic change Form 3115 with the Internal Revenue Service office in Ogden, UT 84201, Mail Stop 6111, see *Rev. Proc. 2024-01, 2024-1 I.R.B. 1* (or its successor), no later than when the original automatic change Form 3115 is filed with the amended return
    - (5) Writes on top of the automatic change Form 3115, "FILED PURSUANT TO SECTION 301.9100-2(b)."
  - d. Forms 3115 filed with a designated change number (DCN) 255, "changes related to cost offsets resulting from concurrent cost-offset related inventory changes," under Automatic Consent procedures can be filed with an amended return for the tax year in which the taxpayer is making a corresponding cost-offset related inventory method change under the non-automatic change procedures: provided,
    - (1) the taxpayer received consent for the cost-offset related inventory method after the time the taxpayer was required to file the original Form 3115 for the corresponding cost offset change
    - (2) the taxpayer timely signs and returns the Consent Agreement for the non-automatic corresponding cost-offset related inventory method change
    - (3) the taxpayer implements the corresponding cost-offset method change on the same amended federal income tax return that the tax-

payer implements the cost-offset related inventory method change  
(4) the taxpayer's amended federal income tax return for the year of change includes any adjustments to taxable income or tax liability resulting from the change(s) in method of accounting for the cost-offset related inventory method change(s) specified in the letter ruling and the corresponding cost offset method change(s).

- (2) *Rev. Proc. 2024-23*, 2024-23 I.R.B. 1334, provides the List of Automatic Changes to which the automatic change procedures in *Rev. Proc. 2015-13*, 2015-5 I.R.B. 419 (or successor) as clarified and modified by *Rev. Proc. 2015-33*, 2015-24 I.R.B. 1067, and as modified by *Rev. Proc. 2021-34*, 2021-35 I.R.B. 337, by *Rev. Proc. 2017-59*, 2017-48 I.R.B. 543, and by section 17.02(b) and (c) of *Rev. Proc. 2016-1*, 2016-1 I.R.B. 1 apply.
- (3) *Rev. Proc. 2024-23*, 2024-23 I.R.B. 1334 supersedes all previously published Lists of Automatic Changes.
- (4) Research IDRS

If Form 3115 is	Then
Received before the return due date and before return is filed and is legible and complete	<ol style="list-style-type: none"> <li>1. Close the case</li> <li>2. Use Letter 131C to return Form 3115 to the taxpayer with instructions to file the form with their return</li> </ol>
Timely, legible and complete, and tax return <b>has posted</b> to master file	<ol style="list-style-type: none"> <li>1. Associate the Form 3115 with the posted return</li> <li>2. Do not send an acknowledgment letter (see, Rev. Proc. 2015-13, 2015-5 I.R.B. 419, section 6.03(1)(d))</li> </ol>
Timely, legible and complete, but tax return <b>has not</b> posted to master file	Input TC 930 and forward the suspense copy to the Return Files function
Timely, legible and complete, and is attached to an amended return	Use blocking series 18 with your adjustment, to associate the amended return and Form 3115 with the original return
<b>NOT</b> timely	<ol style="list-style-type: none"> <li>1. Return Form 3115 to the taxpayer using Letter 131C, <i>Information Insufficient or Incomplete for Processing Inquiry</i>.</li> <li>2. Refer taxpayer to Rev. Proc. 2024-1, 2024-1 I.R.B. 1, (or successor) for procedures for pursuing an extension under section 301.9100-3 of the Procedures and Administrative Regulations.</li> <li>3. Inform the taxpayer extensions to file a Form 3115 will only be granted in unusual and compelling circumstances.</li> </ol>
Is timely, but name is illegible, form is incomplete or signature is missing	<ol style="list-style-type: none"> <li>1. Suspend the case</li> <li>2. Correspond using Letter 131C, <i>Information Insufficient or Incomplete for Processing Inquiry</i>. Return the original Form 3115. Use selective paragraph and advise the taxpayer to return original Form 3115 with a copy of the letter</li> <li>3. Suspend photocopy of Form 3115 for 30 days. Notate history sheet</li> <li>4. If response is received, and items are completed, associate Form 3115 with posted return</li> <li>5. If no reply is received, input TC 930 and forward suspended copy to the Return Files function</li> </ol>

**Note:** To protect the health of taxpayers and tax professionals, the IRS allows taxpayers to use electronic or digital signatures on certain paper forms they

cannot file electronically. Taxpayers can submit Form 3115 with digital signatures by following the requirements in IRM 10.10.1, IRS Electronic Signature (e-Signature) Program.

- (5) Taxpayers are allowed to electronically file Form 3115. Taxpayers are allowed to fax the duplicate copy of Form 3115 for an automatic method change. This procedure is listed in Rev. Proc. 2023-1, section 9.06, Submitting automatic Forms 3115. (The duplicate copy of an automatic Form 3115 is usually submitted by mail. A taxpayer that is filing an automatic Form 3115 under the provisions of Rev. Proc. 2015-13, 2015-5 I.R.B. 419, may alternatively submit the duplicate copy of the Form 3115 by fax).

**Note:** Rev. Proc 2023-1, 2023-1 I.R.B. 1, provides that non-automatic Forms 3115 may be submitted by mail, by electronic facsimile, or by encrypted e-mail attachment.

21.7.4.4.15.1.2  
(10-01-2024)

**Forms 3115 filed Under  
Non-Automatic Change  
Procedures**

- (1) Rev. Proc. 2015-13, 2015-5 I.R.B. 419, updates and revises the general procedures under section 446(e) of the Internal Revenue Code and section 1.446-1(e) of the Income Tax Regulations to obtain the consent of the Commissioner of Internal Revenue (Commissioner) to change a method of accounting for federal income tax purposes. Specifically, this revenue procedure provides the general procedures to file a non-automatic change Form 3115 and provides the procedures to file an automatic change Form 3115 to change a method of accounting described in *Rev. Proc. 2024-23*, 2024-23 I.R.B. 1334.
- (2) Taxpayer's must file the non-automatic Form 3115 with the IRS National Office based on the following chart:

Delivery Method	A non-automatic change request
Delivery by mail	Internal Revenue Service Attn: CC:PA:LPD:TSS P.O. Box 7604 Benjamin Franklin Station Washington, DC 20044
Delivery by private delivery service	Internal Revenue Service Attn: CC:PA:LPD:TSS Room 5336 1111 Constitution Ave. NW Washington, DC 20224

**Note:** *Rev. Proc. 2024-01*, 2024-1 I.R.B. 1, section 9.05, allows electronic submission of a Form 3115 for a non-automatic method change. Non-automatic Forms 3115 may be submitted by mail, by electronic facsimile, or by encrypted email attachment.

Prepare a Letter 86C notifying the taxpayer that their request was forwarded for review.



- (3) In general, a taxpayer may only revoke an election not to deduct additional first year depreciation by filing a request for private letter ruling and obtaining the consent of the Commissioner.

21.7.4.4.15.1.3  
(10-01-2022)

**Forms 3115 - All Others**

- (1) If a remittance for the user fee is attached to the Form 3115, leave it attached to the Form 3115 and forward the Form 3115 and the remittance to the National Office. Advise taxpayer their Form 3115 and user fee check were forwarded to the National Office. Forward Forms 3115 for non-automatic method change requests and any remittance for the user fee in accordance with the chart below.
- (2) Use the following chart to determine where to forward Forms 3115 described in IRM 21.7.4.4.15.1 and any remittance for the user fee.

<b>Remittance is Attached OR Form 3115, Part I, Line 1 is not completed:</b>	<b>No remittance is attached AND Form 3115, Part I, Line 1 is completed:</b>
Internal Revenue Service P.O. Box 7604 Benjamin Franklin Station Washington, DC 20044	Internal Revenue Service Mail Stop 6111 Ogden, UT 84201

21.7.4.4.15.1.4  
(10-01-2023)

**Mark to Market Elections  
under IRC 475**

- (1) Taxpayers may make an election to use the mark to market method of accounting under IRC 475 (e) or (f). A taxpayer that makes a section 475(e) or (f) election but does not change its method of accounting to comply with that election, is using an impermissible method. See section four of Rev. Proc. 99-17, 1999-1 C.B.503.
- (2) Taxpayers who are traders in securities or commodities and who made a mark-to-market election under section 475(f) report as ordinary gain or loss on Form 4797, Part II, line 10, all gains and losses from sales and dispositions of securities or commodities held in connection with their trading business. Sales from securities held for investment should be reported on Schedule D.
- (3) A new taxpayer makes the election by placing in its books and records no later than two months and 15 days after the first day of the election year, a statement that satisfies the requirements in section 5.04 of Rev. Proc. 99-17. The statement must describe the election being made, the first taxable year for which the election is effective, and, in the case of an election under IRC 475(f), the trade or business for which the election is made. To notify the IRS that the election was made, the new taxpayer must attach a copy of the statement to its original federal income tax return for the election year. See section 5.03(2) of Rev. Proc. 99-17.
- (4) Taxpayers other than new taxpayers, also make an election by attaching a statement that satisfies the requirements in section 5.04 of Rev. Proc. 99-17. They must file the statement no later than the due date (without regard to extensions) of the original federal income tax return for the taxable year immediately preceding the election year and must attach either to that return or, if applicable, to a request for an extension of time to file that return. The statement must describe the election being made, the first taxable year for

which the election is effective, and, in the case of an election under IRC 475(f), the trade or business for which the election is made. See section 5.03(1) of Rev. Proc. 99-17.

- (5) Attach all loose correspondence and Form 4797 regarding a mark to market election under IRC 475(e) and IRC 475(f) to the tax return which it relates, unless the account has an open TC 420 or is open on AIMS. Then forward accordingly. See IRM 21.5.1.4.4, *Processing of Loose Forms or Schedules*, for attachment procedures.

21.7.4.4.16  
(11-09-2020)  
**Form 8329, Form 8330,  
Form 8703, Mortgage  
Credit Certificates  
(MCC), and Notice of  
Defeasance -  
Background and  
Purpose**

- (1) This section provides general background information about the following:
- Form 8329, *Lender's Information Return for Mortgage Credit Certificates (MCCs)*
  - Form 8330, *Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs)*
  - Form 8703, *Annual Certification of a Residential Rental Project*
  - Mortgage Credit Certificate Election (correspondence)
  - Notice of Defeasance
- (2) In October 2001, Ogden Submission Processing Center began establishing a fact of filing on all Form 8329, Form 8330, Mortgage Credit Certificate Election, and Notices of Defeasance. EO Entity perfects the documents and establishes a fact-of-filing on master file by inputting TC 971 with the applicable action code (AC) **34X** via CC ENMOD. Refer to the list below for the applicable AC related to each item:
- Form 8329, TC 971 AC 341
  - Form 8330, TC 971 AC 342
  - MCC Election, TC 971 AC 344
  - Notice of Defeasance, TC 971 AC 345
- (3) Route all Form 8329, Form 8330, Mortgage Credit Certificate Elections, and/or Notices of Defeasance, and any correspondence regarding these forms to Ogden, BMF Entity, Mail Stop 6273. Files maintains these forms by TIN and calendar year. See IRM 21.7.4.4.16.3, *8703 Form, Annual Certification of a Residential Rental Project*, for routing Form 8703.

21.7.4.4.16.1  
(01-01-2005)  
**Form 8329, Lender's  
Information Return for  
Mortgage Credit  
Certificates (MCCs)**

- (1) Form 8329 is used by lenders of certified indebtedness amounts to provide IRS with information regarding the holders of MCCs to whom the lender made certified indebtedness loans and amounts of MCCs. Any person who makes a loan that is a certified indebtedness amount on any MCC must maintain books and records of such activity and file Form 8329.
- (2) A separate Form 8329 is filed for each issue of MCCs for which the lender made mortgage loans during the calendar year.
- (3) The due date for Form 8329 is January 31 following the close of the calendar year in which the lender made certified indebtedness loans. The Document Code is "78" and the Tax Class is "3." The IRS may grant an extension of time to file Form 8329 if there is reasonable cause for not filing on time. Form 8329 is filed with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201.

21.7.4.4.16.2  
(01-01-2005)

**Form 8330, Issuer's  
Quarterly Information  
Return for Mortgage  
Credit Certificates  
(MCCs)**

- (1) Form 8330, *Issuer's Quarterly Information Return for Mortgage Credit Certificates (MCCs)*, is used by issuers (states and political subdivisions) of MCCs to provide IRS with information required by IRC 25 and Temporary Regulations Section 1.25-8T(b). IRC 25 permits issuers that have authority to issue qualified mortgage bonds to elect to issue MCCs in lieu of qualified mortgage bonds.
- (2) Form 8330 is filed on a quarterly basis beginning with the quarter in which the election is made. The due date is the last day of the month following the month in which the quarter ended. The Document Code is "79" and the Tax Class is "3."
- (3) Each issuer that elects to issue MCCs must file a separate Form 8330 for each qualified MCC program. Multiple Forms 8330 may be filed.

21.7.4.4.16.3  
(01-18-2022)

**Form 8703, Annual  
Certification of a  
Residential Rental  
Project**

- (1) Form 8703, *Annual Certification of a Residential Rental Project*, is used by an operator of a Residential Rental Project(s) to provide information the IRS uses to determine whether a project continues to be a qualified residential rental project under IRC 142(d). If so, and certain other requirements are met, bonds issued in connection with the project are considered "exempt facility bonds", and the interest paid on them is not taxable to the recipient.
- (2) Form 8703 is filed annually during the qualified project period. See the General Instructions for Form 8703 for the definition of qualified project period. The due date is March 31 after the close of the calendar year for which the certification is made. The Document Code is "01" and the tax class is "3." and the MFT is 84. Route all amended Form 8703 and any correspondence related to Form 8703 to the following address:

Internal Revenue Service  
Service Center  
Mail Stop 6552  
Ogden, UT 84201

21.7.4.4.16.4  
(10-01-2022)

**Mortgage Credit  
Certificate Election and  
State Certification**

- (1) Mortgage Credit Certificate Election is a written statement filed by the issuer of MCCs pursuant to Temporary Regulation section 1.25-4T, the issuer elects not to issue an amount of qualified mortgage bonds it is otherwise authorized to issue during the calendar year. A Mortgage Credit Certificate Election must be accompanied by a State Certification by the designated state official that the MCC issue meets the volume limitation requirements.
- (2) A separate Mortgage Credit Certificate Election is filed for each mortgage credit certificate election program and is due on the earlier of December 31 of the year following the year in which the election is made or the date of distribution of the Mortgage Credit Certificates under the program.

21.7.4.4.16.5  
(01-01-2005)

**Notices of Defeasance**

- (1) Notices of Defeasance are written statements of an irrevocable defeasance escrow established to redeem tax-exempt bonds on their earliest call date.
- (2) A separate Notice of Defeasance is filed for each escrow and is due within 90 days of the date of the establishment of the defeasance escrow.

21.7.4.4.17  
(10-01-2022)  
**First-Year Bonus  
Depreciation and IRC  
179 Expense**

- (1) Under IRC 168(k)(1), IRC 168(l)(1), IRC 168(m)(1), taxpayers may claim the deduction for additional first-year depreciation or bonus depreciation. See various subsections in this IRM for information on additional first-year depreciation and bonus depreciation under these sections of the Code.
- (2) Taxpayers may elect under IRC 179 to expense the cost of qualifying property, rather than to recover their cost through depreciation deductions. See the various subsections in this IRM for the maximum dollar amount under IRC 179(b)(1) that a taxpayer may expense, and for the dollar limitation under IRC 179(b)(2) that the aggregate cost cannot exceed without reducing the amount that can be expensed under IRC 179(b)(1).

21.7.4.4.17.1  
(10-01-2016)  
**The Job Creation and  
Workers Assistance Act  
of 2002, P.L. 107-147 -  
Additional First-Year  
Depreciation - New York  
Liberty Zone IRC 168(k)**

- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Job Creation and Workers Assistance Act of 2002, P.L. 107-147 - Additional First-Year Depreciation - New York Liberty Zone IRC 168(k).

21.7.4.4.17.1.1  
(10-01-2016)  
**The Job Creation and  
Workers Assistance Act  
of 2002, P.L. 107-147 -  
Additional First-Year  
Depreciation - New York  
Liberty Zone IRC 1400L**

- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Job Creation and Workers Assistance Act of 2002, P.L. 107-147 - Additional First-Year Depreciation - New York Liberty Zone IRC 1400L.

21.7.4.4.17.1.2  
(04-21-2015)  
**Election Not to Deduct**

- (1) A taxpayer may make an ***election not to deduct*** the additional first-year depreciation. In general, an election not to deduct the additional first-year depreciation for any class of qualified property or NYLZ property must be made by the due date (including extensions) of the federal tax return for the taxable year in which the qualified property or NYLZ property is placed in-service by the taxpayer. The taxpayer can elect not to deduct the additional first-year depreciation by:
  - a. Filing a timely federal tax return and attaching a statement they are not claiming the allowance, or
  - b. If they have already filed, filing an amended return within six months from the due date of the timely filed return (excluding extensions)
- (2) An automatic six-month extension from the due date of the return (excluding extensions) is granted to make the election **NOT** to deduct the additional first-year depreciation, provided the taxpayer timely filed their federal tax return for the placed-in-service year and the taxpayer satisfies the requirement in regulation section 301.9100-2(c) and (d).
- (3) If a taxpayer does not make the election not to deduct the additional first-year depreciation, the amount of depreciation allowable for that property must be determined for the placed-in-service year and all subsequent years by taking into account the additional first-year depreciation deduction.

- 21.7.4.4.17.2  
(10-01-2016)  
**The Jobs and Growth  
Tax Relief Reconciliation  
Act of 2003, P.L. 108-27 -  
Bonus First-Year  
Depreciation**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Jobs and Growth Tax Relief Reconciliation Act of 2003, P.L. 108-27 - Bonus First-Year Depreciation
- 21.7.4.4.17.3  
(10-01-2016)  
**Gulf Opportunity Zone  
Act of 2005, P.L. 109-135**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Gulf Opportunity Zone Act of 2005, P.L. 109-135.
- 21.7.4.4.17.3.1  
(10-01-2016)  
**Gulf Opportunity Zone  
Act of 2005, Additional  
First-Year Depreciation**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Gulf Opportunity Zone Act of 2005, Additional First-Year Depreciation.
- 21.7.4.4.17.3.2  
(10-01-2016)  
**Gulf Opportunity Zone  
Act of 2005 -  
Low-Income Housing  
Credit**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Gulf Opportunity Zone Act of 2005 - Low-Income Housing Credit.
- 21.7.4.4.17.3.3  
(10-01-2016)  
**Gulf Opportunity Zone  
Act of 2005 - New  
Markets Credit, Form  
8874**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Gulf Opportunity Zone Act of 2005 - New Markets Credit, Form 8874.
- 21.7.4.4.17.3.4  
(10-01-2016)  
**Gulf Opportunity Zone  
Act of 2005 - Bonus  
First-Year Depreciation**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Gulf Opportunity Zone Act of 2005 - Bonus First-Year Depreciation.
- 21.7.4.4.17.3.5  
(10-01-2018)  
**Form 3468, Gulf  
Opportunity Zone Act of  
2005 - Investment Credit**
- (1) See the revision dated 10-01-17 of this IRM for more information on the **Form 3468, Gulf Opportunity Zone Act of 2005 - Investment Credit**.

- 21.7.4.4.17.4  
(10-01-2018)  
**Tax Relief and Health Care Act of 2006, P.L. 109-432, Qualified Cellulosic Biomass Ethanol Plant Property - Additional First-Year Depreciation**
- (1) See the revision dated 10-01-17 of this IRM for more information on the **Tax Relief and Health Care Act of 2006, Qualified Cellulosic Biomass Ethanol Plant Property - Additional First-Year Depreciation.**
- 21.7.4.4.17.4.1  
(10-01-2018)  
**Emergency Economic Stabilization Act of 2008, P.L. 110-343, Qualified Cellulosic Biofuel Plant Property - Additional First-Year Depreciation**
- (1) See the revision dated 10-01-17 of this IRM for more information on the **Emergency Economic Stabilization Act of 2008, Qualified Cellulosic Biofuel Plant Property - Additional First-Year Depreciation.**
- 21.7.4.4.17.4.2  
(10-01-2020)  
**Second-Generation Biofuel Plant Property - Additional First-Year Depreciation**
- (1) Section 410(a), Extension and Modification of Special Allowance for Cellulosic Biofuel Plant Property, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extends and modifies the 50 percent additional first-year depreciation deduction under IRC 168(l). The deduction is equal to 50 percent of the adjusted basis of qualified second-generation biofuel plant property identified in IRC 168(l)(2). The additional first-year depreciation deduction is allowed for both regular and alternative minimum tax for the taxable year in which the property is placed in-service. The provision extends the additional first-year depreciation deduction for one year to January 1, 2014.
- (2) Act section 410(b) amends IRC 168(l)(2). In order for property to qualify for the additional first-year depreciation deduction, it must be second-generation biofuel plant property, which is depreciable property that meets the following conditions:
- The property is used in the United States solely to produce second-generation biofuel (as defined in IRC 40(b)(6)(E)).
  - The original use of the property must begin with the taxpayer on or after December 20, 2006 (the date of enactment of the provision).
  - The property must be acquired by purchase by the taxpayer after December 20, 2006. (Property does not qualify if a written binding contract for acquisition of such property was in effect before December 20, 2006.)
  - Is placed in-service by the taxpayer before January 1, 2014.
- (3) Property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer, qualifies if the taxpayer begins the manufacture, construction, or production after December 20, 2006 and the property is placed in-service before January 1, 2014. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered manufactured, constructed, or produced by the taxpayer.
- Section 157(a), Division A of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the placed in-service date for second-generation



biofuel plant property for one year. The property must be placed in-service on or before December 31, 2014.

- Section 189 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the placed in-service date for second-generation biofuel plant property for two years. The property must be placed in-service on or before December 31, 2016.
- Section 40412 of the Bipartisan Budget Act of 2018, P.L. 115-123, extended the second-generation biofuel credit to qualified producers after December 31, 2016 through December 31, 2017.
- Section 130 of the Taxpayer Certainty and Disaster Tax Relief Act of 2019, enacted as part of the Further Consolidated Appropriations Act, 2020, Division Q, P.L. 116-94, extended the placed in-service date for second-generation biofuel special allowance for depreciation under IRC 168(l)(2)(D) to December 31, 2021.

- (4) Second-generation biofuel is defined in IRC 40(b)(6)(E) and is described in paragraphs (9) through (12) in IRM 21.7.4.4.8.3.4.

21.7.4.4.17.5  
(10-01-2016)

**Small Business and  
Work Opportunity Tax  
Act of 2007, P.L. 110-28**

- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Small Business and Work Opportunity Tax Act of 2007, P.L. 110-28.

21.7.4.4.17.6  
(10-01-2018)

**Economic Stimulus Act  
of 2008 P.L. 110-185, 50  
percent Additional  
Special Depreciation  
Allowance**

- (1) See the revision dated 10-01-17 of this IRM for more information on the **Economic Stimulus Act of 2008, 50 Percent Additional Special Depreciation Allowance.**

21.7.4.4.17.6.1  
(10-01-2018)

**American Recovery and  
Reinvestment Act of  
2009 P.L. 111-5, 50  
percent Additional  
Special Depreciation  
Allowance**

- (1) See the revision dated 10-01-17 of this IRM for more information on the **American Recovery and Reinvestment Act of 2009 50 Percent Additional Special Depreciation Allowance.**

21.7.4.4.17.6.2  
(10-01-2018)

**Small Business Jobs  
Act of 2010 P.L. 111-240,  
50 percent Additional  
Special Depreciation  
Allowance**

- (1) See the revision dated 10-01-17 of this IRM for more information on the **Small Business Jobs Act of 2010, 50 Percent Additional Special Depreciation Allowance.**

- 21.7.4.4.17.6.3  
(10-01-2018)  
**The Tax Relief,  
Unemployment  
Insurance  
Reauthorization, and  
Job Creation Act of  
2010, P.L. 111-312, 50  
percent Additional  
Special Depreciation  
Allowance**
- (1) See the revision dated 10-01-17 of this IRM for more information on the **Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, 50 Percent Additional Special Depreciation Allowance.**
- 21.7.4.4.17.6.3.1  
(10-01-2018)  
**The Tax Relief,  
Unemployment  
Insurance  
Reauthorization, and  
Job Creation Act of  
2010, P.L. 111-312,  
Temporary 100 percent  
Additional Special  
Depreciation Allowance**
- (1) See the revision dated 10-01-17 of this IRM for more information on the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Temporary 100 Percent Additional Special Depreciation Allowance.
- 21.7.4.4.17.6.4  
(10-01-2018)  
**American Taxpayer  
Relief Act of 2012, P.L.  
112-240, 50 percent  
Additional Special  
Depreciation**
- (1) See prior revisions to this IRM for more information on the **American Taxpayer Relief Act of 2012, 50 Percent Additional Special Depreciation.**
- 21.7.4.4.17.6.5  
(10-01-2018)  
**Tax Increase Prevention  
Act of 2014, P.L. 113-295,  
50 percent Additional  
Special Depreciation**
- (1) See the revision dated 10-01-17 of this IRM for more information on the **Tax Increase Prevention Act of 2014, 50 Percent Additional Special Depreciation.**
- 21.7.4.4.17.6.6  
(06-27-2016)  
**Protecting Americans  
From Tax Hikes Act of  
2015, P.L. 114-113, 50  
percent Additional  
Special Depreciation**
- (1) Taxpayers recover through annual depreciation deductions, the cost of certain property used in a trade or business, or for the production of income. Section 103 of the Economic Stimulus Act of 2008, P.L. 110-185, amended IRC 168(k) to allow for a nationwide additional first-year depreciation deduction equal to 50 percent of the adjusted basis of qualified property.
- (2) The adjusted basis of the qualified property is reduced by the amount of the additional first-year depreciation deduction before computing the amount of regular depreciation deduction. This additional first-year depreciation deduction is allowed for both regular and alternative minimum tax for the taxable year in which the property is placed in-service.

- (3) Section 143(a)(1) of the Protecting Americans From Tax Hikes Act of 2015, enacted as part of the Consolidated Appropriations Act, 2016, Division Q, P.L. 114-113, extended the 50 percent additional first-year depreciation deduction for qualified property for one year.
- (4) In general, “qualified property” means depreciable property:
- To which IRC 168 applies which has a recovery period of 20 years or less,
  - Which is computer software (as defined in IRC 167(f)(1)(B)), for which a deduction is allowable under IRC 167(a) without regards to IRC 168(k),
  - Which is water utility property and depreciated under MACRS, or
  - Which is qualified leasehold improvement property and depreciated under MACRS.
- (5) The original use of the qualified property must commence with the taxpayer after December 31, 2007, and the qualified property must be acquired by the taxpayer:
- After December 31, 2007, and before January 1, 2016, but only if no written binding contract for the acquisition is in effect before January 1, 2008, or
  - Pursuant to a written binding contract which was entered into after December 31, 2007, and before January 1, 2016.
- (6) The qualified property must be placed in-service by the taxpayer before January 1, 2016, or in the case of property described in IRC 168(k)(2)(B) or in IRC 168(k)(2)(C), before January 1, 2017.
- (7) In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the taxpayer must begin the manufacture, construction, or production of the property after December 31, 2007, and before January 1, 2016, to meet the acquisition requirements in paragraph (5) directly above. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered manufactured, constructed, or produced by the taxpayer.
- (8) See *Rev. Proc. 2016-48* for more information. Revenue Procedure 2016-48 provides guidance for issues related to the amendments made to IRC 168(k)(2), IRC 168(k)(4), and IRC 179(f) by section 124(c)(1), section 143(a)(1), and section 143(a)(3) of the Protecting Americans From Tax Hikes of 2015.
- (9) The additional first-year depreciation deduction is claimed on Form 4562, *Depreciation and Amortization*. Follow normal procedures for verifying claims as described in IRM 21.5.3, *General Claim Procedures*, and follow IRM Exhibit 21.5.3-2, *Examination Criteria (CAT-A) – General*, for CAT-A criteria.

21.7.4.4.17.6.7  
(10-01-2020)

**Protecting Americans  
From Tax Hikes Act of  
2015, P.L. 114-113, 50  
percent Additional  
Special Depreciation  
Deduction for Qualified  
Property for 2016  
Through 2019**

- (1) Section 143(b)(1) of the Protecting Americans From Tax Hikes Act of 2015 (the Act), enacted as part of the Consolidated Appropriations Act, 2016, Division Q, P.L. 114-113, extended and modified the 50 percent additional first-year depreciation deduction for qualified property for 2016 through 2019. Section 143(b)(1) of the Act amends IRC 168(k)(2) as follows for property placed in-service after December 31, 2015, in taxable years ending after such date.
- (2) In general, the term ‘qualified property’ means depreciable property:
  - (I) to which IRC 168 applies which has a recovery period of 20 years or less, (II) which is computer software (as defined in IRC 167(f)(1)(B)) for which a deduction is allowable under IRC 167(a) without regard to IRC 168(k), (III) which is water utility property and depreciated under MACRS, or (IV) which is qualified improvement property and depreciated under MACRS,
  - the original use of which commences with the taxpayer, and
  - which is placed in-service by the taxpayer before January 1, 2020.
- (3) In addition, “qualified property” includes certain depreciable property having longer production periods if the property:
  - meets the requirements of the 1st and 2nd bullets in paragraph (2) directly above,
  - is placed in-service by the taxpayer before January 1, 2021,
  - is acquired by the taxpayer (or acquired pursuant to a written contract entered into) before January 1, 2020,
  - has a recovery period of at least 10 years or is transportation property (as defined in IRC 168(k)(2)(B)(iii) and (iv)),
  - is subject to IRC 263A, and
  - meets the requirements of clause (iii) of IRC 263A(f)(1)(B) (determined as if such clause also applies to property which has a long useful life (within the meaning of IRC 263A(f))).
- (4) In the case of qualified property described in paragraph (3) directly above, the additional first-year depreciation deduction must apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2020.
- (5) In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the acquisition requirements in the 3rd bullet in the paragraph (3) directly above must be treated as met if the taxpayer begins manufacturing, constructing, or producing the property before January 1, 2020.
- (6) See section 143(b)(1) of the Act for more information on certain aircraft property, the exception for alternative depreciation property, special rules, and coordination with IRC 280F. See section 143(b)(6)(D) of the Act for information on the election not to deduct the additional first-year depreciation.
- (7) Section 143(b)(2) of the Act amends IRC 168(k)(3), Qualified Improvement Property, for property placed in-service after December 31, 2015, in taxable years ending after such date. In general, the term “qualified improvement property” means:
  - Any improvement to an interior portion of a building which is nonresidential real property if such improvement is placed in-service after the date such building was first placed in-service.

- Such term must not include any improvement for which the expenditure is attributable to (i) the enlargement of the building, (ii) any elevator or escalator, or (iii) the internal structural framework of the building.
- (8) Section 143(b)(4) of the Act amends IRC 168(k)(5). The “Special Rule for Property Acquired During Certain Pre-2012 Periods” was deleted and replaced by “Special Rules for Certain Plants Bearing Fruits and Nuts.” In general, in the case of any “specified plant” which is planted before January 1, 2020, or is grafted before such date to a plant that has already been planted, by the taxpayer in the ordinary course of the taxpayer’s farming business (as defined in IRC 263A(e)(4)) during a taxable year for which the taxpayer has elected the application of IRC 168(k)(5), the taxpayer may elect to deduct the 50-percent additional first-year depreciation provided by IRC 168(k)(1) for the taxable year in which such specified plant is so planted or grafted. If the taxpayer makes this election, such specified plant is not treated as qualified property under IRC 168(k)(2) in the plant’s placed-in-service year. This 50 percent additional first-year depreciation deduction is reduced to 40 percent for a plant which is planted (or so grafted) in 2018 and 30 percent in the case of a plant which is planted (or so grafted) in 2019. IRC 168(k)(5), as amended by the Act, applies to specified plants planted or grafted after December 31, 2015.
- (9) For purposes of paragraph (8) directly above, the term “specified plant” means any:
- Tree or vine which bears fruit or nuts, and
  - Any other plant which will have more than one yield of fruits or nuts and has a pre-productive period of more than 2 years from the time of planting or grafting to the time at which such plant begins bearing fruits or nuts.
- (10) For purposes of paragraph (8) directly above, the term “specified plant” does not include any property which is planted or grafted outside the United States.
- (11) Section 143(b)(5) of the Act adds new IRC 168(k)(6), Phase Down, to the Internal Revenue Code. The 50 percent additional first-year depreciation deduction is reduced to:
- 40 percent in the case of property placed in-service in 2018 (or in the case of property placed in-service in 2019 and described in IRC 168(k)(2)(B) or 168(k)(2)(C) that is acquired, or acquired pursuant to a written contract entered into, before 2019 (determined by substituting “2019” for “2020” in IRC 168(k)(2)(B)(i)(III) and (ii) and IRC 168(k)(2)(E)(i)).
  - 30 percent in the case of property placed in-service in 2019 (or in the case of property placed in-service in 2020 and described in IRC 168(k)(2)(B) or 168(k)(2)(C) that is acquired, or acquired pursuant to a written contract entered into, before 2019.
- (12) See *Rev. Proc. 2017-33* for more information. *Rev. Proc. 2017-33* provides guidance for issues related to the amendments made to IRC 168(j), IRC 168(k), and IRC 179 by section 124(c)(2), section 124(d), section 124(e), section 143(b), and section 167(b) of the Act.
- (13) Section 143(b)(6)(A) of the Act amends IRC 168(e)(6) for property placed in-service after December 31, 2015, in taxable years ending after such date. In

general, the term “qualified leasehold improvement property” for purposes of IRC 168(e)(6) means any improvement to an interior portion of a building which is nonresidential real property if:

- such improvement is made under or pursuant to a lease (as defined in IRC 168 (h)(7)) (I) by the lessee (or any sublessee) of such portion, or (II) by the lessor of such portion,
- such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and
- such improvement is placed in-service more than 3 years after the date the building was first placed in-service.

(14) For purposes of paragraph (13) directly above, the term “qualified leasehold improvement property” must not include any improvements for which the expenditure is attributable to:

- the enlargement of the building,
- any elevator or escalator,
- any structural component benefitting a common area, or
- the internal structural framework of the building.

(15) See IRC 168(e)(6)(C), as amended by section 143(b)(6) of the Act, for more information on definitions and special rules relating to qualified leasehold improvement property.

21.7.4.4.17.6.8  
(10-01-2019)

**Section 263A not  
Applicable to Certain  
Costs of Replanting  
Citrus Plants Due to  
Loss or Damages**

- (1) *Tax Cuts and Jobs Act of 2017 (TCJA), Section 13207, Expensing of Certain Costs of Replanting Citrus Plants Lost by Reason of Casualty*, added IRC 263A(d)(3)(C) to the code. Pursuant to this new law, IRC 263A does not apply to certain costs paid or incurred by certain taxpayers after December 22, 2017 and on or before December 2027, for replanting citrus plants lost or damaged due to freezing temperatures, disease, drought, pests, or casualty.
- (2) See Section 13207 of the *Tax Cuts and Jobs Act of 2017 (TCJA)*, and *Rev. Proc. 2018-35*, 2018-28 I.R.B. 204, for more information.

21.7.4.4.17.6.9  
(10-01-2021)

**Applicable Recovery  
Period for Real Property**

- (1) For property placed in-service after December 31, 2017, *Tax Cuts and Jobs Act of 2017 (TCJA) Section 13204, Applicable Recovery Period for Real Property*, shortens the recovery period for residential rental property depreciated in the Alternative Depreciation System (required for specified types of property) to 30 years (from 40 years under the prior law).
- (2) For property placed in-service after December 31, 2017, TCJA, Section 13204 eliminates the separate 15-year property classifications and definitions of qualified leasehold improvement, qualified restaurant, and qualified retail improvement property. TCJA Section 13204 also moved the definition of qualified improvement property from IRC 168(k)(3) to IRC 168(e)(6). Prior to the Coronavirus Aid, Relief, and Economic Security Act, P.L. 116-136, (CARES Act), qualified improvement property placed in-service after December 31, 2017, was classified as nonresidential real property with a 39-year General Depreciation System (GDS) recovery period and a 40-year Alternative Depreciation System (ADS) recovery period.
- (3) Section 202 of P.L. 116-120, of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, amends the depreciation over a 30-year ADS recovery period of



certain residential property placed in service before January 1, 2018, and held by an electing real property. See *Rev. Proc. 2021-28, 2021-27 I.R.B. 5*, for more information.

- (4) Section 2307 of the CARES Act amended the classification, definition, and recovery periods of qualified improvement property placed in-service after December 31, 2017. As a result of Section 2307 of the CARES Act, qualified improvement property placed in-service after December 31, 2017, is classified as 15-year property with a 15-year GDS recovery period and a 20-year ADS recovery period. In general, the term “qualified improvement property” means:
  - Any improvement made by the taxpayer to an interior portion of a building which is nonresidential real property if such improvement is placed in-service after the date such building was first placed in-service.
  - Such term must not include any improvement for which the expenditure is attributable to (i) the enlargement of the building, (ii) any elevator or escalator, or (iii) the internal structural framework of the building.
- (5) See Treas. Reg. 1.168(b)-1(a)(5)(i)(A) and (ii) for more information on qualified improvement property.

21.7.4.4.17.6.10  
(10-01-2021)

**Temporary 100-Percent  
Expensing**

- (1) *Tax Cuts and Jobs Act of 2017 (TCJA) Section 13201, Temporary 100-Percent Expensing*, extends and modifies the additional first-year depreciation deduction for certain business assets through 2026 (and through 2027 for longer production period property and certain aircraft).
- (2) TCJA Section 13201, increases the 50 percent depreciation allowance to 100 percent for property acquired after September 27, 2017, and placed in service before January 1, 2023 (January 1, 2024, for longer production period property and certain aircraft), as well as for specified plants planted or grafted after September 27, 2017, and before January 1, 2023.
- (3) TCJA Section 13201 removes the requirement that the original use of qualified property must commence with the taxpayer (i.e., it allows the additional first-year depreciation deduction for new and certain used property).
- (4) Generally, TCJA Section 13201 applies to property acquired and placed in-service after September 27, 2017, and to specified plants planted or grafted after such date. A transition rule provides that, for a taxpayer’s taxable year that includes September 27, 2017, the taxpayer may elect to apply a 50 percent allowance instead of the 100 percent allowance. See Section 13201 of the *Tax Cuts and Jobs Act of 2017 (TCJA)*, and Treas. Reg. 1.168(k)-2, for more information.

21.7.4.4.17.7  
(10-01-2018)

**Economic Stimulus Act  
of 2008, P.L. 110-185,  
IRC 179 Expense**

- (1) See the revision dated 10-01-17 of this IRM for more information on the **Economic Stimulus Act of 2008. IRC 179 Expense.**

- 21.7.4.4.17.7.1  
(10-01-2018)  
**American Recovery and Reinvestment Act of 2009, P.L. 111-5, IRC 179 Expense**
- (1) See the revision dated 10-01-17 of this IRM for more information on the **American Recovery and Reinvestment Act of 2009, IRC 179 Expense**.
- 21.7.4.4.17.7.2  
(10-01-2018)  
**Hiring Incentives to Restore Employment Act, P.L. 111-147, IRC 179 Expense**
- (1) See prior revisions to this IRM for more information on the **Hiring Incentives to Restore Employment Act, IRC 179 Expense**.
- 21.7.4.4.17.7.3  
(10-01-2018)  
**Small Business Jobs Act of 2010, P.L. 111-240, IRC 179 Expense**
- (1) See prior revisions of this IRM for more information on the **Small Business Jobs Act of 2010, IRC 179 Expense**.
- 21.7.4.4.17.7.4  
(10-01-2018)  
**Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, IRC 179 Expensing**
- (1) See the revision dated 10-01-17 of this IRM for more information on the **Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, IRC 179 Expensing**.
- 21.7.4.4.17.7.5  
(10-01-2018)  
**American Taxpayer Relief Act of 2012, P.L.112-240, IRC 179 Expensing**
- (1) See the revision dated 10-01-17 of this IRM for more information on the **American Taxpayer Relief Act of 2012, IRC 179 Expensing**.
- 21.7.4.4.17.7.6  
(10-01-2018)  
**Tax Increase Prevention Act of 2014, P.L. 113-295, IRC 179 Expensing**
- (1) See prior revisions to this IRM for more information on the **Tax Increase Prevention Act of 2014, IRC 179 Expensing**.
- 21.7.4.4.17.7.7  
(10-01-2020)  
**Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, IRC 179 Expensing**
- (1) Taxpayers may elect under IRC 179 to expense the cost of qualifying property, rather than to recover their cost through depreciation deductions. See the various subsections under IRM 21.7.4.4.17, for the maximum dollar amount that a taxpayer previously could have expensed under IRC 179(b)(1), and for the dollar limitation under IRC 179(b)(2) that the aggregate cost of qualifying property placed in-service by the taxpayer during the taxable year cannot exceed without reducing the amount that can be expensed under IRC 179(b)(1).

- (2) Section 124(a), of the Protecting Americans from Tax Hikes Act of 2015 (the Path Act), enacted as part of the Consolidated Appropriations Act, 2016, Division Q, P.L. 114-113, **permanently extended** the maximum dollar amount under IRC 179(b)(1) and the dollar limitation under IRC 179(b)(2) for Section 179 property as follows:
- Per section 124(a)(1) of the Path Act, for taxable years beginning after December 31, 2014, the maximum amount under IRC 179(b)(1) of the aggregated cost of qualifying property placed in service for the taxable year that a taxpayer may expense is \$500,000.
  - Under IRC 179(b)(2), the applicable IRC 179(b)(1) amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in-service by the taxpayer during the taxable year exceeds certain thresholds. Per section 124(a)(2) of the Path Act, the threshold amount under IRC 179(b)(2), for taxable years beginning after December 31, 2014 is \$2,000,000.
- (3) Per section 124(f) of the Act, section 179(b) is amended by adding an inflation adjustment:
- In general, for any taxable year beginning after December 31, 2015, the dollar amounts shown in paragraph (2) above, may be increased by an amount equal to (i) such dollar amount multiplied by (ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by the CPI for calendar year 2014.
  - The amount of any increase in the bullet above is rounded to the nearest multiple of \$10,000.
  - Per *Rev. Proc. 2016-14*, 2016-9 I.R.B. 365, for taxable years beginning in 2016, the inflation adjusted maximum amount under IRC 179(b)(1) remains at \$500,000, and the inflation adjusted threshold amount under IRC 179(b)(2) is increased to \$2,010,000. Per *Rev. Proc. 2016-55*, 2016-45 I.R.B. 707, for taxable years beginning in 2017, the inflation adjusted maximum amount under IRC 179(b)(1) is \$510,000, and the inflation adjusted threshold amount under IRC 179(b)(2) is \$2,030,000.
- (4) The law does not alter the rule that a taxpayer cannot elect under IRC 179 to expense more than \$25,000 of the cost of any sport utility vehicle, which is qualifying property, placed in-service in the taxable year.
- (5) Per IRC 179(d)(1), as amended by section 124(b) of the Act, “section 179 property” means property which is:
- Tangible property (to which section 168 applies), or
  - Computer software (as defined in IRC 197(e)(3)(B)) which is defined in IRC 197(e)(3)(A)(i), and to which section 167 applies, and
  - Acquired by purchase for use in the active conduct of a trade or business.
- (6) IRC 179 property does not include any property described in IRC 50(b) and does not include air conditioning and heating units.

**Note:** Section 124(e) of the Act, effective with taxable years beginning after December 31, 2015, IRC 179(d)(1) includes air conditioning and heating units considered IRC 1245 property.

- (7) Section 124(c)(2) of the Act, amended IRC 179(f) by making permanent the treatment of qualified real property as section 179 property, effective for taxable years beginning after December 31, 2015, if a taxpayer elects the application of IRC 179(f) for any taxable year. For any taxable year beginning after December 31, 2015, the IRC 179(b)(1) and (2) limitations, and the carryover rules under IRC 179(b)(3)(B) apply to qualified real property placed in-service by taxpayer during that taxable year, if taxpayers elect to apply IRC 179(f).
- (8) The term “section 179 property” includes any qualified real property which is:
- Of a character subject to an allowance for depreciation,
  - Acquired by purchase for use in the active conduct of a trade or business, and
  - Not described in the last sentence of IRC 179(d)(1) (see note in paragraph (6) above).
- (9) The term “qualified real property” means:
- Qualified leasehold improvement property described in IRC 168(e)(6),
  - Qualified restaurant property described in IRC 168(e)(7), and
  - Qualified retail improvement property described in IRC 168(e)(8).
- (10) For taxable years beginning after 2009 and before 2016, for purposes of applying the limitation under IRC 179(b)(1), not more than \$250,000 of the aggregate cost which is taken into account under IRC 179(a) for any taxable year is attributable to qualified real property. Section 124(c)(2) of the Act eliminated this \$250,000 limitation, effective for taxable years beginning after December 31, 2015.
- (11) Per IRC 179(c)(2), any election made under section 179, and any specification contained in any such election, for any taxable year beginning before 2003 may not be revoked except with the consent of the Commissioner. Any such election or specification with respect to any taxable year beginning after 2002 and before 2015 may be revoked by the taxpayer with respect to any property, and any such revocation, once made, is irrevocable. Per Section 124(d) of the Act, for taxable years beginning after December 31, 2014, an election made under section 179 may be revoked by the taxpayer with respect to any property, and such revocation once made, is irrevocable.
- (12) See IRC 179(a) through 179(f), and *Rev. Proc. 2017-33* for more specific information.

21.7.4.4.17.7.8  
(10-01-2024)

**Modifications of Rules  
for Expensing  
Depreciable Business  
Assets under Code 179**

- (1) *Tax Cuts and Jobs Act of 2017 (TCJA), Section 13101, Modifications of Rules for Expensing Depreciable Business Assets under Code 179*, increases the maximum amount a taxpayer may expense under Code 179 to \$1,000,000.00 and increases the phase-out to \$2,500,000.00.
- (2) TCJA, Section 13101, amended the inflation adjustment provision in IRC 179(b)(6), and by expanding its application to the maximum amount in IRC 179(b)(5) for a sport utility vehicle.

Rev. Proc.	Taxable Year Beginning	Inflation Adjusted Maximum Amount under IRC 179(b)(1)	Inflation Adjusted Threshold Amount under IRC 179(b)(2)	Inflation Adjusted Maximum Amount for a Sport Utility Vehicle under IRC 179(b)(5)
Rev. Proc. 2018-57, 2018-49 I.R.B. 827	2019	\$1,020,000	\$2,550,000	\$25,500
Rev. Proc. 2019-44, 2019-47 I.R.B. 1093	2020	\$1,040,000	\$2,590,000	\$25,900
Rev. Proc. 2020-45, 2020-46 I.R.B. 1016	2021	\$1,050,000	\$2,620,000	\$26,200
Rev. Proc. 2021-45 , Section 3.25	2022	\$1,080,000	\$2,700,000	\$27,000
Rev. Proc. 2022-38, Section 3.25	2023	\$1,160,000	\$2,890,000	\$28,900
Rev. Proc. 2023-34, Section 3.25	2024	\$1,220,000	\$3,050,000	\$30,500

- (3) TCJA, Section 13101, expands the definition of IRC 179 property to include certain tangible property used in lodging.
- (4) TCJA, Section 13101, changes the definition of qualified real property. Qualified real property is any qualified improvement property described in IRC 168(e)(6), and any of the following improvements to nonresidential real property placed in service after that property was first placed in service: roofs; heating, ventilation, and air-conditioning property; fire protection and alarm systems; and security systems.
- (5) This provision applies to property placed in service in taxable years beginning after December 31, 2017. See TCJA, Section 13101, and *Rev. Proc. 2019-08*, 2019-03 I.R.B. 347, for more information.

- 21.7.4.4.17.8  
(10-01-2016)  
**Food, Conservation, and Energy Act of 2008, P.L. 110-246 - Additional First-Year Depreciation for Kiowa County, Kansas and Surrounding Areas**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Food, Conservation, and Energy Act of 2008, P.L. 110-246 - Additional First-Year Depreciation for Kiowa County, Kansas and Surrounding Areas.
- 21.7.4.4.17.8.1  
(10-01-2016)  
**Food, Conservation, and Tax Relief Act of 2008, P.L. 110-246 - Increased Section 179 Expense for Kiowa County, Kansas and Surrounding Areas**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Food, Conservation, and Tax Relief Act of 2008, P.L. 110-246 - Increased Section 179 Expense for Kiowa County, Kansas and Surrounding Areas.
- 21.7.4.4.17.8.2  
(10-01-2016)  
**Food, Conservation, and Energy Act of 2008, (Form 5884-A) Credit for Employers Affected by May 4, 2007 Storms and Tornadoes in Kiowa County, Kansas and Surrounding Areas**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Food, Conservation, and Energy Act of 2008, (Form 5884-A) Credit for Employers Affected by May 4, 2007 Storms and Tornadoes in Kiowa County, Kansas and Surrounding Areas.
- 21.7.4.4.17.8.3  
(10-01-2016)  
**Food, Conservation, and Energy Act of 2008, Hurricane Katrina Housing Credit, Form 5884-A for Taxpayers Affected by the May 4, 2007 Storms and Tornadoes in Kiowa County, Kansas and Surrounding Areas**
- (1) See the 10-01-2015 and prior revisions of this IRM for information on The Food, Conservation, and Energy Act of 2008, Hurricane Katrina Housing Credit, Form 5884-A for Taxpayers Affected by the May 4, 2007 Storms and Tornadoes in Kiowa County, Kansas and Surrounding Areas.
- 21.7.4.4.17.9  
(02-08-2016)  
**Form 8932, Credit for Employer Differential Wage Payments**
- (1) Section 111, Credit for Employer Differential Wage Payments to Employees Who Are Active Duty Members of the Uniformed Services, of the Heroes Earning Assistance and Relief Tax Act of 2008, P.L. 110-245, created new IRC 45P. The provision provides for a credit for compensation paid by an employer to an employee who is called to active duty with respect to the armed forces of the United States and is effective for differential wage payments made to qualified employees after June 17, 2008 and on or before December 31, 2009, by an eligible small business employer and is used to figure the credit.



- (2) The credit is claimed on Form 8932, *Credit for Employer Differential Wage Payments*. To be considered a differential wage payment, the payment must meet both of the following requirements:
- The payment is made by an eligible small business employer to a qualified employee for any period during which the employee is performing service in the uniformed services of the United States while on active duty for a period of more than 30 days.

**Note:** Beginning with taxable payments made after December 31, 2015, per Section 122 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, the credit applies to employers of any size, rather than only eligible small business employers (employers with 50 or fewer employees), as under current law.

- The payment represents all or a portion of the wages the employee would have received from the employer if the employee were performing services for the employer.
- (3) The credit for employer differential wage payments is modified by various legislation. Below is a listing of the legislation that has extended the credit for employer differential wage payments:
- Section 736, of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the credit for two years and is effective for payments made after December 31, 2009 on or before December 31, 2011.
  - Section 308(a), of the Uniformed Services, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the credit for two years and is effective for payments made after December 31, 2011 and on or before December 31, 2013.
  - Section 118, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the credit for one year and is effective for payments made after December 31, 2013 and on or before December 31, 2014.
  - Section 122 of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, permanently extends the 20-percent employer wage credit for employees called to active military duty beginning with payments made after December 31, 2014.
- (4) Employers who voluntarily pay the employee “differential pay,” the difference between the compensation that the employer would have paid to the employee during the period of military service less the amount of pay received by the employee from the military are eligible for the credit.
- (5) The differential wage payment credit for any taxable year is an amount equal to 20 percent of the first \$20,000 of “eligible differential wage payments” paid to each “qualified employee” of the taxpayer during such taxable year.
- (6) A “qualified employee” of a taxpayer is a person who is an employee for the 91-day period immediately preceding the period for which any differential wage payment is made during such taxable year.
- (7) See the General Instructions for Form 8932, for definitions of terms and more specific information and *Notice 2010-15*, 2010-6 I.R.B. 390, for more information.
- (8) Action required:

- Math verify Form 8932
- Input TC 291 to increase the credit and TC 290 to reduce the credit

21.7.4.4.17.10  
(01-29-2015)

**The Housing and Economic Recovery Act of 2008 P.L. 110-289, Election to Accelerate Research Credit and Alternative Minimum Tax Credit in Lieu of Bonus Depreciation**

- (1) Section 3081 of the Housing and Economic Recovery Act of 2008, P.L. 110-289, adds IRC 168(k)(4), and provides for corporations to elect not to claim the 50 percent additional first-year depreciation for certain new property (IRC 168(k)(2)) acquired after March 31, 2008, and placed in-service before January 1, 2009, and instead to increase their business credit limitation or alternative minimum tax credit limitation. The placed in-service date is extended to January 1, 2010 for property described in IRC 168(k)(2)(B) and (C). See IRM 21.7.4.4.17.6, *Economic Stimulus Act of 2008, 50 percent Special Depreciation Allowance*, for more information involving bonus depreciation.
- (2) Taxpayers making the election do not claim the depreciation deduction allowable under IRC 168(k) and instead, increase, the limitation on the use of research credits and minimum tax credits. If the corporation elects to accelerate the credits for the first taxable year ending after March 31, 2008, for such taxable year and for any subsequent taxable year, the corporation forgoes the 50 percent additional first-year depreciation deduction and must use the straight-line method for depreciation of eligible qualified property.
- (3) As a result of the IRC 168(k)(4) election, the corporation may only claim unused and unexpired credits from taxable years beginning before January 1, 2006, allocable to research expenditures or AMT liabilities. Treat the increases in the allowable credits as refundable credits, per this provision. See *Rev. Proc. 2008-65*, 2008-44 I.R.B. 1082, for guidance. Also, see *Rev. Proc. 2009-33*, 2009-29 I.R.B. 150, for guidance regarding the ability of corporations to elect not to claim the 50 percent depreciation deduction for certain property (extension property) placed in-service after December 31, 2008 and before January 1, 2010, (or placed in-service after December 31, 2009, and before January 1, 2011, for certain property having longer production periods as described in IRC 168(k)(2)(B) and also for certain aircraft as described in IRC 168(k)(2)(C))
- (4) The TY 2007 Form 1120 (for fiscal filers) does not contain a specific line to claim the credit. The credit was claimed on line 32g of the TY 2008 Form 1120. Fiscal year 2007 corporations were instructed not to make the election and claim the refundable credit on their original return, **but rather on an amended return**. The TY 2008 Form 1120, Form 3800 (line 18b), and Form 8827 (line 8c) contains a specific line to claim the refundable credit.
- (5) If an amended return is received, or a taxpayer did not receive the proper credit on their original return, take the following action:
  - a. Input TC 290 \$.00 and TC 766 with a positive amount to allow/increase the credit, **or**
  - b. Input TC 290 \$.00 and TC 767 with a negative amount to decrease the credit
- (6) In order to track the credit for the Chief Financial Office, beginning January 2009, input a TC 971 action code 300 to the tax module via CC FRM77 whenever the credit is adjusted. Input the dollar amount in the FREEZE-RELEASE-MEMO-AMT field. The transaction date will self-populate with the current date. Money amounts must be positive or negative. Zeros are not allowed.

21.7.4.4.17.10.1  
(01-27-2011)

**American Recovery and Reinvestment Act of 2009 P.L. 111-5, Election to Accelerate Research Credit and Alternative Minimum Tax Credit in Lieu of Bonus Depreciation**

- (1) Section 1201 of the American Recovery and Reinvestment Tax Act of 2009, P.L. 111-5, extended for one year the election to accelerate the use of unused research credit and alternative minimum tax credit carryforwards from tax years beginning before 2006 and obtain a refundable credit in lieu of bonus depreciation. The provision provides for corporations to elect not to claim the 50 percent additional first-year depreciation for eligible qualified property (defined in IRM 21.7.4.4.17.6(14)) acquired after March 31, 2008, and placed in-service after December 31, 2008, and before January 1, 2010 (extension property) and instead, to increase their business credit limitation or alternative minimum tax credit limitation. In the preceding sentence, the placed in-service date of "December 31, 2008" is changed to "December 31, 2009" and the placed in-service date of "January 1, 2010" is changed to "January 1, 2011" for property described in IRC 168(k)(2)(B) or 168(k)(2)(C).
- (2) If a taxpayer made an election to increase the research credit or minimum tax credit limitations for its first tax year ending after March 31, 2008, the taxpayer can choose not to have the election apply to extension property. If the taxpayer made the election and does not choose to not have the election apply to extension property, the original election continues to apply to both eligible qualified property and extension property. However, in this case, separate bonus depreciation amounts, maximum increase amounts, and compute maximum amounts for eligible qualified property and for extension property. If a taxpayer did not make the election for its first tax year ending after March 31, 2008, the taxpayer can make the election only for extension property for its first tax year ending after December 31, 2008.
- (3) If an amended return is received, or a taxpayer did not receive the proper credit on their original return, follow the instructions in paragraphs (4), (5) and (6) in subsection IRM 21.7.4.4.17.10.

21.7.4.4.17.10.2  
(02-28-2011)

**Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, Election to Accelerate Alternative Minimum Tax Credit in Lieu of Bonus Depreciation**

- (1) On December 17, 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, was signed into law. Section 401(c) of the Act extended the election to accelerate the AMT credit in lieu of bonus depreciation. In general, the provision provides for corporations to elect not to claim the 50 percent or 100 percent additional first-year depreciation for eligible qualified property (defined in IRM 21.7.4.4.17.6.6) acquired after March 31, 2008, and placed in-service after December 31, 2010 and before January 1, 2013 (or placed in-service after December 31, 2012, and before January 1, 2014, for certain property having longer production periods as described in IRC 168(k)(2)(B) and also for certain aircraft as described in IRC 168(k)(2)(C)) and instead, to increase their alternative minimum tax credit limitation. This provision refers this eligible qualified property as "round 2 extension property".
- (2) If a taxpayer made an election to increase the research credit or minimum tax credit limitations for its first tax year ending after March 31, 2008, or a taxpayer who made the election for its first taxable year ending after December 31, 2008, the taxpayer can elect not to have IRC 168(k)(4) apply to round 2 extension property. However, if the taxpayer does not make the election under IRC 168(k)(4)(i)(ii)(I), in applying IRC 168(k)(4) to the taxpayer, the bonus de-

preciation amounts, maximum increase amounts, and maximum amounts must be computed and applied to eligible qualified property which is round 2 extension property.

- (3) Taxpayers not previously electing to make the election under IRC 168(k)(4) for its first tax year ending after March 31, 2008, nor whom made the election under IRC 168(k)(4)(H)(ii) for its first taxable year ending after December 31, 2008, can elect to have IRC 168(k)(4) apply to its first taxable year ending after December 31, 2010 and each subsequent year the taxpayer makes the election under IRC 168(k)(4), then IRC 168(k)(4) only applies to eligible qualified property which is round 2 extension property.
- (4) If an amended return is received, or a taxpayer did not receive the proper credit on their original return, follow the instructions in paragraphs (4), (5) and (6) in subsection IRM 21.7.4.4.17.10.

21.7.4.4.17.10.3  
(04-21-2015)

**American Taxpayer Relief Act of 2012, P.L. 112-240, Extension of Election to Accelerate the Alternative Minimum Tax Credit in Lieu of Bonus Depreciation**

- (1) Section 331(c)(1), Extension of Election to Accelerate the AMT Credit in Lieu of Bonus Depreciation, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the election to accelerate the alternative minimum tax (AMT) credit in lieu of bonus depreciation. In general, the provision provides for corporations to elect not to claim the 50 percent additional first-year depreciation for eligible qualified property (defined in IRM 21.7.4.4.17.6) acquired after March 31, 2008, and placed in-service after December 31, 2012, and before January 1, 2014 (or placed in-service after December 31, 2013, and before January 1, 2015, for certain property having longer production periods as described in IRC 168(k)(2)(B) and also for certain aircraft as described in IRC 168(k)(2)(C)) and instead, to increase their AMT credit limitation. The provision refers this eligible qualified property as "round 3 extension property".
- (2) If a taxpayer made the election under IRC 168(k)(4)(A) to increase the research credit or minimum tax credit limitations for its first taxable year ending after March 31, 2008, made the election to increase the research credit or minimum tax credit limitations under IRC 168(k)(4)(H)(ii) for its first taxable year ending after December 31, 2008 (extension property election), or made the election to increase the minimum tax credit limitation under IRC 168(k)(4)(I)(iii) for its first taxable year after December 31, 2010 (round 2 extension property election):
  - Under new IRC 168(k)(4)(J)(ii)(I), the taxpayer can elect not to have IRC 168(k)(4) apply to round 3 extension property, but
  - If the taxpayer does not make the election under new IRC 168(k)(4)(J)(ii)(I), in applying IRC 168(k)(4) to the taxpayer the bonus depreciation amount, maximum amounts, and maximum increase amounts must be computed and applied to eligible qualified property which is round 3 extension property. The amounts described in new subparagraph (J)(ii)(I) of IRC 168(k)(4) is computed separately from any amounts computed with respect to eligible qualified property which is not round 3 extension property.
- (3) Taxpayers that have not previously made the election to apply IRC 168(k)(4). Under new IRC 168(k)(4)(J)(iii), in the case of a taxpayer who neither made the election under IRC 168(k)(4)(A) for its first taxable year ending after March 31, 2008, nor made the election under IRC 168(k)(4)(H)(ii) for its first taxable year ending after December 31, 2008 (extension property election), nor made

the election under IRC 168(k)(4)(I)(iii) for any taxable year ending after December 31, 2010 (round 2 extension property election):

- The taxpayer may elect to have IRC 168(k)(4) apply to round 3 extension property for its first taxable year ending after December 31, 2012, and each subsequent taxable year, **and**
  - If the taxpayer makes the election under new IRC 168(k)(4)(J)(iii)(I), IRC 168(k)(4) only applies to eligible qualified property which is round 3 extension property.
- (4) Under IRC 168(k)(4)(J)(iv), round 3 extension property is defined as property that is eligible qualified property solely by reason of the extension of IRC 168(k)(2) by the American Taxpayer Relief Act of 2012.
- (5) Section 331(c)(2) of the American Taxpayer Relief Act of 2012 added new IRC 168(k)(4)(J) to provide special rules for round 3 extension property. In general, new IRC 168(k)(4)(J)(i) provides that in the case of round 3 extension property, this paragraph must be applied without regard to:
- The limitation described in IRC 168(k)(4)(B)(i) thereof, **and**
  - The business credit increase amount under IRC 168(k)(4)(E)(iii).
- (6) If an amended return is received, or a taxpayer did not receive the proper credit on their original return, follow the instructions in paragraphs (4), (5) and (6) in subsection IRM 21.7.4.4.17.10.
- (7) Per Section 125(c)(2), of the Tax Increase Prevention Act of 2014, a taxpayer who has an election for round 3 extension property must be treated as having an election in effect for round 4 extension property unless the taxpayer elects not to have IRC 168(k)(4) apply to round 4 extension property. See IRM 21.7.4.4.17.10.4, for more information on round 4 extension property.

21.7.4.4.17.10.4

(04-21-2015)

**Tax Increase Prevention  
Act of 2014, P.L. 113-295,  
Accelerate the  
Alternative Minimum Tax  
Credit in Lieu of Bonus  
Depreciation**

- (1) Section 125(c)(2), Tax Increase Prevention Act of 2014, P.L. 113-295, extended the election to accelerate the alternative minimum tax credit in lieu of bonus depreciation. In general, the provision provides for corporations to elect not to claim the 50 percent additional first-year depreciation for eligible qualified property (defined in IRM 21.7.4.4.18.6) acquired after March 31, 2008, and placed in-service after December 31, 2013, and before January 1, 2015 (or placed in-service after December 31, 2014, and before January 1, 2016, for certain property having longer production periods as described in IRC 168(k)(2)(B) and also for certain aircraft as described in IRC 168(k)(2)(C)), and instead, to increase their AMT credit limitation. The provision refers to this eligible qualified property as round 4 extension property.
- (2) A taxpayer who has an election for round 3 extension property must be treated as having an election in effect for round 4 property unless the taxpayer elects not to have IRC 168(k)(4) apply to round 4 extension property. See IRM 21.7.4.4.17.10.3 for more information on round 3 extension property. In addition, all the provisions in IRM 21.7.4.4.17.10.3 apply to round 4 extension property except for the new placed-in-service date for round 4 extension property (see paragraph (1) above)).



21.7.4.4.17.10.5  
(06-27-2016)

**Protecting Americans  
From Tax Hikes Act of  
2015, P.L. 114-113,  
Extension of Election to  
Accelerate the  
Alternative Minimum Tax  
Credit in Lieu of Bonus  
Depreciation**

- (1) Section 143(a)(3) of the Protecting Americans From Tax Hikes Act of 2015 (the PATH Act), enacted as part of the Consolidated Appropriations Act, 2016, Division Q, P.L. 114-113, extended for one year the election to accelerate the unused alternative minimum tax (AMT) credit carryforwards from tax years beginning before 2006 and obtain a refundable credit in lieu of bonus depreciation. In general, the provision provides for corporations to elect not to claim the 50 percent additional first-year depreciation for "eligible qualified property" (defined in IRM 21.7.4.4.17.6.6, *Protecting Americans From Tax Hikes Act of 2015, P.L. 114-113, 50 percent Additional Special Depreciation*) acquired after March 31, 2008, and placed in-service after December 31, 2014, and before January 1, 2016 (or placed in-service after December 31, 2015, and before January 1, 2017, for certain property having longer production periods as described in IRC 168(k)(2)(B) and also for certain aircraft as described in IRC 168(k)(2)(C)), and instead, to increase their AMT credit limitation. Section 143(a)(3) of the PATH Act refers to this eligible qualified property as round 5 extension property.
- (2) Section 143(a)(3) of the Act added new IRC 168(k)(4)(L) to provide special rules for round 5 extension property. In general, new IRC 168(k)(4)(L)(i)(I) provides that in the case of round 5 extension property, the limitation described in IRC 168(k)(4)(B)(i) and the business credit increase amount under IRC 168(k)(4)(E)(iii) thereof must not apply.
- (3) A taxpayer who has an election for round 4 extension property must be treated as having an election in effect for round 5 extension property unless, under new IRC 168(k)(4)(L)(ii)(I), the taxpayer elects not to have IRC 168(k)(4) apply to round 5 extension property.
- (4) Under new IRC 168(k)(4)(L)(ii)(II), a taxpayer who does not have an election in effect for round 4 extension property may elect to apply IRC 168(k)(4) to round 5 extension property. If the taxpayer makes the election under new IRC 168(k)(4)(L)(ii)(II), IRC 168(k)(4) applies only to eligible qualified property that is round 5 extension property.
- (5) In applying IRC 168(k)(4) to eligible qualified property that is round 5 extension property, taxpayers do not claim the 50 percent additional first-year depreciation under IRC 168(k) and instead, use the straight-line method of depreciation for eligible qualified property that is round 5 extension property and increase their pre-2006 minimum tax credit limitation. Also, under new IRC 168(k)(4)(L)(i)(II), the bonus depreciation amount, maximum amount, and maximum increase amount must be computed and applied to eligible qualified property which is round 5 extension property. These amounts must be computed separately from any amounts computed with respect to eligible qualified property which is not round 5 extension property.
- (6) See IRC 168(k)(4)(C) for computing the bonus depreciation amount, maximum amount, and maximum increase amount.
- (7) If an amended return is received, or a taxpayer did not receive the proper credit on their original return, take the following action:
  - Input TC 290 \$.00 and TC 766 with a positive amount to allow/increase the credit, **or**
  - Input TC 290 \$.00 and TC 767 with a negative amount to decrease the credit



- Input a TC 971 action code 300 to the tax module via CC FRM77 whenever the credit is adjusted. Input the dollar amount in the FREEZERELEASE-MEMO-AMT field. The transaction date will self-populate with the current date. Money amounts must be positive or negative. Zeros are not allowed.

21.7.4.4.17.10.5.1  
(06-27-2016)

**Protecting Americans From Tax Hikes Act of 2015, P.L. 114-113, Extension of Election to Accelerate the Alternative Minimum Tax Credit in Lieu of Bonus Depreciation for 2016 through 2019**

- (1) Section 143(b)(3) of the Protecting Americans From Tax Hikes Act of 2015 (the Act), enacted as part of the Consolidated Appropriations Act, 2016, Division Q, P.L. 114-113, extended and modified the election to accelerate the alternative minimum tax credit in lieu of bonus depreciation for 2016 through 2019. Section 143(b)(3) of the Act amends IRC 168(k)(4) as follows for taxable years ending after December 31, 2015.
- (2) In general, IRC 168(k)(4) provides for corporations to elect not to claim the 50 percent additional first-year depreciation for qualified property and instead, increase their minimum tax credit limitation and obtain a refundable credit. In general, under IRC 168(k)(4)(A), if a corporation elects to apply IRC 168(k)(4) for any taxable year:
  - IRC 168(k)(1) and IRC 168(k)(2)(F) must not apply to any qualified property placed in-service during such taxable year,
  - the applicable depreciation method used under IRC 168 with respect to such property must be the straight-line method, and
  - the limitation imposed by IRC 53(c) for such taxable year must be increased by the bonus depreciation amount which is determined for such taxable year under IRC 168(k)(4)(B).
- (3) See IRM 21.7.4.4.17.6.7, *Protecting Americans From Tax Hikes Act of 2015*, P.L. 114-113, 50 percent Additional Special Depreciation for Qualified Property for 2016 Through 2019, for the property that qualifies as "Qualified Property" under IRC 168(k)(2).
- (4) See IRC 168(k)(4)(B) through IRC 168(k)(4)(D) for information on the bonus depreciation amount, credit refundable, and other rules.
- (5) If an amended return is received, or a taxpayer did not receive the proper credit on their original return, take the following action:
  - Input TC 290 \$.00 and TC 766 with a positive amount to allow/increase the credit, or
  - Input TC 290 \$.00 and TC 767 with a negative amount to decrease the credit,
  - Input a TC 971 action code 300 to the tax module via CC FRM77 whenever the credit is adjusted. Input the dollar amount in the FREEZERELEASE-MEMO-AMT field. The transaction date will self-populate with the current date. Money amounts must be positive or negative. Zeros are not allowed.

21.7.4.4.17.10.6  
(02-27-2019)

**Repeal of Election to Accelerate the Alternative Minimum Tax Credit in Lieu of Bonus Depreciation**

- (1) **Tax Cuts and Jobs Act of 2017 (TCJA), Section 12001(b)(13), Repeal of Election to Accelerate the Alternative Minimum Tax Credit in Lieu of Bonus Depreciation**, for taxable years beginning after December 31, 2017, section 12001(b)(13) of the Act repeals IRC 168(k)(4).

21.7.4.4.17.11  
(10-01-2024)  
**Energy Efficient  
Commercial Building  
Deduction**

- (1) Section 1331, Title XIII, of the Energy Policy Act of 2005, P.L. 109-58, created the Energy Efficient Commercial Building Deduction under IRC 179D. The provision provides a deduction for all or a part of the cost of energy efficient commercial building property placed in service during the taxable year.
- (2) The energy efficient commercial building deduction has been modified by various legislation and was made permanent for property placed in service after December 31, 2020. See earlier revisions of IRM 21.7.4 for legislation which extended this deduction prior to 2008. The following is a listing of the legislation that extended or significantly modified the energy efficient commercial building deduction:
  - Section 303, Div. B, Title III, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the deduction for five years for property placed in-service after December 31, 2008 and on or before December 31, 2013.
  - Section 158, Div. A, Title I, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the deduction for one year and is effective for taxable years beginning after December 31, 2013 and on or before December 31, 2014.
  - Section 190, P.L. 114-113, Div. Q, Title I, of the Protecting Americans from Tax Hikes (PATH) Act, extends the period in which a taxpayer may claim the deduction for two years for property placed in-service after December 31, 2014 and on or before December 31, 2016. Section 341, Div. Q, Title III, of the PATH Act updates the energy efficiency standards required for a building to qualify for the section 179D deduction and is effective for property placed in-service after December 31, 2015 and on or before December 31, 2016.
  - Section 40413, P.L. 115-123, Div. D, Title I of the Bipartisan Budget Act of 2018 extended the deduction through December 31, 2017.
  - Section 131, P.L. 116-94, Div. Q, Title 1 of the Further Consolidated Appropriations Act, 2020, extended the deduction through December 31, 2020.
  - Section 102, P.L. 116-260, of the Consolidated Appropriations Act, 2021, made the deduction permanent. The amendments made by this section apply to property placed in service after December 31, 2020.
  - Section 13303, P.L. 117-169, of the Inflation Reduction Act of 2022, made significant changes to this deduction. Those changes are described in (7) below.
- (3) After the PATH Act amendments, energy efficient commercial building property was defined as depreciable property which is installed:
  - a. On or in any building located in the United States that is within the scope of Standard 90.1-2007 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on the day before the date of the adoption of Standard 90.1-2010 of such Societies).
  - b. As part of the interior lighting system, the heating, cooling, ventilation, and hot water systems, or the building envelope, and which is certified as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to those systems by 50 percent or more in comparison to a reference building that meets the minimum requirements of Standard 90.1-2007.

- c. Section 102, P.L. 116-260, of the Consolidated Appropriations Act, 2021, amends section 179D(c) with an update to Standard 90.1-2007, which updates "Reference Standard 90.1", for purposes of this section, no later than 2-years before the date that construction of the property begins. Amendments made by this section apply to property placed in service after December 31, 2020. Amendments by Section 13303, P.L. 117-169, of the Inflation Reduction Act of 2022, effectively provided a sunset for this change as a new definition of Reference Standard 90.1 is effective for property placed in service in taxable years beginning after December 31, 2022.
- (4) A partial deduction is allowed for buildings that do not meet the above requirements. See *Notice 2006-52*, 2006-26 I.R.B. 1175, *Notice 2008-40*, 2008-14 I.R.B. 725, and *Notice 2012-26*, 2012-17 I.R.B. 847 for special rules for partial allowances, method of calculation, basis reduction, interim rules for lighting systems, and other specific information. This partial allowance was removed by Section 13303 P.L. 117-169, of the Inflation Reduction Act of 2022, effective for property placed in service in taxable years beginning after December 31, 2022.
- (5) Section 102, P.L. 116-260, of the Consolidated Appropriations Act, 2021, amended the **Methods of calculation** under section 179D(d)(2) by changing the applicable California Nonresidential Alternative Calculation Method Approval Manual with respect to any property to the **most recent** version affirmed by the Secretary after consulting with the Secretary of Energy no later than 2 years before the date that construction of such property begins. Amendments made by this section apply to property placed in service after December 31, 2020. Amendments by Section 13303, P.L. 117-169, of the Inflation Reduction Act of 2022, effectively provided a sunset for this change as a new definition of the applicable California Standard that is effective for property placed in service in taxable years beginning after December 31, 2022.
- (6) The deduction was limited to the product of \$1.80 and the square footage of the building over the aggregate amount of the deductions under IRC 179D with respect to the building for all prior taxable years. The \$1.80 per square foot amount was indexed for inflation for taxable years after December 31, 2020. See IRC 179D(g). The maximum deduction per square foot amount was significantly changed by Section 13303, P.L. 117-169, of the Inflation Reduction Act, as discussed below.
- (7) Section 13303, P.L. 117-169, of the Inflation Reduction Act of 2022, made significant revisions to the 179D deduction for property placed in service in taxable years beginning after December 31, 2022, unless otherwise noted. The significant revisions are:
  - 1. The minimum energy savings percentage required to qualify for the deduction was reduced from 50 percent to 25 percent.
  - 2. The deduction limitation was reduced from \$1.80 per square foot to \$0.50 per square foot. Both amounts are indexed for inflation.
  - 3. The deduction limitation of \$0.50 per square foot is increased 2 cents per square foot for each 1 percentage point increase in the energy savings percentage above 25 percent, until the deduction reaches \$1.00 per square foot at 50 percent energy savings.
  - 4. If prevailing wage and apprenticeship requirements are met, the per square foot deduction limitation calculated above is multiplied by 5.

5. The time period for determining the aggregate deductions claimed against the square footage maximum was changed from all prior years to the 3 prior taxable years (4 prior years for an allocated deduction).
6. The partial deduction which applied if the energy savings percentage did not meet the energy savings threshold, but one of the three major systems (envelope, lighting, HVAC) did achieve the 50 percent savings was eliminated from the section.
7. The allocation of the deduction to a designer for Government Owned buildings was expanded to allow the allocation of the deduction by most entities exempt from income taxation.
8. The definition of the applicable Reference Standard 90.1 was changed to the more recent of the 2007 standard, or the most recent standard affirmed by the Secretary not later than 4 years before the property is placed in service.
  - a.) Announcement 2023-1 affirmed Reference Standard 90.1-2019 effective on January 1, 2023, meaning that it is the applicable reference standard for buildings placed in service after December 31, 2026.
  - b.) If building construction began before January 1, 2023, reference standard 90.1-2007 is still used regardless of placed in service date.
  - c.) Announcement 2024-24 affirmed Reference Standard 90.1-2022 as the applicable reference standard for Energy Efficient Commercial Building Property placed in service after December 31, 2028, and the construction of which did not begin by December 31, 2022.
9. The definition of the applicable California Nonresidential Alternative Calculation Method Approval Manual was changed to affirmed by the Secretary not later than 4 years before the property is placed in service.
10. The partial deduction for lighting upgrades was eliminated.
11. An alternative deduction for energy efficient building retrofit property was added. The retrofit provisions apply to property placed in service after December 31, 2022, in taxable years ending after such date, pursuant to a qualified retrofit plan established after December 31, 2022.

(8) When the Section 179D deduction is claimed:

1. The depreciable basis of the building is reduced by the amount of the 179D deduction. Depreciation is computed on the remaining depreciable basis.
2. At sale or other disposition, Real Property to the extent of the amount of the 179D deduction is treated as Section 1245 property and subject to Section 1245 recapture. See Section 1245(a)(3)(C).
3. Beginning with the 2022 tax year, Form 7205 is used when the 179D deduction is claimed. Forms 1120, 1120S, 1120-REIT, 1065 and Form 1040 Sch C were also changed to have a dedicated line for this deduction. Previously (and currently on forms without a dedicated line) the deduction was/is claimed on the "Other Deductions" Line. When a Form 7205 is attached to a return and the processing date is after 3/20/2023, the BMF returns will have an RPC Code of M. IMF returns with have an FPC of 3.

21.7.4.4.17.12  
(02-26-2018)  
**Election to Expense  
Advanced Mine Safety  
Equipment**

- (1) Section 404, Division A, Title VI, of the Tax Relief and Health Care Act of 2006, P.L. 109-432, added an election to Election to Expense Advanced Mine Safety Equipment under IRC 179E. Taxpayers may elect to treat 50 percent of the cost of any qualified advance mine safety equipment as an expense which is not charged to a capital account.

- (2) Qualified advanced mine safety equipment property is any advanced mine safety equipment property for use in any underground mine located in the United States where the original use commences with the taxpayer, and which is placed in-service after December 20, 2006 and on or before December 31, 2017.
- (3) Advanced mine safety equipment property means any of the following:
- Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine
  - Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine
  - Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes
  - Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such self-rescue devices, the ability to survive for at least 48 hours
  - Comprehensive atmospheric monitoring system which monitors the level of carbon monoxide, methane, and oxygen present in all areas of the mine and which can detect smoke in the case of a fire in the mine
- (4) The election to expense advanced mine safety equipment is modified by various legislation. Below is a listing of the legislation that has extended the election to expense advanced mine safety equipment:
- Section 311, Div. C, Title III, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, extended the election for one year and is effective for property placed in-service for taxable years beginning after December 31, 2008 and on or before December 31, 2009.
  - Section 743, Title VII, of the Tax Relief Unemployment Insurance Reauthorization, and Job Creation Act of 2010, P.L. 111-312, extended the election for two years and is effective for property placed in-service for taxable years beginning after December 31, 2009 and on or before December 31, 2011.
  - Section 316(a), Title III, of the American Taxpayer Relief Act of 2012, P.L. 112-240, extended the election for two years and is effective for property placed in-service for taxable years beginning after December 31, 2011 and on or before December 31, 2013.
  - Section 128, Div. A, Title I, of the Tax Increase Prevention Act of 2014, P.L. 113-295, extended the election for one year and is effective for property placed in-service for taxable years beginning after December 31, 2013 and on or before December 31, 2014.
  - Section 168, Div. Q, Title I, of the Protecting Americans from Tax Hikes Act of 2015, P.L. 114-113, extended the election for two years and is effective for property placed in-service for taxable years beginning after December 31, 2014 and on or before December 31, 2016.
  - Section 40307, P.L. 115-123, of the Bipartisan Budget Act of 2018 extends the credit for property placed in-service after December 31, 2016 through December 31, 2017.



21.7.4.4.17.13  
(02-13-2009)

**Special Allowance for  
Certain Reuse and  
Recycling Property**

- (1) Division B, Title III, section 308, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, created IRC 168(m), which allows a taxpayer to claim a 50 percent additional first-year depreciation allowance for qualified reuse and recycling property. This additional first year depreciation deduction is allowed for both regular and alternative minimum tax for the taxable year in which the property is placed in-service.
- (2) Qualified reuse and recycling property is any reuse and recycling property:
  - To which IRC 168 applies
  - Which has a useful life of at least five years
  - The original use of which commences with the taxpayer after August 31, 2008; **and**
  - Which is acquired by purchase by the taxpayer after August 31, 2008, but only if no written binding contract for the acquisition was in effect before September 1, 2008, or which is acquired by the taxpayer pursuant to a written binding contract which was entered into after August 31, 2008
- (3) Qualified reuse and recycling property does not include property:
  - To which IRC 168(k) applies
  - Required to be depreciated under the alternative depreciation system of IRC 168(g) pursuant to IRC 168(g)(1)(A), (B), (C), (D), (F), or (G) or other provisions of the Code (for example, property described in IRC 280F(b)(1))
  - Included in any class of property (as set forth in IRC 168(e)) for which the taxpayer elects not to claim the 50 percent additional first-year depreciation deduction under Code 168(m)
  - Placed in-service and disposed of during the same tax year; **or**
  - Converted from business to personal use in the property's placed-in-service year
- (4) Reuse and recycling property is any machinery and equipment (not including buildings or real estate), along with all appurtenances, including software necessary to operate such equipment, that is used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials. Reuse and recycling property does not include rolling stock or other equipment used to transport reuse and recyclable materials.
- (5) If the following are generated by an individual or business, considered the qualified reuse and recyclable materials as property:
  - Scrap plastic
  - Scrap glass
  - Scrap textiles
  - Scrap rubber
  - Scrap packaging
  - Recovered fiber
  - Scrap ferrous and nonferrous metals; **or**
  - Electronic scrap, which is any cathode ray tube, flat panel screen, or similar video display device with a screen size greater than 4 inches measured diagonally, or any central processing unit
- (6) "Recycling" or "recycle" means that process (including sorting) by which worn or superfluous materials manufactured or processed into specification grade



commodities suitable for use as a replacement or substitute for virgin materials in manufacturing tangible consumer and commercial products, including packaging.

- (7) The 50 percent additional first-year depreciation allowance for qualified reuse and recycling property under IRC 168(m)(1) is allowed as follows:
  - The taxpayer is allowed an additional first-year depreciation deduction for the placed-in-service year equal to 50 percent of the adjusted basis of the qualified reuse and recycling property; **and**
  - Before computing the amount otherwise allowable as a depreciation deduction for the qualified reuse and recycling property for the placed-in-service year and any subsequent taxable year, the taxpayer must reduce the adjusted basis of the qualified reuse and recycling property by the amount of the 50 percent additional first-year depreciation deduction
- (8) In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the acquisition requirements in (2) above is treated as met if the taxpayer begins manufacturing, constructing, or producing the property after August 31, 2008. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered manufactured, constructed, or produced by the taxpayer.

21.7.4.4.17.14  
(10-01-2018)

**Emergency Economic Stabilization Act of 2008, P.L. 110-343 - Special Allowance for Qualified Disaster Assistance Property, Additional First-Year Depreciation**

- (1) Division C, Title VII, Subtitle B, section 710, of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, created IRC 168(n), Special Allowance for Qualified Disaster Assistance Property which allows an eligible taxpayer to claim a 50 percent additional first-year depreciation allowance for qualified disaster assistance property. This additional first-year depreciation deduction is allowed for both regular and alternative minimum tax for the taxable year in which the property is placed in-service after December 31, 2007.
- (2) The 50 percent additional first-year depreciation allowance for qualified disaster assistance property under IRC 168(n) is allowed as follows:
  - a. An eligible taxpayer is allowed an additional first-year depreciation deduction for the taxable year in which such property is placed in-service by the eligible taxpayer equal to 50 percent of the adjusted basis of the qualified disaster assistance property, **and**
  - b. Before computing the amount otherwise allowable as a depreciation deduction for the qualified disaster assistance property for the placed-in-service year and any subsequent taxable year, the eligible taxpayer must reduce the adjusted basis of the qualified disaster assistance property by the amount of the additional first-year depreciation deduction
- (3) Qualified disaster assistance property means any property:
  - a. Which is described in IRC 168(k)(2)(A)(i), or which is non-residential real property or residential rental property
  - b. Substantially all of the use of the property is (1) in a disaster area that was a federally declared disaster occurring before January 1, 2010, and (2) in the active conduct of a trade or business by the taxpayer in such disaster area
  - c. Which (1) rehabilitates property damaged, or replaces property destroyed or condemned, as a result of such federally declared disaster except that,

- property is treated as replacing property destroyed or condemned if, as part of an integrated plan, such property replaces property which is included in a continuous area which includes real property destroyed or condemned, and (2) is similar in nature to, and located in the same county as, the property being rehabilitated or replaced
- d. The original use of the property in such disaster area commences with an eligible taxpayer on or after the date on which the federally declared disaster occurs (the “applicable disaster date”)
  - e. Which is acquired by the eligible taxpayer by purchase (as defined in IRC 179(d)) on or after the applicable disaster date, but only if no written binding contract for the acquisition is in effect before such date, **and**
  - f. Which is placed in-service by the eligible taxpayer on or before the date which is the last day of the third calendar year following the applicable disaster date (the fourth calendar year in the case of non-residential real property and residential rental property)
- (4) An eligible taxpayer is a taxpayer who has suffered an economic loss attributable to a federally declared disaster.
- (5) Special rules: Rules similar to the rules of subsection 168(k)(2)(E) apply. That is, per section 710 of the Emergency Economic Stabilization Act of 2008, P.L. 110-343, in the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iii) of section 168(k)(2)(A) are treated as if met if the taxpayer begins manufacturing, constructing, or producing property for the taxpayers own use beginning after December 31, 2007.
- (6) “Qualified disaster assistance property” does not include:
- a. Any property to which IRC 168(k) (determined without regard to IRC 168(k)(4)), 168(l), or 168(m) applies
  - b. Any property to which IRC 1400N(d)(1) applies
  - c. Any property described in IRC 1400N(p)(3)
  - d. Any property required to be depreciated under the alternative depreciation system of IRC 168(g) pursuant to IRC 168(g)(1)(A) through (D) or other provisions of the Code (for example, property described in IRC 280F(b)(1))
  - e. Any property of which any portion is financed with the proceeds of any obligation the interest on which is exempt from tax under IRC 103
  - f. Any qualified revitalization building for which the taxpayer has elected the commercial revitalization deduction under IRC 1400I(a)(1) or (2)
  - g. All property included in any class of property (as set forth in IRC 168(e)) for which the taxpayer elects not to claim the 50 percent additional first-year depreciation deduction under IRC 168(n)
  - h. Placed in-service and disposed of during the same tax year, or
  - i. Converted from business to personal use in the property’s placed-in-service year

**Note:** The special allowance for disaster relief was repealed by P.L. 155-141 on March 23, 2018.

21.7.4.4.18  
(10-01-2022)

**Qualified Opportunity  
(QO) Fund Investments**

- (1) The Tax Cuts and Jobs Acts of 2017 (TCJA), Section 13823, enacted on December 22, 2017, allows a taxpayer to elect to defer capital gains timely invested in a Qualified Opportunity Fund (QO Fund).

- (2) Elections to defer capital gains through investments into a QO Fund are reported by attaching Form 8949, *Sales and Other Dispositions of Capital Assets*, to Schedule D for the applicable tax return of the taxpayer, e.g., Form 1120 for a corporation, Form 1040 for an individual, Form 1065 for a partnership, or Form 1120-S return for an S corporation. During original processing, business returns are coded with a Computer Condition Code **M** when Form 8949 is filed with code "Z" entered on line 1(f).

**Note:** Exempt Organizations are not eligible to defer capital gains through an investment in a QO Fund.

- (3) An entity that is eligible to be a QO Fund uses Form 8996, *Qualified Opportunity Fund*, to self-certify that it is organized to invest in qualified opportunity zone property. In addition, the entity files Form 8996 annually with its timely filed return to report that the QO Fund meets the investment requirements of section 1400Z-2, or to figure the penalty if it does not meet the investment requirements. See the instructions to Form 8996 for more information.
- (4) Normally, profitable investments in capital assets, such as stocks and mutual funds, are taxed at a maximum rate of 20 percent along with an additional 3.8 percent surtax. Taxpayers may elect to defer tax on an eligible gain by investing in a QO Fund. The gain is deferred until there is an inclusion event with respect to the investment or December 31, 2026, whichever is earlier.
- (5) Generally, the inclusion of capital gains realized after December 22, 2017, can be deferred if invested in a QO Fund within the 180-day time limit. Taxpayers who have filed their 2018 income tax returns must file an amended 2018 income tax return and attach a revised Form 8949. See IRM 21.7.4.4.18.1, *Amended Return Processing - Opportunity Zone Fund*, for additional guidance.
- (6) The three tax incentives available for taxpayers investing in a QO Fund:
- **Temporary Deferral** - Investors may elect to defer the recognition of capital gains invested into a QO Fund within 180 days of the date of the sale or exchange using Form 8949, *Sales and Dispositions of Capital Assets*. If the investor makes an election, the tax on the gain is deferred until there is an inclusion event with respect to the investment or December 31, 2026, whichever is earlier.
  - **Basis Increase** - At the time of the investment into the QO Fund, the taxpayer's basis in the investment is \$0.
    - Generally, if the investment is held for at least 5 years, the taxpayer may exclude 10 percent of the original deferred gain (i.e., the taxpayer may increase its basis in the investment by 10 percent of the original deferred gain).
    - Generally, if the investment is held for at least 7 years, the taxpayer may exclude an additional 5 percent of the original deferred gain (i.e., increase its basis in the investment by an additional 5 percent of the original deferred gain, for a total exclusion of 15 percent of the original deferred gain).
  - **Permanent Exclusion** - If the QO Fund investment is held for at least 10 years, the taxpayer may permanently exclude any appreciation from tax due to the sale or exchange of its investment in the QO Fund.
- (7) The law instructs governors in each state (including the mayor of D.C.) to designate Opportunity Zones. The zones or tracts are limited to 25 percent of the eligible tracts. See *Notice 2018-48*, 2018-28 I.R.B. 9, for more information.

**Note:** Nominations from the governor or CEO of each state, territory and DC, and approved by Treasury.

**Note:** Certain communities contiguous to Low-Income Communities (LIC) were also eligible for designation.

**Note:** Opportunity Zones designated in 2018 are unaffected by changes to their respective census tracts resulting from the 2020 Census. See *Announcement 2021-10*, 2021-22 I.R.B. 1170, for more information.

- (8) If the QO Fund does not hold at least 90 percent of its assets in qualified opportunity zone property, a Civil Penalty (MFT 13) with reference number 693 will be self-assessed. The penalty is reported by the QO Fund on the Form 8996. If the QO Fund is organized as a partnership, the penalty will be assessed at the entity level and the penalty is considered as part of the distributive share of each partner.

**Note:** Penalty relief has been provided for certain QOFs impacted by the Coronavirus relief. See Notice 2021-10 , 2021-22 I.R.B. 1170 and *Notice 2020-39* and the instructions to Form 8996, for more information.

- (9) For more information see *Opportunity Zone, Knowledge Management Site*.

21.7.4.4.18.1  
(10-01-2022)  
**Qualified Opportunity  
(QO) Fund Investor -  
Amended Return  
Processing**

- (1) A corporation or trust may file an amended income tax return (Form 1120-X or Form 1041) to adjust or claim a deferral of capital gains timely invested in a Qualified Opportunity Fund. The amended return or claim must contain a Form 8949, *Sales and Other Dispositions of Capital Assets*, attached, as well as the Schedule D, *Capital Gains and Losses*.
- (2) Review the amended return or claim to ensure it is complete for processing. See IRM 21.5.3.4, *General Claims Procedures*, for guidance on incomplete or unprocessable claims.
- (3) If the amended return or claim is complete, review CAT-A criteria for income changes going from taxable to non-taxable. See procedures in IRM 21.5.3-2, *Examination Criteria (CAT-A) - General*.
- (4) If the return does not meet CAT-A criteria or has come back from CAT-A "Accepted as Filed", see the following procedures.
- (5) A TC 971 AC 177 is used to record certain information from the Form 8949, *Sales and Other Dispositions of Capital Assets*. The TC 971 AC 177 will record the EIN of the QO Fund, the date of investment, and the dollar amount of the capital gain invested in the QO Fund.

**Note:** Information from Form 8949 may be contained in either Part I or Part II, or both depending on whether the capital asset is a short term or long-term transaction. Ensure you review the entire form prior to inputting the TC 971.

- (6) Review IDRS 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. The 971 AC 177 contains information about the deferral amount of tax, the date and the company involved. If there is a TC 971 AC 177 located on the module, the

taxpayer previously reported an investment into a QO Fund. This could be input during original processing or a previous amended return.

If	And	Then
No TC 971 AC 177 and/or TC 972 AC 177 on the module	Taxpayer has one QO Fund investment reported on Form 8949,	<p>Input the TC 971 AC 177.</p> <ul style="list-style-type: none"> <li>Input the date of the investment (Form 8949, column "b") in the TRANS-DT field. Use <b>00000000</b>, if "INHERITED" or "VARIOUS", or if REQ77 responds with "date invalid".</li> <li>Input the EIN of the QO Fund (located on Form 8949, column "a" of Form 8949) in the XREF-TIN field. <b>Note:</b> If the EIN is missing, input as <b>00-0000001</b>.</li> <li>Input the deferred amount in the misc. field on REQ 77 as a positive amount (dollars only) (capital gain amount located on Form 8949 column "g" shown as a negative on the form but will post as a positive on TC 971).</li> </ul>
Previous TC 971 AC 177 on the account	The EIN number is the <b>same</b> as the previous TC 971 AC 177, but the data elements (the date of the investment, Form 8949 column "b", or the deferred amount) are different than the elements on the posted TC 971 AC 177	<p>Reverse the original TC 971 AC 177 with TC 972 AC 177 using the original figures from the existing TC 971 AC 177</p> <p><b>Note:</b> Use a posting delay of "1" on the new TC 971 AC 177.</p> <p><b>For reversal:</b></p> <ul style="list-style-type: none"> <li>Input the date currently in the TRANS-DT field of TC 971 AC 177 being reversed.</li> <li>Input the EIN of the QO Fund of the current TC 971 AC 177 (that is being reversed) in the XREF-TIN field. <b>Note:</b> If the EIN number is missing, input EIN as <b>00-0000001</b>.</li> <li>Input the deferred amount from the current TC 971 AC 177 being reversed in the misc. field as a <b>negative amount</b>. <b>Note:</b> 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.</li> </ul>

If	And	Then
Previous TC 971 AC 177 on the module	The EIN number is different than the previous TC 971 AC 177	<p>Input another TC 971 AC 177.</p> <ul style="list-style-type: none"> <li>Input the date of the investment (Form 8949 column "b") in the TRANS-DT field. Use <b>00000000</b>, if "INHERITED" or "VARIOUS", or if REQ77 responds with "date invalid."</li> <li>Input the EIN of the QO Fund (located on Form 8949 column "a" of Form 8949, in the XREF-TIN field).</li> </ul> <p><b>Note:</b> If the EIN number is missing, input EIN as <b>00-0000001</b>.</p> <ul style="list-style-type: none"> <li>Input the deferral amount in the misc. field of REQ 77 as a positive amount (dollars only) (capital gain amount located on Form 8949 column "g" shown as a negative on the form, but will post as a positive on TC 971).</li> </ul>
No TC 971 AC 177 on the module	Taxpayer submits multiple Forms 8949, with different EINs	<p>Input a separate TC 971 AC 177 for each EIN number.</p> <ul style="list-style-type: none"> <li>Input the date of the investment (Form 8949, column "b") in the TRANS-DT field. Use <b>00000000</b>, if "INHERITED" or "VARIOUS", or if REQ77 responds with "date invalid."</li> <li>Input the EIN of the QO Fund (located on Form 8949, column "a" of Form 8949), in the XREF-TIN field).</li> </ul> <p><b>Note:</b> If the EIN number is missing, input EIN as <b>00-0000001</b>.</p> <ul style="list-style-type: none"> <li>Input the deferred amount in the misc. field on REQ 77 as a positive amount (dollars only) (capital gain amount located on Form 8949, column "g" shown as a negative on the form, but will post as a positive on TC 971).</li> </ul>

**Reminder:** If multiple Opportunity Zone investments are reported on Form 8949, you must input a separate TC 971 for each investment.

**Caution:** Make any other necessary adjustments on the account using the applicable source code and blocking series. If no other adjustments are needed and there is a -A freeze on the account, input TC 290 for zero to release the -A freeze, see IRM 21.5.6.4.2, **-A Freeze**.



- (7) Use Category Code **TRFC** when working correspondence for Forms 1120/1120-S/1041/1065, with a Form 8949, or Form 8996 attached. Report your time using OFP 710-85379.
- (8) Use Category Code **TRFX** when working amended/claims for Forms 1120/1120-S/1041/1065 with a Form 8949 or Form 8996 attached. Report your time using OFP 710-85377.

## 21.7.4.4.18.2

(10-05-2022)

**Qualified Opportunity (QO) Fund Penalties and Amended Returns**

- (1) IRC 1400Z-2(f)(1) established a penalty for failure of a Qualified Opportunity Zone Fund (QOF) to meet the requirement to hold 90-percent or more of assets in Qualified Opportunity Zone property. QOFs self-identify and compute the penalty on Form 8996, *Qualified Opportunity Fund*. The penalty amount is reported on the QOFs Partnership or Corporate tax return, and Masterfile records an indicator for penalty identification purposes, effective January 2020.
  - Penalty relief is provided for QOFs impacted by the Covid-19 pandemic. The failure to satisfy the 90 percent investment standard is due to reasonable cause for any QOF whose last day of the first 6-month period of the tax year, or the last day of the tax year falls between April 1, 2020 through June 30, 2021. To obtain this relief, taxpayers must complete all lines on the form 8996 and enter -0- on Part IV, line 8. They must also file Form 8996 with their timely filed federal income tax return (including extensions). See *Notice 2020-39* and *Notice 2021-10* for more information. Additional information can also be found in *Form 8996 Instructions*.
- (2) Unlike the ES penalty, the QOF penalty is recorded under the civil penalty module (MFT 13) using penalty reference number (PRN) 693, and generates a CP 215, *Notice and Demand*.
- (3) Accounts Management (AM) employees may receive responses to taxpayer inquiries from the CP 215 related to:
  - Payment application, such as misapplied payments for QOF penalties applied to the return module instead of the civil penalty module.
  - Adjustments on self-assessed QOF penalties, such as increasing or decreasing the penalty amount based on new information provided by the taxpayer.

**Reminder:** Adjustments would be due to clerical or math errors by the taxpayer, or transcription/clerical errors performed by the IRS.

**Note:** AM is not expected to math-verify the penalty since it is assessed by the taxpayer on Form 8996.
- (4) AM employees will forward any abatement or assessment requests, claims, or amended returns pertaining to Form 8996, to Exam CAT-A. See IRM 21.5.3-2 , **Examination Criteria (CAT-A) - General**, for information regarding these civil penalty assessments.

21.7.4.4.19  
(03-10-2023)

**Form 8886, Reportable  
Transaction Disclosure  
Statement**

- (1) Any taxpayer, including an individual, trust, estate, partnership, S corporation, or other corporation, that participates in a reportable transaction and is required to file a federal income tax return or information return, must file Form 8886, *Reportable Transaction Disclosure Statement*. (See the *Instructions for Form 8886* for special rules for a Regulated Investment Company (RIC)).
- (2) The form applies to transactions entered into after December 31, 2002. However, there may be different rules applicable to reportable transactions (other than transactions of interest) before August 3, 2007 and transactions of interest entered into before November 2, 2006. (See instructions to previous Forms 8886 for specific rules for transactions entered into prior to those dates.)
- (3) Taxpayers must attach Form 8886 to their information return or federal income tax return for each tax year in which they participated in a reportable transaction. If a reportable transaction results in a loss or credit carried back to a prior year, the taxpayer must attach Form 8886 to an application for tentative refund (Form 1045 or Form 1139) or amended return for the carryback years. If a transaction becomes a listed transaction or Transaction of Interest after the taxpayer files their return, they must send a Form 8886 to the Office of Tax Shelter Analysis (OTSA) at the address below within 90 days of the transaction being Listed or a Transaction of Interest, and they must attach a Form 8886 to each tax return reflecting tax consequences of their participation in the Listed Transaction or Transaction of Interest.  
Internal Revenue Service  
OTSA Mail Stop 4915  
1973 North Rulon White Blvd.  
Ogden, UT 84404
- (4) Beginning January 1, 2013, if the taxpayer has filed a paper or MeF amended return with Form 8886 attached, input TC 971 AC 689 on the taxpayer's Form 1041, Form 1065, or Form 1120 series tax account for the year the Form 8886 was filed. It is not necessary to input the TC 971 AC 689 on Form 1045 or Form 1139 Carryback Application. A TC 971 AC 689 is necessary if the explanation for the amended return contains any of the key words below. Enter the IRS received date of the amended return in the transaction date field and input Form 8886 in the remarks field. See the key words or indicators listed below:
  - Form 8886
  - Reportable transaction
  - Listed transaction
  - 6501(c)(10)
  - Transaction of interest (TOI)

**Note:** It is not necessary for AM to forward Form 8886 to OTSA.

- (5) Form 8886 is also filed separately for the first-time taxpayers to disclose reportable transactions. Taxpayers must send a copy of Form 8886 to the following address at the same time they file the original form with their tax return:  
  
Internal Revenue Service  
OTSA Mail Stop 4915  
Large and Mid-Size Business Division  
1973 North Rulon White Blvd.  
Ogden, UT 84404

- (6) Taxpayers may request a ruling from the IRS to determine whether a transaction must be disclosed. The request for a ruling must be submitted to the IRS by the date Form 8886 would otherwise be required to be filed. The request must be sent to:

Sent via US Postal Service	Sent via Private Delivery Service (e.g., UPS, FedEx, etc.)
Internal Revenue Service Attn.: CC:PA:LPD:DRU, P.O. Box 7604 Ben Franklin Station Washington, D.C. 20044	Internal Revenue Service Attn.: CC:PA:LPD:DRU, Room 5336 1111 Constitution Avenue N.W. Washington, D.C. 20224

21.7.4.4.19.1  
(02-04-2013)

**Form 8883, Asset Allocation Statement Under Section 338**

- (1) Form 8883, *Asset Allocation Statement Under Section 338*, is filed to report information about transactions involving the deemed sale of corporate assets under IRC 338. This includes information previously reported on Form 8023, *Elections Under Section 338 for Corporations Making Qualified Stock Purchases*.
- (2) Generally, taxpayers attach Form 8883 to the income tax return on which the effects of the IRC 338 deemed sale and purchase of the target's assets are required to be reported. See the *Instructions for Form 8883*, for more information.
- (3) If the amount allocated to any asset is increased or decreased after the year in which the sale occurs, any affected party must complete Parts I through IV and VI of Form 8883 and attach the form to the income tax return for the year in which the increase or decrease is taken into account.
- (4) Beginning January 1, 2013, if the taxpayer has filed a paper or MeF amended return with Form 8883 attached, input TC 971 action code "789" on the taxpayer's Form 1065 or Form 1120 series tax account. Also, input TC 971 AC 789 if the explanation for the amended return contains any of the key words below. Enter the IRS received date in the transaction date field and input Form 8883 in the remarks field. See the following key words or indicators:
  - Form 8883
  - Increase purchase price
  - Amend allocations
  - Increase or decrease to Adjusted Gross-Up Basis (AGUP) or Aggregate Deemed Sales Price
  - Reallocated purchase price to different classes

21.7.4.4.19.2  
(10-01-2024)

**Basket Option Contracts**

- (1) Per *Notice 2015-73*, 2015-46 I.R.B. 660, the Treasury Department and the Internal Revenue Service identified as a listed transaction a type of structured financial transaction, in which a taxpayer tries to defer income recognition and convert short-term capital gain and ordinary income to long-term capital gain using a contract denominated as an option contract. Notice 2015-73 alerts persons involved in these transactions about certain responsibilities that may arise from their involvement with these transactions.
- (2) *Notice 2015-47*, 2015-30 I.R.B. 76, identified the basket option contract and substantially similar transactions as listed transactions for purposes of section

1.6011-4(b)(2) of the Income Tax Regulations and section 6111 and section 6112 of the Internal Revenue Code. Notice 2015-47 also alerted persons involved in these transactions about certain responsibilities that may arise from their involvement with these transactions. Notice 2015-47 is revoked. See Notice 2015-73, for details.

- (3) Per *Notice 2015-74*, 2015-46 I.R.B. 663, the Treasury Department and the Internal Revenue Service identified as a transaction of interest a type of structured financial transaction, in which a taxpayer tries to defer income recognition and convert short-term capital gain and ordinary income to long-term capital gain through a contract denominated as an option, notional principal contract, forward contract, or other derivative contract. Notice 2015-74 also alerts persons involved in these transactions about certain responsibilities that may arise from their involvement with these transactions. Notice 2015-74 is obsolete. See Reg-102161-23 for details.
- (4) *Notice 2015-48*, 2015-30 I.R.B. 77, identified the basket contract and substantially similar transactions as transactions of interest for purposes of section 1.6011-4(b)(6) of the Income Tax Regulations and section 6111 and section 6112 of the Internal Revenue Code. Notice 2015-48 also alerted persons involved in these transactions about certain responsibilities that may arise from their involvement with these transactions. Notice 2015-48 is revoked. See Notice 2015-74 for details. Notice 2015-74 is obsolete. See Reg-102161-23 for details.
- (5) A taxpayer filing amended returns under Notice 2015-73 must comply with the requirements of section 1.6011-4 of the Income Tax Regulations including, but not limited to, attaching any disclosure statements to the amended return that is required in accordance with section 1.6011-4(a) and section 1.6011-4(e). In addition, a taxpayer filing an amended return under section 3.06(3)(b) of Notice 2015-73 must write "FILED UNDER NOTICE 2015-73" or at the top of any amended paper return. Any amended return submitted electronically, must also show "FILED UNDER NOTICE 2015-73".
- (6) If you receive an amended return filed under Notice 2015-73, follow the instructions in IRM 21.7.9.3.2, *Amended Return Filed Under Notice 2015-73 and Notice 2015-74*.

21.7.4.4.20  
(10-01-2023)

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

- (1) Form 8697, *Interest Computation Under the Look-Back Method for Completed Long-Term Contracts*, is used to figure the interest due, or to be refunded, under the look-back method of IRC 460(b)(2) on certain long-term contracts accounted for under either the percentage of completion method or the percentage of completion-capitalized cost method.
- (2) If the taxpayer owes interest, or if no interest is to be refunded to the taxpayer, the taxpayer (other than closely held pass-through entities) is directed to attach Form 8697 to its income tax return. Interest owed is included in Total Tax ("Tax and Payments" for flow-through entities). Prior to 2018, partnerships did not have a line item to report the interest owed and were directed to write "From Form 8697" with the amount of interest due in the bottom margin of the tax return and attach a check or money order for the full amount payable to the United States Treasury. See IRM 21.7.12.5.8.3, *Form 8697 With Additional Interest Due or if No Interest is Due to be Refunded*, if a Form 1065 is filed

reporting interest due under the look-back method. Note, for closely held pass-through entities, look-back interest is applied at the owner level and not the entity level.

- (3) If interest is to be refunded, instructions tell taxpayers not to attach Form 8697 to their income tax return. Taxpayers file the form separately with the IRS at one of the addresses below:

Individuals	All Others
Department of Treasury Internal Revenue Service Philadelphia, PA 19255-0001	Department of Treasury Internal Revenue Service Cincinnati, OH 45999-0001

- (4) The Cincinnati Campus in the Non-Master File (NMF) Unit works all BMF Form 8697 claims for refund, loose Form 8697 reporting additional interest due or if no interest is due to be refunded, and all BMF correspondence pertaining to Form 8697. See IRM 21.7.12.5.8, *Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts*. Route loose BMF forms and BMF correspondence to this area. If CII case, re-control to 0244374812. Route paper cases to:

Cincinnati Campus CAMC  
7940 Kentucky Dr.  
Stop 6111G  
Florence, KY 41042

21.7.4.4.21  
(10-01-2021)  
**Form 8866, Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method**

- (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) The Cincinnati Campus in the Non-Master File (NMF) Unit works all BMF Form 8866 claims for refund, and loose Form 8866 reporting additional interest due or if no interest is due to be refunded, and all BMF correspondence pertaining to Form 8866. See IRM 21.7.12.5.9, *Form 8866, Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method*. Route loose forms and correspondence to this area. If CII case, re-control to 0244374812. Route paper cases to:

Cincinnati Campus CAMC  
7940 Kentucky Dr.  
Stop 6444G  
Florence, KY 41042

21.7.4.4.22  
(10-01-2021)  
**Telephone Excise Tax Refund (TETR)**

- (1) Refer to the October 1, 2013 revision of IRM 21.7.4 for any needed information regarding TETR cases.



21.7.4.4.23  
(12-05-2023)

**Form 1099-K, Payment  
Card and Third-Party  
Network Transactions -  
Reporting Requirements**

- (1) IRC 6050W was added to the Internal Revenue Code by the Housing and Economic Recovery Act of 2008, P.L. 110-289. Beginning with calendar year 2011, Form 1099-K, *Merchant Card and Third-Party Network Payments*, is required to be filed with respect to payments in settlement of reportable payment transactions, and furnished to business entities including sole proprietors, partnerships, corporations, S corporations, and trusts.
- (2) IRC 6050W and Treasury Regulation 1.6050W-1 require any payment settlement entity (PSE) making one or more payments to a “participating payee” in settlement of “reportable payment transactions”, to file Form 1099-K annually with the IRS. The payor reports the gross amount of such reportable payment transactions for the calendar year and for each month within such calendar year. The payor must also report the name, address, and TIN of the participating payee on Form 1099K. A similar statement must be furnished to the payee containing the same information, as well as the name, address, and phone number of the person required to prepare the return. A “reportable payment transaction” means any payment card transaction and any third-party network transaction (see (6) below for the de minimis exception). A “payment card transaction” means any transaction in which a payment card is accepted as payment. A “third-party network transaction” means any transaction that is settled through a third-party payment network.
- (3) Under IRC 6050W, a “payment settlement entity” is a domestic or foreign entity, that is a merchant acquiring entity or a third-party settlement organization. A merchant acquiring entity is the bank or other organization that has the contractual obligation to make payments to participating payees in settlement of payment card transactions. A third-party settlement organization (TPSO) is the central organization that has the contractual obligation to make payments to participating payees of a third-party network transaction. In both contexts, the regulations provide that a payment settlement entity “makes payment” in settlement of a reportable transaction if it submits the instructions to transfer funds to the account of the participating payee.
- (4) A “payment card” is defined as any card (e.g., a credit card or debit card) which is issued pursuant to an agreement or arrangement which provides for:
  - One or more issuers of such cards
  - A network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment
  - Standards and mechanisms for settling the transactions between the merchant acquiring entities and the persons who agree to accept such cards as payment. (Thus, under the provision, a bank that enrolls a business to accept credit cards and contracts with the business to make payment on credit card transactions is required to report to the IRS the business’s gross credit card transactions for each calendar year. The bank also is required to provide a copy of the information report to the business)
- (5) The provision also requires reporting on a third-party network transaction. A “third-party payment network” is defined as any agreement or arrangement that:
  - Involves the establishment of accounts with a central organization by a substantial number of persons (e.g., more than 50) unrelated to such



organization, provide goods or services, and have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement

- Provides for standards and mechanisms for settling such transactions
- Guarantees persons providing goods or services pursuant to such agreement or arrangement that such person will be paid for providing such goods or services

(6) There is a de minimis exception from reporting for third-party settlement organizations. Section 9674(c), P.L. 117-2, of the American Rescue Plan Act of 2021, lowers and modifies the threshold below which a third-party settlement organization is not required to report payments to participants in its network, applicable to returns for calendar years beginning after December 31, 2021.

- Under this provision a third-party settlement organization is required to report third-party network transactions with any participating payee that exceed a minimum threshold of \$600 in aggregate payments, regardless of the aggregate number of such transactions.
- The provision also clarifies that third-party network transactions only include transactions for the provision of goods or services and is applicable to transactions after the date of enactment.

**Note:** On Dec. 23, 2022, the IRS announced that calendar year 2022 will be treated as a transition year for the reduced reporting threshold of more than \$600. For calendar year 2022, third-party settlement organizations who issue Forms 1099-K are only required to report transactions where gross payments exceed \$20,000 and there are more than 200 transactions. For more information regarding the delay in reporting thresholds for third-party settlement organizations, see *Understanding Your Form 1099-K* and Notice 2023-10.

**Note:** On November 21, 2023, the IRS announced (Notice 2023-74) another year delay of the new \$600 Form 1099-K, **Payment Card and Third Party Network Transactions**, reporting threshold for payment apps and online marketplaces (third-party settlement organizations) for calendar year 2023.

(7) Reportable payment transactions subject to information reporting are subject to backup withholding requirements. In addition, penalties relating to the failure to file correct information returns apply to the information reporting requirements under IRC 6050W. See TD 9496, 2010-43 I.R.B. 484, for the final regulations relating to information reporting requirements, information reporting penalties, and backup withholding requirements for payment card and third-party network transaction in the Federal Register, 49821, volume 75, No 157, dated Monday August 16, 2010.

(8) There is no requirement to report the amount of payment card and third-party network transactions on a separate line of the taxpayers return. Taxpayers will include the total amount of receipts, including those included on Form 1099-K, on the gross receipts line.

(9) See the *Third-Party Reporting Information Center*, on [www.irs.gov](http://www.irs.gov) and the *Instructions for Form 1099K*, for more information. In addition, more information can be found on SERP under the IRM Supplemental tab. Click on the Form 1099-K, Payment Card and Third-Party Networks Transactions link for Frequently Asked Questions and more.

21.7.4.4.24  
(01-25-2018)

**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. U.S.*
- (2) **Disallow all demutualization claims.**  
Input a TC 290 for .00 use blocking 98/99, as applicable.
- (3) Write the taxpayer using the open paragraphs in the Letter 105C with the following verbiage:  
The Appellate Court recently 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*, aff’d in an unpublished opinion, 628 Fed. Appx. 509 (9th Cir. 2016). 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 didn’t have any basis in the shares of stock received, resulting from the demutualization of the insurance company.”

21.7.4.4.25  
(10-01-2022)

**Section 965 Transition Tax**

- (1) IRC 965 instructions are located in the new stand-alone IRM 21.5.13, **IRC Transition Tax Procedures - Accounts Management**. For prior IRC 965 instructions see the earlier revisions of IRM 21.7.4.4.25.

21.7.4.4.26  
(10-01-2024)

**Net Operating Loss (NOL) - Carryforward**

- (1) Taxpayers may carry forward a Net Operating Loss (NOL), Net Capital Loss (NCL), or Excess Business Credit. Section 13302, of the Tax Cuts and Jobs Act of 2017 (TCJA), Public Law 115-97, Modification of Net Operating Loss Deduction, significantly changed the NOL carryback rules. The TCJA provided that the two-year carryback rule generally does not apply to NOLs arising in tax years ending after December 31, 2017. Exceptions apply to certain farming losses and NOLs of insurance companies, other than life insurance companies. The Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act), effectively delayed the application of the 2017 tax act amendments to carrybacks until January 1, 2021. See IRC 172.
- (2) For all taxpayers (including NOL farming losses) other than non-life insurance companies, the carryover period for NOLs arising in taxable years ending after December 31, 2017 is unlimited - the NOLs can be carried forward indefinitely. For NOLs which arose in taxable years prior to December 31, 2017, the NOLs can be carried forward 20 years.
- (3) Corporate and non-corporate taxpayers incurring farming net operating losses must carry back the farming losses two years, unless they elect to waive the carryback period and carry those losses forward only. Similarly, non-life insurance companies must carry back their net operating losses two years (unless they elect to waive the carryback). Non-life insurance companies continue to be limited to a 20-year carryforward.
- (4) See IRM 21.5.9.5.10.3, *Tax Cuts and Jobs Act (TCJA) of 2017 (P.L. 115-97) Sections Affecting Net Operating Losses*, and subsequent sections for specific carryback and carryforward guidance.
- (5) The CARES Act, Section 2303, provides special rules for net operating losses (NOLs) arising in tax years 2018, 2019, and 2020, see IRC 172(b)(1)(D). For more information on the CARES Act, Section 2303, see IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*.

- (6) The CARES Act has altered the NOL rules. See *Frequently Asked Questions about carrybacks of NOLs for taxpayers who have had Section 965 inclusions*.
- (7) Unlike carryback claims, most claims reporting a carryforward are not specialized. Refer to IRM 21.5.9.2.1 , **Identifying Carryback Applications and Claims**, and IRM 21.5.9.2.2 , **Identifying Carryforward Claims**, to determine if the case should be reassigned to Carrybacks. If the case should not be reassigned, resolve using procedures in IRM 21.5.3, General Claims Procedures. If the case should be reassigned, reassign the case to the Carryback team using the *AM Site Specialization Temporary Holding Numbers* under the Who/Where tab on SERP.

## 21.7.4.4.27

(10-01-2020)

**Qualified Business Income Deduction (QBID)**

- (1) The Tax Cuts and Jobs Act (TCJA) enacted on December 22, 2017, added IRC 199A, Qualified Business Income Deduction (QBID), allowing individuals and some trusts and estates (but not corporations) a deduction of up to:

- 20 percent of qualified business income (QBI) from qualified trades or businesses,
- 20 percent of real estate investment trust (REIT) dividends, and
- 20 percent qualified publicly traded partnership (PTP) income.

**Note:** The deduction can be taken in addition to the standard or itemized deduction.

- (2) QBI includes net income or loss from domestic trades or businesses that is included or allowed in determining taxable income. This includes business income and loss from partnerships (other than PTPs), S corporations, sole proprietorships, and trusts and estates. QBI does not include capital gains or losses, interest, dividend income or income earned by C corporations.
- (3) Depending on the taxpayer's taxable income, QBI may be limited by the type of trade or business, the amount of W-2 wages paid by the trade or business, and the unadjusted basis immediately after acquisition (UBIA) of qualified property held for use in the trade or business. For more information see *Form 1040 Instructions* and 2018 Pub 535, *Business Expenses*, or for 2019 see *Forms 8995 and 8995-A Instructions*, as the chapter on the qualified business income deduction found in the 2018 Pub. 535 was removed.
- (4) Individuals, estates, and trusts that directly claim the deduction, and specified agricultural or horticultural cooperatives will use a worksheet to figure their allowable QBID for the 2018 taxable year. Partnerships, S corporations, and other estates and trusts do not claim the deduction but must report information necessary for their owners and beneficiaries to claim the deduction. Taxpayers are not required to attach the QBI deduction worksheet to their return. The deduction will be figured on Form 8995, or Form 8995-A beginning with the 2019 taxable year.
- (5) The QBID is available for tax years ending after December 31, 2017. For more information, see *Form 1040 Instructions* and 2018 Pub 535, *Business Expenses*, or for 2019 see *Forms 8995 and 8995-A*, as the chapter on the qualified business income deduction found in the 2018 Pub. 535 was removed.
- (6) A similar deduction is available to specified agricultural and horticultural cooperatives, which is substantially like the domestic production activities deduction under former IRC 199.

**Note:** The *Form 1041*, *Form 5227*, and *Form 990-T* Instructions will direct taxpayers to the *Form 1040* Instructions for 2018.

21.7.4.4.27.1  
(10-01-2022)

**Amended Returns  
Claiming Section 199A -  
Qualified Business  
Income Deduction  
(QBID)**

- (1) The QBID can be claimed on *Form 1040*, *Form 1041*, *Form 1041-N*, *Form 1041-QFT*, *Form 5227*, and *Form 990-T*. See the table below for the lines the QBID can be reported.

Form	Line
Form 1040	Line 13
Form 1041	Line 20
Form 1041-N	Line 9
Form 1041-QFT	Line 9
Form 5227	Line 21
Form 990-T	Line 9

- (2) Review all claims for CAT-A criteria. If the amended return is increasing the deduction, see IRM 21.5.3-2, *Examination Criteria (CAT-A) - General*, for applicable criteria before processing the claim. If CAT-A criteria is met, forward the case to CAT-A via *Correspondence Imaging Inventory* (CII) using HQ19 reserved from the drop-down options. When adjusting the account, or when the return comes back from CAT-A “accepted as filed”, adjust with TC 29X for the tax amount.
- (3) All S-corporations (*Form 1120-S*) and partnerships (*Form 1065*) report each shareholder’s or partner’s share of Qualified Business Income (QBI), W-2 wages, unadjusted basis immediately after acquisition (UBIA) of qualified property, qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income on Schedule K-1 (or an attachment to the Schedule K-1) so the shareholders or partners may determine their deduction. See the tables below for K-1 line numbers and definitions for each code reporting QBI.

Form 1120S, K-1, Box 17	Description
Box 17V - Section 199A Income	<p>The amounts reported in Box 17, Code V include:</p> <ul style="list-style-type: none"><li>a. Qualified Business Income (or Loss) which is generally defined as the income (or loss) that is related to the corporation's business activities. It should not include investment income, or the reasonable compensation paid to the shareholders for services rendered to the corporation.</li><li>b. Wages paid by the corporation that were reported to the Social Security Administration on a W-2, as well as any elective deferrals and deferred compensation.</li><li>c. the unadjusted basis of qualified property (UBIA) held by the corporation. Qualified property is generally defined as<ul style="list-style-type: none"><li>1. The original cost of assets that were placed in-service by the corporation in the past ten years and still used by the corporation.</li><li>2. The original cost of assets still being depreciated by the corporation because the recovery period is greater than ten years.</li></ul></li></ul>

Form 1065, K-1, Box 20	Description
Box 20Z - Section 199A Income	<p>The amount reported in Box 20, Code Z Include:</p> <ol style="list-style-type: none"> <li>a. Qualified Business Income (or Loss) which is generally defined as the income (or loss) that is related to the partnership's business activities. It should not include investment income.</li> <li>b. Wages paid by the partnership that were reported to the Social Security Administration on a W-2, as well as any elective deferrals and deferred compensation.</li> <li>c. The unadjusted basis of qualified property (UBIA) held by the partnership. Qualified property is generally defined as: <ol style="list-style-type: none"> <li>1. The original cost of assets that were placed in-service by the partnership in the past ten years and still used by the partnership.</li> <li>2. The original cost of assets still being depreciated by the partnership because the recovery period is greater than ten years.</li> </ol> </li> </ol>

- (4) Box 14I – Section 199A - - Trusts and estates (Form 1041) report each owner's or beneficiary's share of qualified business income (QBI), W-2 wages, unadjusted basis immediately after acquisition (UBIA) of qualified property, qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income or loss on Schedule K-1 (Form 1041) (or an attachment to the Schedule K-1) so the owners or beneficiaries may determine their deduction.



Form 1041, K-1, Box 14	Description
Box 14, Code I	<p>The amounts reported in Box 14, Code I include:</p> <ol style="list-style-type: none"> <li>a. Qualified business income (or loss) which is generally defined as the income (or loss) that is related to the trust's or estate's business activities. It should not include investment income.</li> <li>b. Wages paid by the trust or estate that were reported to the Social Security Administration on a W-2, as well as any elective deferrals and deferred compensation.</li> <li>c. The unadjusted basis of qualified property (UBIA) held by the trust or estate. Qualified property is generally defined as: <ol style="list-style-type: none"> <li>1. The original cost of assets that were placed in-service by the trust or estate in the past ten years and still used by the trust or estate.</li> <li>2. The original cost of assets still being depreciated by the trust or estate because the recovery period is greater than ten years.</li> </ol> </li> </ol>

- (5) The following items should be reported separately:
- Whether the trade or business is a specified service trade or business (SSTB).
  - The REIT dividends received by the corporation.
  - Publicly traded partnership (OTP)(PTP) income or loss received by the corporation.
- (6) The QBID is not available for C-corporations (Form 1120) filers. If the taxpayer is amending the Form 1120 to claim the QBID only, follow IRM 21.5.3.4.6.3, *No Consideration Procedures*.
- (7) Use Category Code TRFC when addressing correspondence for Form 1041, Form 1065, and Form 1120-S when a Qualified Business Income Deduction (QBID) is reported. Report your time using 710-85379.
- (8) Use Category Code TRFX when addressing an amended /claim return for Form 1041, Form 1065, and Form 1120-S when a Qualified Business Income Deduction (QBID) is reported. Report time using OFP 710-85377.

21.7.4.4.28  
(10-01-2024)  
**Capital Construction  
Fund (CCF)**

- (1) The Capital Construction Fund (CCF) is a special investment program administered by the National Marine Fisheries Service (NMFS) of the Department of Commerce, the Maritime Administration (MARAD) of the Department of Transportation, and the Internal Revenue Service (IRS). This program allows taxpayers to defer paying income tax on certain income they invest in a CCF account and later use it to acquire, build, rebuild, or to pay the principal on indebtedness on qualified vessels.
- (2) Under IRC 7518, the owner or lessee may deposit into the CCF certain amounts representing taxable income from an agreement vessel, depreciation on an agreement vessel, net proceeds from the disposition of an agreement 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, reconstruct, or to pay the principal on 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, or the Secretary of Transportation through MARAD.
- (4) Taxpayers must maintain the following three types of bookkeeping accounts for a CCF.
  - Capital Account
  - Capital Gain Account
  - Ordinary Income Account

The total CCF deposits and earnings for any given year are limited to the amount attributed to these three accounts for that year.

- (5) For additional information on tax treatment of CCF earnings and withdrawals, refer to Pub 595, Capital Construction Fund for Commercial Fishermen.
- (6) To take the deduction for amounts contributed to a CCF, corporate taxpayers reduce the amount that would otherwise be entered on Line 30, Taxable Income, Form 1120, U.S. Corporation Income Tax Return, by the amount of the deduction. On the dotted line next to the entry space, taxpayers enter "CCF" and the amount of the deduction. For more information see IRC 7518.
- (7) The deduction for partnership earnings deposited into a CCF account is separately stated on Schedule K (Form 1065), line 13e, Other deductions with code AA, and allocated to the partners on Schedule K-1 (Form 1065), box 13 Other deductions, with Code AA.
- (8) The deduction for S corporation earnings deposited into a CCF account is separately stated on Schedule K (Form 1120-S), line 12d, Other deductions with code AA, and allocated to the shareholders on Schedule K-1 (Form 1120-S), box 12 Other deductions, Code AA.
- (9) Claims may be filed on Form 1120-X, Amended U.S. Corporation 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, for adjustment considerations applicable to taxable income.

