



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.6.1

SEPTEMBER 12, 2023

EFFECTIVE DATE

(10-02-2023)

PURPOSE

- (1) This transmits revised IRM 25.6.1, Statute of Limitations Processes and Procedures.

MATERIAL CHANGES

- (1) IRM 25.6.1.4.1(3) - Changed **passes** to **expires** in the first sentence.
- (2) IRM 25.6.1.6.1(6) - Added that the designated office is listed in the instructions on the tax form.
- (3) IRM 25.6.1.6.3(1) - Added **lookback** into the sentence.
- (4) IRM 25.6.1.6.4(1) - Added Form 1040SR to the chart.
- (5) IRM 25.6.1.6.4(2) - Moved TC 706 instruction from the last sentence in Note 1 to Note 2 and renumbered all other Notes and all references to the Notes.
- (6) IRM 25.6.1.6.5(1) - Updated dates within the Chart of Expedited Statute Processing. IPU 23U0233 issued 02-03-2023.
- (7) IRM 25.6.1.6.5(1) - Updated dates within the Chart of Expedited Statute Processing.
- (8) IRM 25.6.1.6.6(1) - Updated to include the correct backup IDRS number for Philadelphia. IPU 23U0424 issued 03-17-2023.
- (9) IRM 25.6.1.6.14(1) - Added reference to Fowler v. Commissioner 155 T.C. No. 7 to bullet list.
- (10) IRM 25.6.1.6.14(3)(b) - Added link to IRM 21.5.1.4.2 for TC 560 procedures.
- (11) IRM 25.6.1.6.15(1)(b) - Add reference to Notice 2023-21.
- (12) IRM 25.6.1.6.15(4) - Removed example of a return received by a revenue agent and replaced it with an example of a return received by TAS or Chief Counsel.
- (13) IRM 25.6.1.6.16(3) - Added title of Form 907 to the sentence.
- (14) IRM 25.6.1.7.3.1(2) - Clarified the documentation required for transferring payments or credits to XSF.
- (15) IRM 25.6.1.8.1(2) - Added reason for the input of the TC 599 Closing Code 18.
- (16) IRM 25.6.1.8.4(1) - Updated Statute clearing bypass to include BMF returns. IPU 22U1138 issued 11-30-2022.
- (17) IRM 25.6.1.8.4(1) - Updated to include IMF and BMF 2019 and prior year original delinquent returns to bypass AM Statute clearance. IPU 23U0233 issued 02-03-2023.
- (18) IRM 25.6.1.8.4(12)(c) - Added instructions to route numbered returns to Rejects. IPU 23U0755 issued 06-16-2023.
- (19) IRM 25.6.1.9.4.2(1) - Added the titles of the various mentioned forms to the sentence.

- (20) IRM 25.6.1.9.4.2.1(1) - Added definition of a superseding return.
- (21) IRM 25.6.1.9.4.6 - Updated title of subsection for better flow.
- (22) IRM 25.6.1.9.5.1(1) - Added title of Form 872 to the sentence.
- (23) IRM 25.6.1.9.5.3(1) - Updated to provide effective guidance on 25% omission. IPU 23U0233 issued 02-03-2023.
- (24) IRM 25.6.1.9.5.3(2) - Updated to include that 25% omission should be considered for amended EIP returns. IPU 23U0424 issued 03-17-2023.
- (25) IRM 25.6.1.9.5.3(2) - Added IRC 6501(e) reference to the sentence.
- (26) IRM 25.6.1.9.5.3(3) - Updated to include clarification of how to identify if 25% omission exists and when case should be forwarded to Statute. IPU 22U1034 issued 10-20-2022.
- (27) IRM 25.6.1.9.6.1(1) - Clarified the sentence for prompt assessments.
- (28) IRM 25.6.1.9.6.4(1) - Added link to IRM 5.9.3.5 that explains an Automatic Stay.
- (29) IRM 25.6.1.9.6.4(5) - Added email address for CIO.
- (30) IRM 25.6.1.9.9.2(2) - Updated to include that if cases are within 6 to 14 days and 15 - 90 days of the ASED, cases can be sent through CII. IPU 23U0233 issued 02-03-2023.
- (31) IRM 25.6.1.9.10 - Updated title of subsection
- (32) IRM 25.6.1.9.12.2.1(1) - Clarified the wording for GUF unpostables.
- (33) IRM 25.6.1.9.12.2.1(2) - Updated to include that URC 6 changes a date on the unpostable record. IPU 23U0424 issued 03-17-2023.
- (34) IRM 25.6.1.10.1(1) - Removed outdated link from last bullet.
- (35) IRM 25.6.1.10.1.1(6) - Added a link to IRM 25.6.1.10.2.7 for information to identify the 3-year period for refund for tax year 2019 and 2020 per Notice 2023-21. IPU 23U0553 issued 04-26-2023.
- (36) IRM 25.6.1.10.2.5.1(2) - Updated statute year from 2016 to 2019. IPU 23U0424 issued 03-17-2023.
- (37) IRM 25.6.1.10.2.5.1(2) - Corrected number of SP processing centers from three to two and removed Fresno.
- (38) IRM 25.6.1.10.2.5.2 - Updated title of subsection.
- (39) IRM 25.6.1.10.2.7(3) - Added information to identify the 3-year period for refund for tax year 2019 and 2020 per Notice 2023-21. IPU 23U0553 issued 04-26-2023.
- (40) IRM 25.6.1.10.2.7(3) - Deleted duplicate example. IPU 23U0755 issued 06-16-2023.
- (41) IRM 25.6.1.10.2.7.1.4(4) - Added a link to IRM 25.6.1.10.2.7 for information to identify the 3-year period for refund for tax year 2019 and 2020 per Notice 2023-21. IPU 23U0553 issued 04-26-2023.
- (42) IRM 25.6.1.10.2.7.2.1(3) - Added a link to IRM 25.6.1.10.2.7 for information to identify the 3-year period for refund for tax year 2019 and 2020 per Notice 2023-21. IPU 23U0553 issued 04-26-2023.
- (43) IRM 25.6.1.10.2.7.2.2(2) - Updated to include an additional example of the two-year rule. IPU 23U0424 issued 03-17-2023.

- (44) IRM 25.6.1.10.2.7.2.2(2) - Corrected reference of three examples to two to match the number of examples shown.
- (45) IRM 25.6.1.11.1.4.2(2) - Updated to include a paragraph to input actions taken on AMS. IPU 23U0424 issued 03-17-2023.
- (46) IRM 25.6.1.11.1.4.2.3(4) - Added procedures for accounts with TPP markers TC 971 AC 121 or 124 where taxpayer has authenticated but return is on MFT 32 or GUF VOID DELETED. Added statement about when AMS does not indicate the taxpayer has authenticated. IPU 23U0755 issued 06-16-2023.
- (47) IRM 25.6.1.11.1.4.2.3(4) - Added instruction to use activity code "TPAUTH" when the ASED is 120 days or greater of the assignment date and the case is being assigned to RIVO. Revised the instruction to close your AMS control and open a new control base to RIVO using IDRS CC ACTON instead of reassigning the case. Added statement that RIVO will reject cases using activity code "RJCTMMDDYY" (MMDDYY will be the ASED) and category code MISC. IPU 23U0888 issued 08-11-2023.
- (48) IRM 25.6.1.11.1.4.2.4(1) - Updated to include a link for status 26 procedures. IPU 23U0233 issued 02-03-2023.
- (49) IRM 25.6.1.11.1.4.2.4(3) - Updated to include researching CC TRDBV. IPU 23U0233 issued 02-03-2023.
- (50) IRM 25.6.1.11.1.4.2.4(4) - Included instructions for a physical document and electronically filed document if research indicates a tax decrease is required. IPU 23U0233 issued 02-03-2023.
- (51) IRM 25.6.1.11.1.4.2.4(5) - Clarified sentence for resolving a -A freeze.
- (52) IRM 25.6.1.11.1.4.2.4(6) - Removed instructions to forward the case to Exam. IPU 23U0233 issued 02-03-2023.
- (53) IRM 25.6.1.11.1.4.2.5(2) - Updated conditions to release -K freeze. IPU 23U0424 issued 03-17-2023.
- (54) IRM 25.6.1.11.1.4.2.5(11) - Added procedures for reassigning the transcript to Return Integrity & Verification Operation (RIVO) when the correct taxpayer's account was backed out in error. IPU 23U0755 issued 06-16-2023.
- (55) IRM 25.6.1.11.1.4.2.5(11) - Added instruction to use activity code "TPAUTH" when the ASED is 120 days or greater of the assignment date and the case is being assigned to RIVO. Revised the instruction to close your AMS control and open a new control base to RIVO using IDRS CC ACTON instead of reassigning the case. Added statement that RIVO will reject cases using activity code "RJCTMMDDYY" (MMDDYY will be the ASED) and category code MISC. IPU 23U0888 issued 08-11-2023.
- (56) IRM 25.6.1.11.1.4.2.5(12) - Deleted sentence about Form 9355 due to revised procedures in (11). IPU 23U0755 issued 06-16-2023.
- (57) IRM 25.6.1.11.1.4.2.7(10) - Added link to IRM 21.2.4.3.18 about transcripts on a RIVO account.
- (58) IRM 25.6.1.11.1.4.2.7(10) - Revised If/Then chart for various RIVO markers identified on accounts. IPU 23U0755 issued 06-16-2023.
- (59) IRM 25.6.1.11.1.4.2.7(10) - Added instruction to use activity code "TPAUTH" when the ASED is 120 days or greater of the assignment date and the case is being assigned to RIVO. Revised the instruction to close your AMS control and open a new control base to RIVO using IDRS CC ACTON

instead of reassigning the case. Added statement that RIVO will reject cases using activity code "RJCTMMDDYY" (MMDDYY will be the ASED) and category code MISC. IPU 23U0888 issued 08-11-2023.

- (60) IRM 25.6.1.11.1.4.2.7(10) - Added link to IRM 21.2.4.3.18 for clarity.
- (61) IRM 25.6.1.11.1.4.2.8(6) - Added procedures for next action steps when account is still unresolved.
- (62) IRM 25.6.1.11.1.4.2.10(6) - Updated to include procedures to follow if a TC 610 is received with an extension to file. IPU 23U0233 issued 02-03-2023.
- (63) IRM 25.6.1.11.1.4.2.10(6) - Updated to include procedures to follow if the TC 610 payment and TC 460 DLNs do not match. IPU 23U0424 issued 03-17-2023.
- (64) IRM 25.6.1.11.1.4.2.10(6) - Revised procedures for TC 610 payments in conjunction with TC 460 extensions. IPU 23U0755 issued 06-16-2023.
- (65) IRM 25.6.1.11.1.4.2.10(7) - Updated to include GUF VOID DELETED. IPU 23U0233 issued 02-03-2023.
- (66) IRM 25.6.1.11.1.4.2.10(7) - Added criteria for identifying TPP returns that are open UNP 126-0, MFT 32 or GUF VOID DELETED. IPU 23U0755 issued 06-16-2023.
- (67) IRM 25.6.1.11.1.4.2.10(8) - Added procedures for TPP returns where AMS notes verify the taxpayer was authenticated, but the return is on MFT 32 or GUF VOID DELETED. IPU 23U0755 issued 06-16-2023.
- (68) IRM 25.6.1.11.1.4.2.10(8) - Added instruction to use activity code "TPAUTH" when the ASED is 120 days or greater of the assignment date and the case is being assigned to RIVO. Revised the instruction to close your AMS control and open a new control base to RIVO using IDRS CC ACTON instead of reassigning the case. Added statement that RIVO will reject cases using activity code "RJCTMMDDYY" (MMDDYY will be the ASED) and category code MISC. IPU 23U0888 issued 08-11-2023.
- (69) IRM 25.6.1.11.1.4.2.10(9) - Added instruction for rejected returns back into IRM that was previously removed in error. IPU 23U0888 issued 08-11-2023.
- (70) IRM 25.6.1.11.1.4.2.10(11) - Added MFT 32 or GUF VOID DELETED returns to the actions to take when the taxpayer has not authenticated to confirm they filed the return. IPU 23U0755 issued 06-16-2023.
- (71) IRM 25.6.1.11.1.4.2.10(15) - Deleted (15) due to revised procedures shown in (8). IPU 23U0755 issued 06-16-2023.
- (72) IRM 25.6.1.11.1.4.2.17(8) - Added statement to request technical assistance or forward the case to Examination on all carryback or carryforward claims, and renumbered subsequent paragraphs. IPU 23U0755 issued 06-16-2023.
- (73) IRM 25.6.1.11.1.4.2.20(3) - Updated paragraph for procedures to be followed. IPU 23U0233 issued 02-03-2023.
- (74) IRM 25.6.1.13.1 - Included IRM links for SB/SE and LB&I. IPU 23U0233 issued 02-03-2023.
- (75) IRM 25.6.1.13.2.6(2) - Deleted reference to RIVO in the Exception based on changes made to IRM 25.6.1.11.1.4.2.10. IPU 23U0755 issued 06-16-2023.
- (76) IRM 25.6.13.2.6(5)(f) - Moved procedures from the paragraph into a bullet table format.

- (77) IRM 25.6.1.13.2.8.1(11) - Updated that block number corrective action should be input on Form 3999. IPU 23U0233 issued 02-03-2023.
- (78) Various changes throughout the IRM to update Correspondence Imaging System (CIS) to Correspondence Imaging Inventory (CII). IPU 22U1034 issued 10-20-2022.
- (79) Various changes throughout the IRM to update gender neutral pronouns.
- (80) Various editorial changes throughout the IRM.

EFFECT ON OTHER DOCUMENTS

IRM 25.6.1 dated September 16, 2022 and effective October 3, 2022 is superseded. This IRM also includes the following IRM Procedural Updates (IPUs): IPU 22U1034 issued 10-20-2022, IPU 22U1138 issued 11-30-2022, IPU 23U0233 issued 02-03-2023, IPU 23U0424 issued 03-17-2023, IPU 23U0553 issued 04-26-2023, IPU 23U0755 issued 06-16-2023, IPU 23U0888 issued 08-11-2023.

AUDIENCE

The primary users of this IRM are all IRS employees in Business Operating Divisions (BODs) who receive inquiries on Statute of Limitations imminent/ expired issues.

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25.6.1

Statute of Limitations Processes and Procedures

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 - 25.6.1.10.2.9.6 Combat Zone
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- 25.6.1.10.2.9.6.3 Individuals Covered
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 - 25.6.1.10.2.10.1 Partnerships
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 - 25.6.1.10.2.11 Exceptions to the Period of Limitations
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 - 25.6.1.10.2.11.1.1 Estate Tax Special Use Valuation for Property Used as a Farm for Farming Purposes or in a Trade or Business Other Than Farming
 - 25.6.1.10.2.11.1.2 Exclusion of Gain on Sale of Principal Residence for Military
 - 25.6.1.10.2.11.2 Statutory Mitigation Provisions
 - 25.6.1.10.2.12 Claims Against the Government Processed by the IRS under Title 28 (6 years)
 - 25.6.1.10.2.12.1 Claim for Overpayment Interest under IRC 6611
 - 25.6.1.10.2.12.2 Net Rate Interest Netting Under IRC 6621(d)
 - 25.6.1.10.2.12.3 Claim for Form 8697 Interest Computation Under the Look-Back Method for Completed Long-Term Contracts
 - 25.6.1.10.2.12.4 Claim on Form 8866, Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method
 - 25.6.1.10.2.12.5 Other Claims (Open Period)
 - 25.6.1.10.2.12.6 Claim on Form 8038-R, Request for Recovery of Overpayment Under Arbitrage Rebate Provisions
 - 25.6.1.10.2.12.7 Deposit Made Under IRC 6603
 - 25.6.1.10.2.12.8 Claim for IRC 7519 Payment Made in Connection with an IRC 444 Election
 - 25.6.1.11 Statute Transcripts
 - 25.6.1.11.1 Statute Transcript Research
 - 25.6.1.11.1.1 IMF/BMF Accounts Maintenance/Statute Expiration Reports
 - 25.6.1.11.1.2 Case Control Activity (CCA)
 - 25.6.1.11.1.3 Overage Listing
 - 25.6.1.11.1.4 Statute Transcript Procedures
 - 25.6.1.11.1.4.1 Diagnostic (DIAG) Transcripts
 - 25.6.1.11.1.4.2 Resolving STAT Transcripts
 - 25.6.1.11.1.4.2.1 AM-X (Statute Expired) Transcripts
 - 25.6.1.11.1.4.2.2 ST-02 (Erroneous Credit Hold)
 - 25.6.1.11.1.4.2.3 ST-03 (Amended Return, No Original)
 - 25.6.1.11.1.4.2.4 ST-04 (Duplicate Return)

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- 25.6.1.11.1.4.2.5 ST-05 (Examination/Data Processing (DP)) Tax Hold Codes
 - 25.6.1.11.1.4.2.6 ST-08 (Manual Refund)
 - 25.6.1.11.1.4.2.7 ST-09 (Additional Liability Pending)
 - 25.6.1.11.1.4.2.8 ST-10 (Refund Cancellation, Deletion or Repayment)
 - 25.6.1.11.1.4.2.9 ST-11 (Advance Payment)
 - 25.6.1.11.1.4.2.10 ST-12 (Credit No Return)
 - 25.6.1.11.1.4.2.11 ST-14 (Barred Refund)
 - 25.6.1.11.1.4.2.12 ST-16 (Excess Estimated Tax (ES) Credits)
 - 25.6.1.11.1.4.2.13 ST-20 (Subsequent Payment)
 - 25.6.1.11.1.4.2.14 ST-21 (Account Reactivation Freeze)
 - 25.6.1.11.1.4.2.15 ST-22 (Original-No Amended Return)
 - 25.6.1.11.1.4.2.16 ST-26 (TC 59X/Credit Balance)
 - 25.6.1.11.1.4.2.17 Resolving RSED–STAT Transcripts
 - 25.6.1.11.1.4.2.18 ST-29 (RSED–STAT Follow-Up)
 - 25.6.1.11.1.4.2.19 STEX Transcripts
 - 25.6.1.11.1.4.2.20 STEX-XSF (Credits Systemically Applied To XSF)
 - 25.6.1.12 Collection Statute Expiration Date (CSED)
 - 25.6.1.12.1 CSED Research
 - 25.6.1.12.2 CSED Procedures
 - 25.6.1.12.2.1 Conditions Postponing Collection or Suspending the 10 Year Collection Period
 - 25.6.1.12.2.2 Assess Failure to Pay Penalty and Interest (P&I)
 - 25.6.1.13 Barred Assessments/Barred Statute Cases
 - 25.6.1.13.1 Barred Assessment Reports
 - 25.6.1.13.2 Barred Assessment Procedures for Wage and Investment Campuses
 - 25.6.1.13.2.1 Barred Statute Report (Form 9355/3999)
 - 25.6.1.13.2.2 Managerial Responsibilities for Barred Statute Cases
 - 25.6.1.13.2.3 Routing of Barred Cases within AM Campuses
 - 25.6.1.13.2.4 Identifying Barred Statute Cases
 - 25.6.1.13.2.5 Identifying the Responsible Area
 - 25.6.1.13.2.6 Routing and Controlling Form 9355
 - 25.6.1.13.2.7 Functional Responsibilities for Processing and Clearance of Form 9355 Reports and Potential Statute Cases
 - 25.6.1.13.2.7.1 Statute Function Responsibility
 - 25.6.1.13.2.7.2 Responsibilities of W&I Examination Operations at Campuses
 - 25.6.1.13.2.7.3 Barred Assessment Account Closing Actions
 - 25.6.1.13.2.8 Statute Expiration Reporting Responsibilities and Procedures for SB/SE Area Office Involved Directly with or Providing Support for Tax Return Examinations
 - 25.6.1.13.2.8.1 Procedures for the Submission of SB/SE Statute Expiration Reports

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- 25.6.1.13.2.8.2 Taxpayer Notification of Assessment Statute Expiration and Acceptance of Voluntary Payments on Expired Statute returns When Taxpayer Has Been Contacted for Return Examination
 - 25.6.1.13.2.8.3 Closing Cases Involving Expired Statute Returns
 - 25.6.1.13.2.8.4 Statute Expiration Reporting Responsibilities and Procedures for SB/SE Campus Collections
 - 25.6.1.13.2.8.5 Statute Expiration Reporting Responsibilities and Procedures for SB/SE Campus Examination/AUR
 - 25.6.1.13.2.9 Statute Expiration Reporting Responsibilities and Procedures for LB&I Field Operations and LB&I Campus Employees
 - 25.6.1.13.2.9.1 Procedures for the Submission of LB&I Statute Expiration Reports
 - 25.6.1.13.2.9.2 Taxpayer Notification of Assessment Statute Expiration and Acceptance of Voluntary Payments on Expired Statute Returns When Taxpayer Has Been Contacted for Return Examination
 - 25.6.1.13.2.9.3 Closing Cases Involving Expired Statute Returns
 - 25.6.1.14 Estate and Gift Tax (Form 706/709)
 - 25.6.1.14.1 Estate and Gift Tax Research
 - 25.6.1.14.2 Estate and Gift Tax Procedures
 - 25.6.1.14.2.1 Form 706 U.S. Estate Tax Return
 - 25.6.1.14.2.1.1 Credit of Foreign Taxes or State Death Tax Credit
 - 25.6.1.14.2.1.2 Form 706-NA (Nonresident Alien Estate)
 - 25.6.1.14.2.1.3 Form 706-A United States Additional Estate Tax Return
 - 25.6.1.14.2.1.4 Form 706-QDT U.S. Estate Tax Return for Qualified Domestic Trusts
 - 25.6.1.14.2.1.5 Form 706-GS(D) and Form 706-GS(T)
 - 25.6.1.14.3 Form 709 United States Gift (and Generation-Skipping Transfer) Tax Return
 - 25.6.1.15 Employee Plan Master File (EPMF)
 - 25.6.1.15.1 Employee Plan Master File (EPMF) Research
 - 25.6.1.15.2 Employee Plan Master File (EPMF) Procedures
 - 25.6.1.15.2.1 Employee Plan/Exempt Organization (EP/EO) Returns
 - 25.6.1.15.2.2 Forms 5330, Return of Excise Taxes Related To Employee Benefit Plans
 - 25.6.1.15.2.2.1 Statute Cases (Form 5330)
 - 25.6.1.15.3 Amended Returns
- Exhibits
- 25.6.1-1 Form 8749 Unpostable Action & Routing Slip
 - 25.6.1-2 Form 1040 Extended RSED
 - 25.6.1-3 Form 9355 Barred Statute Report
 - 25.6.1-4 SB/SE Statute Expiration Reporting Timetable (for examination-related activities)

25.6.1.1
(10-01-2021)
Program Scope and Objectives

- (1) **Purpose:** The Statute of Limitations Project IRM identifies statute imminent/ expired returns and payments and determines the Assessment Statute Expiration Date (ASED), Refund Statute Expiration Date (RSED), and Collection Statute Expiration Date (CSED).
- (2) **Audience:** The primary users of the IRM are all IRS employees in Business Operating Divisions (BODs) who receive inquiries on statute of limitations imminent/ expired issues.
- (3) **Policy Owner:** The Director of Accounts Management.
- (4) **Program Owner:** Policy & Procedures BMF, Accounts Management, Wage and Investment (WI).
- (5) **Primary Stakeholders:** The primary stakeholders are Management Officials who rely on accurate data, reports and quality information to ensure there are no gaps in efficiencies.
- (6) **Program Goals:** Program goals for this type of work are included in the Accounts Management Program Letter as well as IRM 1.4.16, Accounts Management Guide for Managers.

25.6.1.1.1
(09-19-2017)
Background

- (1) Employees in the Accounts Management (AM) organization respond to taxpayer inquiries and phone calls as they relate to the statute imminent/ expired taxpayer's account adjustment action.

25.6.1.1.2
(10-01-2017)
Authority

- (1) Refer to IRM 1.2.1.13, Policy Statements for Customer Account Services Activities, for information.

25.6.1.1.3
(10-01-2017)
Responsibilities

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

25.6.1.1.4
(10-01-2017)
Program Controls

- (1) **Program Reports:** The program reports provided in this IRM are for identification purposes for the Accounts Management Customer Service Representatives (CSRs) and Tax Examiners (TEs). For reports concerning quality, inventory and aged listing, please refer to IRM 1.4.16, Resource Guide for Accounts Management Managers. Aged listings can also be viewed by accessing Control Data Analysis, Project PCD, on the Control-D/Web Access server, which has a login program control.
- (2) **Program Effectiveness:** Program Effectiveness is determined by Accounts Management's employees successfully using IRM guidance to perform necessary account actions and duties.
- (3) **Program Controls:** Goals, measures and operating guidelines are listed in the yearly Program Letter. Quality data and guidelines for measurement is referenced in IRM 21.10.1, Embedded Quality (EQ) for Accounts Management, Campus Compliance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS) and Electronic Products and Services Support.

- 25.6.1.1.5
(10-01-2017)
Acronyms
- (1) For a comprehensive listing of any IRS acronyms, please refer to the Acronym Database.
- 25.6.1.1.6
(10-01-2017)
Related Resources
- (1) Refer to IRM 1.4.2.1.8, Related Resources, for information on related resources that impact internal controls.
- 25.6.1.2
(10-01-2001)
What is a Statute of Limitation
- (1) A statute of limitation is a time period established by law to review, analyze and resolve taxpayer and/or IRS tax related issues.
- (2) The Internal Revenue Code (IRC) requires that the Internal Revenue Service (IRS) will assess, refund, credit, and collect taxes within specific time limits. These limits are known as the **Statutes of Limitations**. When they expire, the IRS can no longer assess additional tax, allow a claim for refund by the taxpayer, or take collection action. The determination of Statute expiration differs for **Assessment, Refund, and Collection**.
- 25.6.1.2.1
(01-16-2009)
Overall Mission of the Statute Program
- (1) The overall mission of the statute program is to:
- Minimize barred assessments.
 - Provide adequate statute alerts and messages to all campus and field office personnel.
 - Provide maximum feedback to other areas not following prescribed guidelines (this also includes Quality Assurance).
 - Coordinate all open controls with the appropriate functions.
 - Minimize the volume of STxx (statute imminent transcript), STxx(f) (follow-up), and AM–X (statute expired) transcripts.
- (2) The guidelines of the statute program are to:
- Keep inventories to a minimum
 - Review and resolve statute transcript cases
 - Clear original delinquent returns for processing
 - Prepare when needed, barred statute reports
 - Maintain adequate staffing for timely resolution of cases assigned to the statute function (including imminent or expired unpostable cases)
- 25.6.1.2.2
(01-16-2009)
Statute Function Establishment
- (1) The Statute Function was established to review statute imminent/expired original returns and payments and to determine the Assessment Statute Expiration Date (ASED), Refund Statute Expiration Date (RSED) and Collection Statute Expiration Date (CSED).
- (2) The Statute Function also reviews amended returns for Accounts Management that reflect an increase in tax, documents that unpost or are rejected for statute imminent or expired periods, and Enterprise Computing Center at Martinsburg (ECC-MTB) transcripts that generate from the Accounts Maintenance/ Statute Transcript Program.

25.6.1.3

(11-06-2015)

Statute of Limitations Research

- (1) To handle statute imminent/expired cases, you may need to refer to the following Internal Revenue Manuals (IRMs), as well as Internal Revenue Codes (IRCs) and other research per specific statute IRM section procedures:
- IRM 3.11.3, Individual Income Tax Returns
 - IRM 3.12.32, General Unpostables
 - IRM 3.12.166, EPMF Unpostables
 - IRM 3.12.179, Individual Master File (IMF), Payer Master File (PMF) Unpostable Resolution
 - IRM 3.12.278, Exempt Organization Unpostables Resolution
 - IRM 3.13.62, Media Transport and Control
 - IRM 3.13.222, BMF Entity Unpostable Correction Procedures
 - IRM 3.12.21, Credit and Account Transfers
 - IRM 3.17.79, Accounting Refund Transactions
 - IRM 3.17.220, Excess Collection File
 - IRM 3.17.243, Miscellaneous Accounting
 - IRM 2.3, IDRS Terminal Responses
 - IRM 2.4, IDRS Terminal Input
 - IRM 5.9.4, Common Bankruptcy Issues
 - IRM 5.14, Installment Agreements
 - IRM 5.19.1, Balance Due
 - IRM 20.1, Penalty Handbook
 - IRM 20.2, Interest
 - IRM 21.2.2.-2, Account Management Mandated IAT Tools
 - IRM 21.2.4, Master File Accounts Maintenance
 - IRM 21.3.3, Incoming and Outgoing Correspondence/Letters
 - IRM 21.4.1, Refund Research
 - IRM 21.4.5, Erroneous Refunds
 - IRM 21.5.1, General Adjustments
 - IRM 21.5.2, Adjustment Guidelines
 - IRM 21.5.3, General Claims Procedures
 - IRM 21.5.6, Freeze Codes, only applies to Statute cases that involve tax increases and not a no tax change, tax decreases or credit increase actions on a statute year return
 - IRM 21.5.9, Carrybacks
 - IRM 21.6.7, Adjusting Individual Tax Accounts
 - IRM 21.7, Business Tax Returns and Non-Master File Accounts
 - IRM 5.1.19, Collection Statute Expiration
 - IRM 21.8.1.7.10, Covering Over Net Collections of Tax When the period of Limitations Has Expired - U.S. Virgin Islands
 - IRC 6404(a), Abatements
 - IRC 6501, Limitations on Assessment and Collection
 - IRC 6511, Limitations on Credit or Refund
 - IRC 6532(a), Suits by taxpayers for refund
- (2) Refer to IRM 3.11.6, Data Processing (DP) Tax Adjustments and IRM 4.19.3.9, Adjustments to Income, for detailed instructions for adjusting accounts.

25.6.1.4

(10-01-2001)

Introduction Procedures

- (1) The following subsections provide statute awareness relating only to "Introduction to Statutes" and not "Resolving Statute cases."

25.6.1.4.1
(10-02-2023)
**Responsibility of the
Statute Function**

- (1) The Statute Function is the technical operation used to identify, and “clear” original delinquent returns for processing by Submission Processing (SP), and determine expired periods for assessment or refund/credit, on statute imminent or expired periods for Individual Master File (IMF), Business Master File (BMF) and Individual Retirement Account File (IRAF) accounts. This includes applying credits, and resolving unsettled tax modules and freezes that were not resolved as a result of the initial computer-generated transcript and the statute date is within 180 days for transcript processing and 90 days for non-transcript type cases.
- (2) The clearing of an original tax return by a statute employee is to make sure that the late filed tax return has not been previously processed by SP and it is able to pass all validation checks by our computer system. The clearing of an original tax return does not involve any IRS initiated adjustments. IRS-initiated adjustments include, but are not limited to:
 - Automated under-reporter assessments.
 - Combined Annual Wage Reporting/Federal Unemployment Tax Act (CAWR/FUTA).
 - Examination audit assessments.
- (3) Statute employees must direct their primary attention to statute protection (tax assessment before the statute of limitation expires) and not general abatements of tax issues (refund claims or credits). “No other area should be clearing original return statute cases for processing by SP.” The Statute Function must stamp “No Statute Issue (meaning no statute of limitation on an additional tax increase)” on all tax returns, transcripts, etc., which are **not** statute tax increase related. Cases involving refund claims, no tax changes and credit increase only are considered out of scope for the statute employee. The no statute issue stamp will be input on all tax decrease, credit increase and no tax change cases sent to the statute team. For these types of cases, employees should be following their work area specific IRM procedures for processing the return. The no statute issue case or other areas case work not worked by the statute employee must be routed back to the responsible function or originator, as applicable.
- (4) Use the Account Management System (AMS) to record the steps taken when resolving statute cases. The steps must be clearly identified, dated and listed in chronological order.
- (5) Because of the special nature of problems involved with resolving statute of limitations cases, only tax examiners assigned to the Accounts Management Statute Function should use the instructions and techniques provided in this section. All other areas should use the specific IRM written for the type of case they are working for processing case work that does not involve an original return but may have a statute implication.
- (6) Many statute-related issues are complicated. The statute examiner must be able to use logic and judgment to resolve the case and/or determine a correct statute expiration date. The statute employee will:
 - a. Identify/resolve statute of limitations issues on IMF, BMF, and IRAF accounts,
 - b. Research specific issues using various sources of information including all IRMs relating to Statute Processing issues
 - c. Identify critical statute (ASED, RSED and CSED) dates,

- d. Discuss statute related issues with other functional areas regarding Statute Processing

Example: Criminal Investigation, Collection or Examination, Specialty Collection Solvency (SCI) Function in the Area Office (AO) as well as other functions in the AO, etc.,

- e. Provide training to employees in other areas regarding statute related issues,
- f. Identify and report systemic or operational problems in statute processing or issues causing an increase in statute casework,
- g. Review and prepare barred assessment reports, as necessary.

25.6.1.4.2
(06-24-2022)
The Statute Awareness Program

- (1) Since Statute Awareness is a vital process to the performance of identifying statute cases in the Internal Revenue operations, each Statute Function must create a **Statute Awareness Program** to prevent barred assessments and erroneous abatements.
- (2) At the beginning of each quarter starting in January, the Statute Function must display messages on bulletin boards, flyers, posters, Integrated Data Retrieval System (IDRS), and distribute **Statute Circulars** with statute periods that will expire within each month for all business operations. Statute imminent dates must be discussed prior to expiration dates in unit meetings, briefing and/or training classes for all business operations.
- (3) Each campus Planning and Analysis Staff must submit a quarterly **Statute Awareness Program** report to **Headquarters** by the 15th day of the month following the close of the quarter via secure email. The due date for the quarterly Statute Awareness Program reports are January 15, April 15, July 15 and October 15 of each year. If the 15th day of the month falls on a Saturday or Sunday, the report is to be sent on Monday, the next business day. The memorandum document must contain the electronic signature of the Campus AM Director.
- (4) Include the total volume of barred cases and total tax dollar, broken down by tax, penalty, interest and lost revenue (including grand total for your Campus). Also, list the type of case/condition causing the barred assessment and the specific Department where the barred case originated. This information can be obtained from Form 9355, Barred Statute Report, prepared on barred cases. IRM 25.6.1.13.2.4, Identifying Barred Cases for the criteria for barred cases.

Reminder: Cases identified as barred but not yet worked and are in progress must be included on the Barred Statute Report. Identify the cases in progress and cases that have been identified but the barred process has not started.

- (5) Do not submit attachments such as copies of minutes from meetings, local memoranda for statute preparedness, statute imminent bulletins, monthly statute alert posters, or copies of any public address announcements. These should be kept for your records.
- (6) The proposed assessments in the Automated Underreporter Program (AUR), Combined Annual Wage Reporting (CAWR) and Federal Unemployment Tax Act (FUTA) programs provide additional statute consideration.

- (7) Each functional area must ensure an adequate number of “Statute Specialists” are assigned to each operation.
- (8) Each campus operation will establish a review of Form 3893, Re-Entry Document Control, or other document input with a different Document Locator Number (DLN), for all returns that have tax periods with assessment expiration dates of 6 months or less. This is to ensure returns are not being input to a statute imminent period or abated prior to the posting to the correct account and are being routed to the Statute Function.
- (9) Document 7368, Basic Guide for Processing Statute Cases, is available on the intranet.

25.6.1.4.3
(10-02-2023)

**Necessity of Quality
Review**

- (1) To ensure accuracy of adjustments that are completed within the Statute Function, management must:
 - a. Review 100% of on-line and non on-line adjustments of new employees.
 - b. Randomly review sample on-line/non on-line adjustments after satisfactory performance of statute cases has been met.
- (2) Management may delegate this review, but an employee may not conduct reviews of their own cases.

25.6.1.4.4
(10-01-2021)

**Necessity of Managerial
Review**

- (1) First line supervisors of personnel working statute cases will conduct periodic reviews of cases assigned to the employees. The purpose of the review process is to ensure that employees are processing cases properly and in a timely manner. Additional IDRS training, research guidance, or counseling may be warranted if deficiencies are noted.
- (2) Management supervision includes, but is not limited to, product quality review of suspense files to ensure:
 - a. Accuracy of work
 - b. Necessary information is requested
 - c. Open IDRS control base until condition is resolved
 - d. Timeliness of follow-ups
 - e. Timely and appropriate action on cases including working replies when received
 - f. Replies are worked expeditiously
 - g. Credit transfer cases returned to the Statute team from Accounting are controlled on IDRS and being expeditiously handled
 - h. Unpostable records are controlled on IDRS
 - i. Unpostable records for bankruptcy, intelligence, and statute periods are assigned and worked on a first priority basis
 - j. Repeat unpostables are identified and corrected
 - k. Mis-routed and re-routed correspondence is monitored to determine the source of errors
 - l. Direct feedback is provided to the functional area if significant volume changes occur
 - m. Feedback is provided to the operation level when statute cases are received from Area/Field offices requiring assessment action and the statute period has expired.

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Note: The purpose of the feedback is to alert field office personnel of statute ramifications when personnel do not route a case timely because of lack of training, etc.

- Special trained employees are assigned to work cases when additional documents are requested.
- Every attempt is made to resolve these cases prior to requesting the document a second time.

25.6.1.5

(10-02-2023)

**Basic Guide for
Processing Cases with
Statute of Limitations
Issues**

- (1) The following is a basic guide for processing claims seeking credit or refund based on the statute of limitation:

Note: The two year and three year periods found in IRC 6511(a) are the general rule. However, exceptions may apply.

IF	AND	THEN
The module is in zero balance (and claim for refund is filed within 3 years from the received date of the original return or if the claim is not filed within 3 years but within 2 years from the date tax, penalties and/or interest is paid)	The look-back period is 3 years plus any extension of time to file or the look-back period is 2 years from the date tax, penalties and/or interest is paid	The maximum amount that can be refunded or offset cannot exceed the total of the credits, payments, or offsets cycle date payments made within the look-back period. Adjust the lesser of claim document amount or the total of credits or payment within the look-back period. You must not leave a tax balance on the taxpayer's account when inputting this refund action in order to prevent any additional penalties or interest from posting to the taxpayer's account. Account Management employees only should use this information to adjust the taxpayer's account. Individual BOD procedures may differ. (If your adjustment contains an increase in the amount of Withholding Tax (W/H), Earned Income Credit (EIC), or Additional Child Tax Credit (ACTC), make correction to these amounts before inputting any other tax decrease). The claim must be disallowed if there are no credits, payments or offset payments made within the look-back period. Do not adjust the module. Send a 105C disallowance letter.

IF	AND	THEN
The module is in zero balance and the claim is not timely filed (within the 3-year or 2-year period identified above)	No look-back period exists because the claim for credit or refund is not timely filed	Disallow claim for credit or refund. Do not adjust the module. Input Transaction Code (TC) 290 for zero with blocking series 98/99 to indicate a full disallowance and send a 105C letter.
The tax module is in balance due (and the claim is filed within 3 years from the received date of the original return or 2 years from the date tax, penalty, and/or interest is paid)	The look-back period is 3 years plus any extension of time or the look-back period is 2 years from the date of any payment	The maximum amount that can be refunded or offset cannot exceed the total of the credits/payments or offset credit payment cycle date within the look-back period. The adjustment is the lesser of a) the correct adjustment amount based on the claim document or b) the total of credits/payments or offset cycle date payments within the look-back period plus the posted balance due on the module. You must not leave a tax balance on the taxpayer's account when inputting this refund action in order to prevent any additional penalties or interest from posting to the taxpayer's account. Accounts Management (AM) employees only should use this information to adjust the taxpayer's account. Individual BOD procedures may differ.

IF	AND	THEN
The tax module is in balance due (and the claim is not filed timely within the 3-year or 2-year period identified above)	No look-back period exists	No amount can be refunded or offset. Apply the guidelines for a request for abatement to address the balance due. The adjustment is the lesser of a) the adjustment amount based on the claim document or b) the balance due on the module. AM employees only should use this information to adjust the taxpayer's account. Individual BOD procedures may differ. You must ensure that all documentation is complete and verified before taking any adjustment action or send to CAT/A if the claim meets CAT/A criteria. Send a 105C or 106C letter as required. In addition, you must not leave a tax balance on the taxpayer's account when inputting this refund or adjustment action in order to prevent any additional penalties or interest from posting to the taxpayer's account.

IF	AND	THEN
If the claim is a request for an abatement (documentation is complete and verifiable)	It meets CAT/A criteria (route to Exam on-site)	Adjust the module based on the reply from CAT/A. If Exam does not accept the claim as filed or the claim will not be adjusted based on the document provided by the taxpayer, send the taxpayer a no consideration letter 916C. In the letter request payment of total amount due and ask the taxpayer to file a claim for refund.
If the claim is a request for abatement with missing documentation or the documentation cannot be verified (request any missing documentation)	The taxpayer provides documentation	Follow procedures as stated above. If the taxpayer does not provide documentation, do not adjust the module. Notify the taxpayer to pay the total amount due and file a claim for refund.
An original return is received timely	It has not been processed within 33 months of original received date	Prepare a Form 2859 to assess tax and allow refund. Input a TC 150 for zero amount and TC 290 for the tax. Do not bill taxpayer. Route to Accounting. Input a TC 29X to allow credit(s) and taxpayer refund when the dummy TC 150 posts if needed.

Note: If the module credit created by the posting of the adjustment exceeds the amount of the credit that can be refunded or offset due to the recomputation of tax, penalties or interest, you must transfer the barred portion of the overpayment to Excess Collections File (XSF). A manual refund may be needed to allow the correct refund. Also, a 106C letter must be sent if the refund created by the tax adjustment is not fully refundable.

- (2) The following is a basic guide for reprocessing of a statute period return if the tax return is timely (i.e., filed within 3 years from received date of the original return or due date, whichever is later):

IF	THEN
The ASED has expired	Use TC 370/400 procedures. Do Not Abate the Tax. See IRM 25.6.1.9.9.3.
The ASED is greater than 90 days	Follow normal processing procedures (90 days allows time for processing through the pipeline.)
The ASED will expire within 90 days	Forward to the Statute team for possible quick assessment.
The ASED is within the last 5 calendar days for assessments	The manager of that function where case is in inventory will ensure that the Form 2859 for quick assessment is prepared.

- (3) The following is a basic guide for processing statute period assessments if the tax return is timely (i.e., filed within 3 years from the received date of the original return or due date, whichever is later):

IF	AND	THEN
Return was timely filed but not timely processed	There are no condition(s) which extend the ASED	Do not assess the tax increase, forward case to the Statute team and do not send a 2765C letter.
Return was timely filed and the ASED has not expired	ASED is greater than 90 days	Make the assessment on IDRS.
Return was timely filed and the ASED has not expired	ASED is less than 90 days	Notate Statute Imminent and Expedite/ Hand carry to the Statute team.

Note: If you cannot ascertain whether the ASED is extended refer the case to the Statute team.

Note: An additional assessment such as a TC 290 or TC 300 does not extend the Assessment Statute Expiration Date. The ASED is determined by the received date or due date of the original return whichever is later.

Exception: For Employment Taxes the ASED is 3 years from April 15 of the following year.

Caution: If a TC 150 is manually assessed with a tax amount, any further tax increase must be manually assessed.

- (4) The following are conditions which extend the Assessment Statute Expiration Date:

- IRC 6501(c)(1), False Return
- IRC 6501(c)(2), Willful Attempt to Evade Tax
- IRC 6501(c)(3), No Return
- IRC 6501(c)(4), Extension by Agreement
- IRC 6501(c)(5), Tax Resulting From Changes in Certain Income or Estate Tax Credits
- IRC 6501(c)(6), Termination of Private Foundation Status
- IRC 6501(c)(7), Certain Amended Returns
- IRC 6501(c)(8), Failure to Notify the Secretary of Certain Foreign Transfers
- IRC 6013(b), Joint Return After Filing Separate Returns
- IRC 6501(h), Net Operating Loss (NOL) or Capital Loss Carryback
- IRC 6501(j), Credit Carryback (as defined in IRC 6511(d)(4)(c))
- IRC 6501(i), Foreign Tax Carryback
- IRC 6503(a), Statutory Notice of Deficiency
- IRC 6503(c), Taxpayer Outside United States
- IRC 6501(e)(1), Substantial Omission of Items
- IRC 6501(f), 543(a) & 544, Personal Holding Company
- IRC 6501(b)(3), Substitute for Return - SFR
- IRC 6901, Transferees, & Transferors Transferred Assets
- IRC 6229, Partnership Items
- IRC 6503(h), Bankruptcy
- Returns with Extension of Time to File
- IRC 1033(a), Involuntary Conversion
- IRC 6501(c)(9), Gift Tax (Form 709)
- IRC 1314(b), Mitigation
- IRC 664, Charitable Remainder Trusts
- IRC 6501(e)(3), Excise Tax Substantial Omission
- IRC 6501(c)(10), Listed Transactions
- IRC 6501(m), Certain Credits Elected
- IRC 6501(e)(2), Estate and Gift Tax Substantial Omission
- IRC 6501(e)(1)(C), Relating to Omission of Constructive Dividends
- IRC 6501(c)(11), Relating to Criminal Restitution
- IRC 6501(k), Relating to Tentative Carryback Adjustments
- IRC 6501(l), Relating to Chapter 42 and Similar Tax
- IRC 6234(e)(2), Relating to Notice of Oversheltered Return
- IRC 4979A(d), Extending the Statute of Limitations for Certain Prohibited Allocations
- Some Forms 2290 (Amended)
- Special Tax Stamp - each location established ASED (Form 11C)
- IRC 6503-6504, Other circumstances

Note: If an amended income tax return showing an increase in tax is received within 60 days of the ASED of the original return, the assessment of the tax on the amended income tax return is extended for 60 days from the day the amended return was received on all subtitle A (Income) taxes. IRC 6501(c)(7), amended income tax is found on Forms 1040, 1041, 1120 and 990-T. The 60-day period does not apply to amended employment taxes, excise taxes, gift or estate taxes.

Caution: An additional assessment on a module, such as a TC 290 or TC 300 DOES NOT extend the Assessment Statute Expiration Date (ASED). The ASED is determined only by the later of the received date or the due date of the original return, unless one or more of the above conditions are met.

- (5) The IRS will not tolerate discriminatory treatment of taxpayers by its employees in any programs or activities supported by the IRS. No taxpayer should be subject to discrimination in educational programs or activities based on sex, race, color, national origin, disability, reprisal, religion, or age.
- (6) If a taxpayer believes they have been discriminated against on the basis of sex, race, color, national origin (including limited English proficiency), disability, reprisal, religion, or age, advise the taxpayer that they can send an email to **EDI.Civil.Rights.Division@irs.gov*, or send a written complaint to: Internal Revenue Service, Office of Equity, Diversity and Inclusion, CRU, 1111 Constitution, NW, Room 2413, Washington, DC 20224. A complaint form can be obtained at <https://www.irs.gov/about-irs/your-civil-rights-are-protected>.
- (7) 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 <http://www.irs.gov/taxpayer-bill-of-rights>.
- (8) IRC 1402 of The Taxpayer First Act changed existing laws, rulings, and regulations to allow IRS employees to refer a taxpayer to a Low Income Taxpayer Clinic (LITC) without violating the applicable standards of ethical conduct. Pub 4134, Low Income Taxpayer Clinic List, provides information to the taxpayer about accessing LITCs and it lists locations by state.

25.6.1.6
(01-01-2003)
**General Information and
Procedures**

- (1) The following subsections describe situations for handling general information and procedures.

25.6.1.6.1
(10-02-2023)
**Taxpayer/Internally
Generated
Correspondence**

- (1) Taxpayer correspondence is usually initiated by the taxpayer or taxpayer's representative.
- (2) Internally generated correspondence is usually IRS initiated (i.e., transcripts, notice of adjustment).
- (3) Follow guidelines for working taxpayer correspondence provided in IRM 21.3.3, Incoming and Outgoing Correspondence/Letters.
- (4) Reply to correspondence, including claims with correspondence where the statute period is open, within 30 calendar days of the initial IRS received date (counting the day it is received). If it is not possible to conform with this time limitation, you must issue an interim letter within 30 calendar days of the IRS received date (counting the day it is received). Interims must contain the reason for the delay and a new response date.
- (5) Examples of taxpayer or representative correspondence are:
 - Any note (even if accompanied by a tax return) which requests forms or information is considered taxpayer correspondence.
 - Inquiries and annotated notice responses that provide information to dispute or support a notice (Example: "I have paid this").
- (6) Examples that are not taxpayer or representative correspondence are:

- A tax return which shows a refund due is not considered correspondence even though the taxpayer is requesting a refund.
- A tax return which shows a balance due is not considered correspondence even though the taxpayer is requesting a bill.

Note: The proper designated office is listed in the instructions on the tax form, but other offices may be authorized to receive hand-delivered or mailed tax returns (e.g., IRM 21.3.4.8, Receipt of Tax Returns provides that Field Assistance's Taxpayer Assistance Center employees may receive tax returns at the counter or by correspondence), see IRM 25.6.1.6.15, When a Document Is Treated as Filed Under the IRC for more information regarding the establishment of the Statute of Limitation Period.

- (7) Any case forwarded to the Statute team to "clear" should have an interim reply before being transmitted. If not, the Statute team will generate the interim reply. The Statute Function Manager must advise operation if a significant increase of interim responses are not sent.
- (8) Interim replies must indicate why the response is being delayed and when final action can be expected. Replies should include the employee control number and an explanation that if the taxpayer needs to contact the IRS, to return a copy of the letter, with a telephone number and best time to call, as indicated in (12) below.
- (9) The Statute Function will answer all correspondence received from taxpayers; the answer must indicate: "This is in reply to your correspondence of (enter the correspondence date)", and explain the action taken, even if the action taken was exactly what the taxpayer requested. However, DO NOT CORRESPOND with the taxpayer indicating we have received the requested information. Correspondence is only required to obtain information and to explain how the account was corrected.
- (10) The Statute Function is responsible for requesting any documentation that is necessary in the resolution of all freeze conditions or potential statute problem cases.
- (11) A follow-up request to a taxpayer may be required for additional information if the case file indicates "no reply" to previous correspondence from another source within an IRS campus (e.g., verify address for a later address than the address shown on the entity data). IRM 25.6.1.6.2, Identifying Undeliverable Mail, for additional information.
- (12) Inform the taxpayer a response is needed within 30 days when requesting additional information on all correspondence. Advise the taxpayer of the action the IRS will take if a timely response is not received. Also, include a statement asking the taxpayer for a phone number along with the response "When you reply, please send us your telephone number and the most convenient time for us to call so we may contact you if we need more information." All correspondence should be purged 15 days after the date provided in the letter to the taxpayer.
- (13) Use a **C** or pattern letter to correspond with taxpayers. If a **C-NOTE** or **QUICK NOTE** is used, be sure it clearly communicates the message in simple language.

- (14) Notify the taxpayer of processing delay error(s) if a taxpayer caused or will cause a processing delay. Do this only if the other function did not correspond with the taxpayer.
- (15) Check the Centralized Authorization File (CAF) prior to sending any correspondence to a third party to ensure a valid power of attorney is on file.
- (16) Follow-up telephone calls with a letter as needed to confirm the conversation with the taxpayer (e.g., to obtain the taxpayers signature).
- (17) Control all correspondence via IDRS if you are unable to respond to taxpayers within 14 days.
- (18) IRM 21.3.3, Incoming and Outgoing Correspondence/Letter, should be available to all employees.

25.6.1.6.2
(03-10-2011)

Identifying Undeliverable Mail

- (1) Use Command Code INOLES to research IDRS for another address on statute generated correspondence. In addition, see IRM 21.2.4.3.6, Undeliverable Correspondence, paragraph (1) for additional areas of research. If one is available, reissue the letter. The Form 3552, Prompt Assessment Billing Assembly should not be destroyed. It should be associated with the assessed file case or document, per IRM 3.13.62, Media Transport and Control.
- (2) If you have a return, check attached schedules or documents for an updated address. If it is more recent, add the updated information and determine whether you should reissue the correspondence and add the updated information.
- (3) If a disallowance letter is undeliverable, resend the entire letter unchanged to the new address in another envelope, and do not issue a new letter. Do not issue a new letter because the taxpayer has two years from the date of the original disallowance letter to appeal the IRS' decision to disallow a claim for credit or refund by filing a suit for refund in the U.S. district court having jurisdiction, or the U.S. Court of Federal Claims.

25.6.1.6.3
(10-02-2023)

Normal and Restricted Interest Tax Modules

- (1) The period of limitation under IRC 6511 applies if the taxpayer claims that they paid too much underpayment interest (under IRC 6601). Generally, the time for filing a claim for credit or refund of incorrectly computed interest paid on an underpayment of taxes is the later of two years from the date of payment of tax for the tax period at issue or three years from the date the return was filed. The amount to be credited or refunded under the 2-year and 3-year lookback rule is limited to the amount of tax paid within the two years or three years (plus the period of any extension), respectively, preceding the filing of the claim. For the purposes of IRC 6511, payments of penalties and interest are treated as payment of tax.
- (2) A claim for abatement of paid underpayment interest (under IRC 6601) must be filed within the statutory period under IRC 6511. A claim for abatement of unpaid underpayment interest is not subject to the statutory period under IRC 6511.
- (3) A taxpayer must file suit for the additional overpayment interest (under IRC 6611) within six years of the date on which the overpayment was scheduled. See 28 USC 2401(a) (district courts) and 28 USC 2501 (U.S. Court of Federal Claims).

- (4) Refer to IRM 20.2, Interest, for additional information on interest computation dates.

25.6.1.6.4
(10-02-2023)

**Statute of Limitations
Chart for Tax Returns**

- (1) The Statutory Period of Limitations Chart below shows the due date of the various tax returns (under 6501 of Internal Revenue Code of 1986). The information is displayed by the Form Number, MFT Code, Type of Tax return, Period Covered, Due Date and Statutory Period of Limitations.

Form Number	Master File Tax (MFT) Code	Type of Return	Period Covered	Due Date	Statutory Periods of Limitations
1040, 1040A, 1040EZ, 1040SR	30	Individual Income	Calendar or Fiscal Year	3-1/2 Months after end of taxable year (calendar year April 15th)	See note 1
1040C	30	U.S. Departing alien individual	Prior to departure	Tentative return	Statute begins with received date of 1040 or 1040NR when filed.
1040NR	30	U.S. Non-resident alien individual	Same as 1040	See notes 3 and 4	See note 1
1040PR	30	Self-employment tax return (Puerto Rico)	Same as 1040	Same as 1040, see note 4	See note 1
1040SS	30	Self-employment tax return (Virgin Islands, Guam, American Samoa)	Same as 1040	Same as 1040, see note 4	See note 1
1042	12	Annual return of income paid at the source	Calendar	March 15	See note 4
CT-1	09	Railroad Retirement	Calendar	On or before the last day of February following the end of the calendar year.	See IRM 25.6.1.9.10.5, Railroad Retirement Board
706	52	Estate	Filed	Due 9 months after date of death	See note 2

Form Number	MFT Code	Type of Return	Period Covered	Due Date	Statutory Periods of Limitations
706-A	53	Heir's estate tax return	Filed	Due the 6th month after taxable disposition or cessation of the qualified use (unless extended)	See note 2 and 6
706-NA	52	U.S. non-resident alien estate tax	Filed	Same as 706	See note 2 and 6
709	51	Gift	1-1-77 thru 12-31-78 quarterly	15th day of the second month following the end of the quarter	See note 1 and 7
709	51	Gift	1-1-79 thru 12-31-81 quarterly; 1) 1st, 2nd, 3rd quarter returns	15th day of the second month following the end of the quarter	See note 1 and 7
709	51	Gift	1-1-79 thru 12-31-81 quarterly; 2) 4th quarter	15th day of the 4th month following the end of the quarter	See note 1 and 7
709	51	Gift	1-1-82 and later calendar year	3-1/2 months after the end of the taxable year (April 15th). If donor died during calendar year, the earlier of above date, or the due date of estate tax return (including extension). See note 6 and 10 for additional information	See note 1

Form Number	MFT Code	Type of Return	Period Covered	Due Date	Statutory Period of Limitations
720	03	Excise	Quarterly	Last day of month following the end of quarter (April 30, July 31, October 31, and January 31)	See note 1
730	64	Wagering		Last day of the month following the month in which the wagers are accepted.	See note 1
940	10	FUTA	Calendar Year	Last day of the month following the end of the calendar year (January 31)	See note 1
941	01	WT and FICA	Quarterly	Last day of the month following the end of quarter (April 30, July 31, October 31, and January 31)	3 years from April 15 of the year following the year for which the return was due or 3 years after the date the return was actually filed, whichever is later.

FORM NUMBER	MFT CODE	TYPE OF RETURN	PERIOD COVERED	DUE DATE	STATUTORY PERIOD OF LIMITATIONS
943	11	Agricultural Withholding and FICA	Calendar Year	Last day of the month following the end of the calendar year (January 31)	3 years from April 15 of the year following the year for which the return was due, or 3 years after the date the return was actually filed, whichever is later
944	14	WT and FICA	Annual for tax periods beginning 200612	Same as 943 above	Same as 943
945	16	Annual Return of Withheld Federal Income Tax	Calendar Year	January 31	Same as 943
990	67	Return of organization exempt from income tax	Calendar Year	See note 8	See note 1
990PF	44	Return of Private Foundation Exempt from Income Tax return	Same as 990	See note 8	See note 1
990T (corp)	34	Exempt Organization Business Income Tax	Same as 990	See note 8	See note 1
1041	05	Fiduciary	Same as 1040	Same as 1040	Same as 1040
1041S	05	Fiduciary Short Form	Same as 1040	Same as 1040	Same as 1040
1041A	36	U.S. Information Return Trusts	Fiscal Year	See note 8	No tax involved but can be charged penalties

FORM NUMBER	MFT CODE	TYPE OF RETURN	PERIOD COVERED	DUE DATE	STATUTORY PERIOD OF LIMITATIONS
1041 Schedule PF	37	Chapter 42 tax	Fiscal Year	Same as 1040	See note 1
1065	06	Partnership	Calendar Year or Fiscal Year	For tax years beginning after 2015, the 15th day of the 3rd month following the date the partnership's tax year ended. Otherwise, the 15th day of the 4th month.	No tax involved but can be charged penalties
1066	07	Mortgage Investment Conduit Income	Calendar	For tax Years beginning after 2015, March 15th. Otherwise, April 15th.	See note 1
All 1120 exceptions below	02	Corporation Income	Same as 1040	For tax years beginning before 2016, the 15th day of the 3rd month following the close of the filer's taxable year. For tax years beginning after 2015, the 15th day of the 4th month, but Sept. 15 if the taxable year ends June 30 and the taxable year is before 2026.	See note 1, 4, & 5

FORM NUMBER	MFT CODE	TYPE OF RETURN	PERIOD COVERED	DUE DATE	STATUTORY PERIOD OF LIMITATIONS
1120C (Formerly 990C) and 1120IC-DISC	02	Cooperative Association income tax return and Interest Charge Domestic International Sales Corporation Return	Calendar or Fiscal Year	The return is due the fifteenth day of the ninth month following the close of the filer's taxable year.	See note 1
1120S	02	S-Corporation	Calendar or Fiscal Year	The 15th day of the 3rd month following the close of the filer's taxable year. Exception: If S election is terminated mid-year and converted to a C corp, the return due date becomes the C Corp short year RDD.	See note 1
2290	60	Highway Use Tax	Month first used to June 30 of the following year. Yearly thereafter July 1 thru June 30.	If first used after July, the last day of the next month first used in a given tax period, otherwise on 8/31	See note 1
4720	50	Return of certain excise taxes on charities and other persons under Chapter 41 and 42 of IRC	Calendar or Fiscal Year	See note 8	See note 1

FORM NUMBER	MFT CODE	TYPE OF RETURN	PERIOD COVERED	DUE DATE	STATUTORY PERIOD OF LIMITATIONS
5227	37	Split-interest Trust-Information Return	Calendar or Fiscal Year	See note 8	See note 1
5329	29	Individual Retirement Arrangement	Same as 1040	Same as 1040	See note 1

FORM NUMBER	MFT CODE	TYPE OF RETURN	PERIOD COVERED	DUE DATE	STATUTORY PERIOD OF LIMITATIONS
5330	76	Excise Taxes Related to Employee Benefit Plan	Calendar or Fiscal Year	See note 9. Last day of the 7th month after end of taxable year of the employer or person who must file Form 5330	The filing of the Form 5330 starts the running of the statute of limitations, except for the IRC 4975 excise tax, the filing of the Form 5500 starts the running of statute of limitations for IRC 4975 excise tax. It is 3 years if the information is disclosed and 6 years if it is not disclosed on the applicable form.
5500	74	Annual Return/Report to Employee Benefit plan (100 or More participants)	Calendar or Fiscal Year	Last day of the 7th month following plan year	See note 10
5500EZ	74	Annual Return/ of One-Participant Pension Benefit Plan	Calendar or Fiscal Year	Last day of the 7th month following plan year	See note 10

FORM NUMBER	MFT CODE	TYPE OF RETURN	PERIOD COVERED	DUE DATE	STATUTORY PERIOD OF LIMITATIONS
8038-CP	46	Return for Credit Payment to Issuers of Qualified Bonds	Fiscal year	For fixed rate bonds, 45 days before the interest payment date. For variable rate bonds, 45 days before the interest payment date if the issuer knows the interest payment amount by that date, otherwise 45 days after the last interest payment date within the quarterly period the reimbursement is being requested.	3 years from the tax period

(2) The following contains the list of the 11 notes referenced above in paragraph 1:

Note: (1) Three years after the due date of the return, or three years after the return was actually filed, whichever is later.

Note: (2) For decedents dying after December 31, 2009 and before December 17, 2010, the due date for Form 706 is September 19, 2011.

Note: (3) Form 1040NR has the same due date as Form 1040 if wages are subject to withholding of U.S. Income Tax. Otherwise, the due date would be the 15th day of the 6th month (June 15th for the calendar year filer).

Note: (4) Form 1042 is processed at the Ogden Submission Processing Campus, 1040-NR, 1040-PR and 1040-SS are processed at the Austin Submission Processing Campus. Form 1120-F has a due date of June 15th if the corporation does not maintain a corporate office within the U.S., otherwise the due date will be two and one-half months after the end of the taxable year.

Note: (5) Form 1120 filed as a result of the Form 990 filer being converted by Exam to a taxable entity will carry the statute limitation/expiration as determined by the original Form 990 filing.

Note: (6) Form 706-A is filed under each heir's Social Security Number (SSN), benefiting from the sale of assets from the estate and is processed to Non-Master File under the beneficiary's SSN. Each Form 706-A filed starts its

own period of limitations used to determine the statute expiration date regardless of when the decedent Form 706 was received.

Note: (7) Form 709- For gifts made after December 31, 1976, the law changed the due date of a quarterly return. As of January 1, 1977, a return must be filed by the 15th day of the 2nd month following the first calendar quarter that taxable gifts for the year were more than \$25,000. After that, a return must be filed by 15th day of the 2nd month after any later quarter that the cumulative unreported gifts again were more than \$25,000. From January 1, 1982 through December 31, 2001, a return must be filed yearly, by April 15th, after the year the gifts are made in excess of \$10,000.00, for 2002 – 2005 the amount in excess of \$11,000, for 2006 – 2008 the amount in excess of \$12,000 and \$13,000 for gifts in 2009, for 2010- 2012 the amount in excess of \$13,000, for 2013- 2017 the amount in excess of \$14,000, for 2018 - 2021 the amount in excess of \$15,000, and for 2022, the amount in excess of \$16,000.

- If gifts for the year were \$25,000 or less, only a fourth quarter return was required. This return could contain gifts made in all 4 calendar quarters.
- From 1-1-77 through 12-31-78, all quarterly returns filed were due one and one-half months after the quarter ended. Beginning with 1-1-79 through 12-31-81, a 4th quarter return was due to be filed within three and one-half months after the quarter ended (4-15).

Note: (8) Due dates of Exempt Organization Returns are as shown on table below.

ACCOUNTING PERIOD MONTH (for example)	PERIOD ENDING	(A) 990T (trust)	(B) 5227, 1041A, 4720, 990T	(C) 990PF, 990T, 990, 4720	(D) 990T (corp)
01	1/31	4/15	5/15	6/15	7/15
06	6/30	9/15	11/15	11/15	12/15
12	12/31	3/15	4/15	5/15	6/15
Months		(2-1/2)	(3-1/2)	(4-1/2)	(5-1/2)

- Form 4720 filed by a disqualified person shall be filed on or before the due date of the organization's return if their tax years are the same, otherwise the 15th day of the 5th month following the close of such disqualified person(s) tax year and not the foundation tax year.
- Form 990T dates are as follows: 1. Column A applies to U.S. address corporations for tax periods beginning before November 11, 1978 (usually tax periods ending 7910 and before). 2. Column B applies to U.S. address and foreign address trusts for tax periods beginning before November 11, 1978 (usually tax periods ending 7910 and before) and also to U.S. address IRC 401(a) trusts for all tax periods. 3. Column C applies to U.S. address and foreign address trusts (except for IRC 401(a) trust) and Corporations for tax periods ending after November 11, 1978 (usually tax periods ending 7911 and later). 4. Column D applies to foreign address trusts and corporations for tax periods beginning after

November 11, 1979 (usually tax periods ending 7910 and after) and also to Foreign address IRC 401(a) trusts for all tax periods.

- c. Form 4720 has the same due date as the Form 990PF, 990 or 5227 filed by the same organizations.

Note: (9) Form 5330, Return of Excise Taxes Related to Employee Benefit Plans.

- a. For those who are filing to report tax due under IRC 4977, the due date is the last day of the seventh month following the end of the calendar year in which the excess fringe benefits were paid to your employees.
- b. For those who are filing to report tax due under IRC 4980, the due date is the last day of the month following the month in which the revision occurred.
- c. For those who are filing to report tax due under IRC 4965, the due date is the 15th day of the 5th month following the close of the entity manager's tax year during which the tax-exempt entity becomes a party to the transaction.
- d. For those who are filing to report tax due under IRC 4971, IRC 4971(f), IRC 4971(g)(2), IRC 4971(g)(3) and IRC 4971(g)(4), the due date is the last day of the 7th month after the end of the employer's tax year or 8-1/2 months after the last day of the plan year that ends with or within the filer's tax year.
- e. For those who are filing to report tax due under IRC 4979, the due date is the last day of the 15th month after the close of the plan year to which the excess contributions or excess aggregate contributions relate.
- f. For those who are filing to report tax due under IRC 4980F, the due date is the last day of the month following the month in which the failure occurred.
- g. For those who are filing to report all other taxes, the due date is the last day of the seventh month after the end of the taxable year of the employer or other person(s) required to file Form 5330 return.

Note: (10) Tax is not assessed on the employee benefit plan. Tax can be assessed on the employee benefit trust. The statutory period of limitations of assessment of tax on the employee benefit trust generally expires three years from the later of the due date or filing date of Form 5500 series return.

Note: (11) Form 709 must be filed yearly for gifts made to a donee in excess of \$13,000 (2009-2012), \$14,000 (2013-2017), or \$15,000 (2018-2021), or \$16,000 (2022).

25.6.1.6.5
(10-02-2023)

Chart of Expedited Statute Processing

- (1) The following tables provide a chart showing the statute expiration date of various types of tax returns and the day to begin expedited statute processing for the year 2020.

Type of Tax	Period	Statute Expiration Date	Begin Expedite Process
1040 (all)	202012	15 Apr. 2024	16 Jan. 2024
1040 (all)	202101	15 May 2024	15 Feb 2024

Type of Tax	Period	Statute Expiration Date	Begin Expedite Process
1040 (all)	202102	17 June 2024	15 Mar. 2024
1040 (all)	202103	15 Jul. 2024	15 Apr 2024
1040 (all)	202104	15 Aug. 2024	15 May 2024
1040 (all)	202105	16 Sep 2024	17 June 2024
1040 (all)	202106	15 Oct. 2024	15 Jul. 2024
1040 (all)	202107	15 Nov. 2024	15 Aug. 2024
1040 (all)	202108	16 Dec. 2024	16 Sep. 2024
1040 (all)	202109	15 Jan. 2025	16 Oct. 2024
1040 (all)	202110	15 Feb. 2024	15 Nov. 2024
1040 (all)	202111	17 Mar. 2025	16 Dec. 2024
1040 (all)	202112	15 Apr. 2025	15 Jan. 2025
1041, 1041A	Same as 1040	Same as Form 1040	
1120 (all except 1120-C)	202012	15 Mar. 2024	15 Dec. 2023
1120 (all except 1120-C)	202101	15 Apr. 2024	16 Jan. 2024
1120 (all except 1120-C)	202102	15 May 2024	15 Feb. 2024
1120 (all except 1120-C)	202103	17 Jun. 2024	15 Mar. 2024
1120 (all except 1120-C)	202104	15 Jul. 2024	15 Apr. 2024
1120 (all except 1120-C)	202105	15 Aug. 2024	15 May 2024
1120 (all except 1120-C)	202106	16 Sep. 2024	17 Jun. 2024
1120 (all except 1120-C)	202107	15 Oct. 2024	15 Jul. 2024
1120 (all except 1120-C)	202108	15 Nov. 2024	15 Aug. 2024
1120 (all except 1120-C)	202109	16 Dec. 2024	16 Sep. 2024
1120 (all except 1120-C)	202110	15 Jan. 2025	15 Oct. 2024

Type of Tax	Period	Statute Expiration Date	Begin Expedite Process
1120 (all except 1120-C)	202111	18 Feb. 2025	15 Nov. 2024
1120 (all except 1120-C)	202112	17 Mar. 2025	16 Dec. 2024

TYPE OF TAX	PERIOD	STATUTE EXP. DATE	BEGIN EXP. PROCESS
940	202012	31 Jan. 2024	01 Nov. 2023
941 (All quarters)	202012	15 Apr. 2024	16 Jan. 2024
943, 945 (same as 941 above)	202012	15 Apr. 2024	16 Jan. 2024
944	202012	15 Apr. 2024	16 Jan. 2024
990	202012	15 May 2024	15 Feb. 2024
990	202101	17 Jun. 2024	15 Mar. 2024
990	202102	15 Jul. 2024	15 Apr. 2024
990	202103	15 Aug. 2024	15 May 2024
990	202104	16 Sep. 2024	17 Jun. 2024
990	202105	15 Oct. 2024	15 Jul. 2024
990	202106	15 Nov. 2024	15 Aug. 2024
990	202107	16 Dec. 2024	16 Sep. 2024
990	202108	15 Jan. 2025	15 Oct. 2024
990	202109	18 Feb. 2025	15 Nov. 2024
990	202110	17 Mar. 2025	16 Dec. 2024
990	202111	15 Apr. 2025	15 Jan. 2025
990	202112	15 May 2025	18 Feb. 2025
990PF, 990-T CORP, 990-T FOREIGN, 990-T TRUST, 4720, 4720A, 5527	Use the same date	As the 990 above	
CT-1	202012	01 Mar. 2024	01 Dec. 2023
CT-2	202112	28 Feb. 2025	02 Dec. 2024

TYPE OF TAX	PERIOD	STATUTE EXP. DATE	BEGIN EXP. PROCESS
706	3 years from the due date or	3 years from the date the return was filed,	Whichever is later.
709	202012	15 Apr. 2024	15 Jan. 2024
709	202112	15 Apr. 2024	15 Jan. 2025
720	202103	02 May 2024	01 Apr. 2024
720	202106	01 Aug. 2024	02 May 2024
720	202109	31 Oct. 2024	01 Aug. 2024
720	202112	31 Jan. 2025	31 Oct. 2024
730 (monthly return due date is the last day of the month following the month in which wages are accepted)		3 years from the due date or 3 years from the date the return was actually filed, whichever is later.	90 days prior to the 3-year statute period expiration.
1065	202012	15 Apr. 2024	No tax Involved
2290	07/31/2021	02 Sep. 2024	31 May 2024
1120-C	07/31/2020	15 Apr. 2024	15 Jan. 2024
1120-C	08/31/2020	15 May 2024	15 Feb. 2024
1120-C	09/30/2020	17 Jun. 2024	15 Mar. 2024
1120-C	10/31/2020	15 Jul. 2024	15 Apr. 2024
1120-C	11/30/2020	15 Aug. 2024	15 May 2024
1120-C	12/31/2020	16 Sep. 2024	17 Jun. 2024
1120-C	01/31/2021	15 Oct. 2024	15 Jul. 2024
1120-C	02/28/2021	15 Nov. 2024	15 Aug. 2024
1120-C	03/31/2021	16 Dec. 2024	16 Sep. 2024
1120-C	04/30/2021	15 Jan. 2025	15 Oct. 2024
1120-C	05/31/2021	18 Feb. 2025	15 Nov. 2024
1120-C	06/30/2021	17 Mar. 2025	16 Dec. 2024
1120-C	07/30/2021	15 Apr. 2025	15 Jan. 2025

Note: The table above contains application of the Saturday, Sunday and Legal Holiday rule as provided in Internal Revenue Code 7503.

Note: For the 2006 calendar year and later, Form 990-C has been replaced by Form 1120-C, U.S. Income Tax Return for Cooperative Associations.

- (2) Other campus areas must route tax returns to the Statute function beginning with the expedited processing dates shown in the tables above.
- (3) You must route returns discovered with 90 days or less remaining until the Assessment Statute Expiration Date (ASED) to the Statute function. The 90 day period allows the Statute function time to secure any additional information required to “clear” the return or resolve an issue.

Exception: This does not include returns withdrawn from processing in the Receipt and Control or Batching functions. These areas will follow the instructions in the IRMs applicable to their functions.

- (4) Do not use Form 3893, Re-Entry Document Control, to route returns within 180 days of the ASED (if re-inputting) and within 90 days of the ASED (if re-processing) to the Statute function for clearance. If re-inputting a return within 180 days of the ASED, route the return to Statute team along with any documentation stating the need for re-input. If you are reprocessing a return within 90 days of the ASED, you must expedite/hand carry the complete case to the Statute team. Do not zero out the tax with a TC 291. The Statute function will either clear the return and send to Submission Processing for input or input a quick assessment to process the return to the correct account before the ASED expires.

Note: Any functional area must not input an on-line tax assessment adjustment when the normal statute or extended statute is 90 days or less.

25.6.1.6.6
(03-17-2023)

**Transmitting/
Transshipping Cases to
Another Campus**

- (1) Do not transfer/transship statute imminent/expired cases (transcript/non-transcript) to another Campus/Field Office.

Exception: International Amended tax returns received by the Austin Statute Team will be sent to the Image Control Team (ICT) for uploading into Correspondence Imaging Inventory (CII). International Statute imminent cases (less than 90 days old) must be sent to CII with a cover sheet stating that it is an International case and assigned to employee number 0531773409 (Primary) or 0534129974 (Backup). If the International case is statute imminent (less than 15 days before the ASED) requiring a quick assessment input, the case must be faxed directly to Philadelphia Statute Unit, Attention Statute Team Manager at Fax number 855-403-4956. For cases with less than 15 days before the ASED expires, you must also E-mail the account information and fax the account information to Philadelphia’s Statute Manager along with a copy to the Philadelphia Planning and Analysis Manager and Planning & Analysis Analyst.

Exception: The Ogden Statute team will use their exception scanner to scan IMF Statute cases into CII inventory using either the primary employee number 1036422310 or secondary number 1036582223 for the Fresno Statute Team. The cover sheet will contain the word “Statute Imminent” written in red, green or purple ink. Input the Program Code as 40000, Doc Type as Internal Transcript and Category Code as OTHE. The batch volume must not exceed 50 cases. The Ogden Statute Team will send via secure email an excel spreadsheet with NAME, TIN and Tax Year to the Fresno Statute Manager. The CII case can be assigned to another statute employee by printing the case from CII and opening an

IDRS control base to that employee. Upon closing of the case by the other statute employee on IDRS, the CII control statute employee will close their control base as "MISC". Please make sure that both the CII control and the IDRS control base are closed.

Exception: The Kansas City Statute Team will use a similar process to scan their BMF statute amended returns to Cincinnati Statute Team via their exception scanner into CII and assign the case to either primary employee number 0235856328 or secondary number 0235825981 for the Cincinnati Statute Team. The cover sheet will contain the word "Statute Imminent" written in red, green or purple ink. Input the Program Code as 10000, Doc Type as Internal Request except MFT 02 (MFT 02 use Internal Request-1120) and Category Code as OTHE. The Batch Volume must not exceed 50 cases. The Kansas City Statute Team will send via secure email an excel spreadsheet listing the taxpayer's Name, TIN and Tax Year to the Cincinnati Statute Team Manager. The CII case can be assigned to another statute employee by printing the case from CII and opening an IDRS control base to that employee. Upon closing of the case by the other statute employee on IDRS, the CII control statute employee will close their control base as "MISC". Please make sure that both the CII control and the IDRS control base are closed.

25.6.1.6.7

(01-01-2003)

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

- (1) Some aliens must obtain a Certificate of Compliance (also known as an exit or sailing permit) before permanently departing the U.S. or any U.S. Possession. This is obtained by filing Form 2063, U.S. Departing Alien Income Tax Statement or Form 1040-C, U.S. Departing Income Tax Return. A Certificate of Compliance is made when the Director or delegate signs the certificate.
- (2) Form 2063 is not processed, does not involve a tax computation, and is only required by:
 - Aliens without taxable income
 - Resident Aliens having taxable income intending to return to the U.S.
- (3) Aliens not required to file sailing permits are:
 - Representatives of foreign government with diplomatic passports
 - Employees of foreign government and international organizations
 - Students on F Visas not receiving income
 - Industrial trainees on H-3 Visas
 - Other aliens cited in Publication 519, U.S. Tax Guide for Aliens
- (4) Form 1040-C is used to report all income received and expected to be received during the tax year and up to the departure date.
- (5) Form 1040-C is **not** a final return as the taxpayer must file Form 1040 or Form 1040-NR at the close of the tax year.
- (6) Taxpayers who must file Form 1040-C are:
 - Nonresidents having taxable income
 - Residents having taxable income not intending to return to the U.S.
 - Aliens involved in situations requiring a tax year termination

- (7) If Form 1040-C returns are received, follow normal assessments requirements. IRM 25.6.1.9, Assessments.
- (8) See IRM 21.6.6, Specific Claims and Other Issues, for additional information.

25.6.1.6.8
(10-03-2022)

Making Entity Changes

- (1) The Statute Function must make entity changes on statute cases when recognized.

Exception: Do not make an address change if TC 740 (S- Freeze) is on the tax module. Coordinate the change with the “Undeliverable Refund Function.” Do not input BMF address changes on subsidiary accounts.

- (2) You must coordinate all first name line changes for BMF/exempt organization with the Entity Control Function.
- (3) Treas. Reg. 301.6212–2(a) defines Last Known Address (LKA) as the address that appears on the most recently filed and properly processed Federal tax return, unless the IRS is given clear and concise notification of another address. The regulations also provide that notice to a third party is not clear and concise notice to the IRS. See Treas. Reg. 301.6212–2(b)(1) (although such information should relate to the history). Treas. Reg. Section 301.6212–2(b)(2), however, provides an exception to this general rule by authorizing the IRS to update taxpayer addresses by referring to data accumulated and maintained in the United States Postal Service National Change of Address (NCOA) database. The new address obtained from the NCOA database will be the taxpayer’s LKA, unless the IRS is given clear and concise notification of a different address. Rev. Proc. 2010-16, 2010-19 I.R.B. 664, establishes procedures for taxpayers to notify the IRS of a change of address, and requires clear and concise notification. Clear and concise written notification is established when it includes:
 - a. The taxpayer’s full name, old and new address
 - b. The taxpayer’s signature (both signatures in the case of a joint return) or signature of an authorized representative
 - c. The Employer Identification Number, Social Security Number or Individual Taxpayer Identification Number (joint filers must provide names, TIN’s and signatures of both taxpayers)
 - d. Changes of last names (e.g., marriage) and must provide previous and new last name
- (4) Clear and concise notification may be provided electronically through www.irs.gov.
- (5) Clear and concise notification includes a response to the taxpayer’s correspondence that has corrections to the taxpayer’s address information.
- (6) Clear and concise notification may be oral, subject to certain requirements. See IRM 3.13.5.28, Entity Changes from Oral Statements, for more information.
- (7) Form 8822, Change of Address, is also available for taxpayers to furnish acceptable notification.

Note: The Statute Function will update entity changes on all statute related cases.

- (8) Taxpayers must complete two separate forms when changing both their home and business address. Use IRM 3.13.2.4, BMF Addresses or IRM 3.13.5.50.2, Disposition of Form 8822, IMF Change of Address Request, as a guide for entity changes.
- (9) If a document containing a name or address change is received which does not meet the specific requirements of Rev. Proc. 2010-16, the information should still be added to the file. If a notice is returned, the IRS is required to use due diligence in locating the taxpayer. Due diligence includes a search of existing records to locate any updated information supplied by the taxpayer and reissuing the notice to any address so found.

25.6.1.6.9
(03-01-2006)
**Input of Posting Delay
Codes**

- (1) You must input a Posting Delay Code (range 1–6) when adjusting statute related accounts that require multiple transactions.
- (2) See IRM 21.5.2.4.17, Posting Delay Code for additional information.

25.6.1.6.10
(01-01-2003)
**Manual Refund
Processing**

- (1) Statute management will review 100% of manual refunds prepared by statute employees.
- (2) The Statute Function will review manual refunds from other functional areas **only** if there is any doubt regarding the statute expiration of a credit for refund.
- (3) See IRM 21.4.4, Manual Refunds and IRM 3.17.79, Accounting Refund Transactions, for additional information on issuing and monitoring manual refunds.

25.6.1.6.11
(10-01-2013)
**Electronic Filing System
(ELF)**

- (1) Electronically Filed returns are processed at the Cincinnati, Andover, Austin, Memphis, and Ogden IRS Campuses.
- (2) Use CC TRDBV, ESTAB or ELFRQ on IDRS to request return information on statute cases that involve electronically filed returns. Use Command Code (CC) TRPRT to request a graphic print of an electronically filed return for tax year 1998 and subsequent. Also, refer to IRM 21.5.2.4.22, Blocking Series (BS), for additional information on blocking series used for adjustments. The ELF unit will service return requests and forward them to Files for distribution. Refer to IRM 2.3.73, Command Codes TRDBV, TRERS, TRPRT and R8453, for additional information on using Command Code TRDBV. Use CC IMFOB for Electronic Filing information.
- (3) See IRM 21.2.1, Systems for further information on ELF.

25.6.1.6.12
(02-03-2023)
**Criteria for Removal of
Accounts to Retention
Register**

- (1) Generally, tax modules are removed to various levels of the MF after they have been inactive for 27 months. Credit balance modules are retained for 36 months.
- (2) Entity modules are retained for an additional 24 months after the last tax module has been removed to the appropriate levels.
- (3) You must request all accounts to be brought back from the Retention Register before adjusting statute year periods. If the account is on the current retention register, you may input CC IMFOLB/BMFOLB to bring the account back to master file. Otherwise, you must follow the instructions below.

- (4) You must take the following actions before adjusting an account moved to retention:
 - a. Obtain the necessary documentation (i.e., retention register transcript) for the module to be reinstated.
 - b. Prepare a Form 5248, Transfer Request, to request the transfer-in of the module on retention.
 - c. Forward the request and the retention register documentation to the Accounting function. Accounting will return a copy of the Transfer Request document indicating the cycle the module will be reinstated. Based on this information, cycle your transaction for processing.
- (5) Refer to IRM 3.17.21.7, Reestablishment of Retention Register Accounts, for specific instructions.
- (6) Refer to IRM 21.2.2.5.8, Microfilm Retention Register, for more information.

25.6.1.6.13
(10-01-2019)
**Determining the
Received Date**

- (1) The statute employee will input an IRS received date on a tax return if the tax return was sent from Submission Processing (SP) without a received date and the statute of limitation is imminent. If the statute of limitation is not imminent and the return needs a received date it must be sent to SP. No area should be sending the taxpayer's return directly to statute for them to input a received date stamp on tax returns that are not statute imminent. If the face of the return does not contain a valid date stamp (for example, it contains a TAS date stamp) or does not contain a hand-written IRS received date entry from SP and the statute of limitation is imminent, the statute employee should determine a date in the priority listed below. See IRM 3.11.3.8.2, **Determining the Received Date**, for additional information.
 1. Latest postmark on the envelope or latest date from a private delivery service mark. (See Figure 3.11.3-6a, in IRM 3.11.3.8.2, Determining the Received Date).

Note: When the envelope or label is not attached, use the postmark date stamped or hand-written on the return to determine the received date.
 2. Service Center Automated Mail Processing System (SCAMPS) digital date.
 3. Latest date by the taxpayer's signature(s).
 4. Julian date minus 10 days in the DLN.
 5. Today's date minus 10 days.
- (2) The rules above should be used to estimate the IRS Received Date when one was not stamped or handwritten on an incoming document during the extraction process. In some instances, the IRC does not use the Received Date as the date of filing of a return or a claim. IRM 25.6.1.6.15, When a Document Is Treated as Filed Under the IRC, to determine when a return is filed for purposes of the IRC.

25.6.1.6.14
(10-02-2023)
**Criteria for Establishing
a Statute of Limitations
Period**

- (1) The Received Date does not necessarily establish the filing date. The filing date is established after applying IRC rules. See IRM 25.6.1.6.15, When a Document Is Treated As Filed Under the IRC, for rules which may override the Received Date. If a return is received by the IRS with insufficient information, the IRS might determine it does not constitute a valid return. The criteria for determining whether a return is valid are as follows:

- There must be sufficient data to calculate the tax liability shown on the return (supporting schedules and/or forms)
 - The document must claim to be a return (name, address, TIN)
 - An honest and reasonable attempt is made to satisfy requirements of the tax law
 - Must be executed under penalties of perjury
 - See *Beard v. Commissioner*, 82 T.C. 766, 777 (1984), *aff'd per curiam* 793 F.2d 139 (6th Cir, 1986)
 - See *Fowler v. Commissioner*, 155 T.C. No. 7
- (2) The taxpayer must sign the return under penalties of perjury. If a return is received unsigned, the Statute of Limitations on Assessment (ASED) does not start until a signed return is received.

Note: Unsigned income tax returns will not be accepted for original processing. An unsigned tax return is not a valid tax return. The unsigned tax return will be returned to the taxpayer requesting that the taxpayer sign the return and resubmit for processing. This decision is reflected in Policy Statement P-3-5 (Approved 07-26-2011), in *IRM 1.2.1.4.5*.

- (3) There are two main types of Identity Theft:
- a. Employment Related Identity (ID) Theft- Is when the taxpayer used someone else's SSN and possibly other personal information for employment. The taxpayer should file a return under an IRS Individual Taxpayer Identification Number (ITIN). If the taxpayer files a return reporting income from a verifiable income source and the return meets "the valid return" criteria stated above in paragraph (1), the ASED for this type of return is still valid as to that taxpayer even if the taxpayer files the tax return under someone else's SSN. If the statute of limitation for assessment is about to expire or is expired for the reprocessing of the ID theft tax return, you should reprocess the ID theft tax return using the procedures stated in *IRM 21.5.2.4.23.4*, Statute Imminent Documents.
 - b. Tax Related Identity (ID) Theft - Is when the bad taxpayer files a tax return under someone else's identity reporting false income from an unverifiable source in order to get a false refund. The income tax return in question does not meet the "valid return" criteria stated above in paragraph (1). The ASED shown on that tax return is not valid. The Statute of Limitations on Assessment (ASED) does not apply on this type of ID theft case. The procedures in *IRM 25.25.4.6*, Identity Theft CAT 7- Single Return/ Deceased/X-REF - Lost Refund Process, must be used when you have both good and bad taxpayers returns or just the bad taxpayer's return that needs correcting. Also, you must disregard any instructions for EFDS STARS or IRS Number used in reprocessing a tax return that is stated in these procedures.

Note: Do not forward any Unsubstantiated Income Identity (ID) Theft cases to the Statute team.

Note: See *IRM 21.5.1.4.2.10(3)(i)*, Late Replies, for procedures on correcting an ASED.

25.6.1.6.15
(10-02-2023)

**When a Document Is
Treated as Filed Under
the IRC**

- (1) In general, a document is filed on the date that it is received at the place designated for filing by the IRS. See below for exceptions to this general rule.

Note: A taxpayer is not considered to have filed a tax return (which begins the period of limitations on assessment) until the taxpayer files a valid tax return. A valid return is described above.

Note: Leap Year, the term “**calendar year**”, means a 12-month period regardless of whether it contains 365 or 366 days unless some other meaning is clearly indicated. For example, a claim for refund filed on February 29 (leap year), for a tax deficiency paid on February 28, (two years earlier) will be considered filed within the two-year period of limitations prescribed by IRC 6511 (a). See Rev. Rul. 72-42, 1972-1C.B. 398.

- a. Early filed Tax return: A tax return that is filed before the due date (determined without regard to any extension of time for filing) is considered filed on the due date.

Note: This rule does not apply to returns concerning (1) the withholding tax on nonresident aliens and foreign corporations, (2) the Federal Insurance Contributions Act, and (3) the Collection of Income Tax at Source on Wages. The returns for (2) and (3) for any period within a calendar year are treated as filed on April 15 following the end of the calendar year. See IRC 6501(b)(2).

- b. Extended Due Date: An extended due date is not treated like the regular due date. The filing is not considered early when the taxpayer does not use the full extension period. A timely return received before the end of the extension period (including postponement for disaster relief and combat zone) is considered filed on the received date, not on the extended due date.

Note: Neither the ASER nor the RSED should be reset by the filing of a superseding return during the period of extension to file a return. See IRM 25.6.1.9.4.2.1, Superseding Return Filed during an Extension Period, for more information on this issue.

Note: See IRM 25.6.1.10.2.7, Claims for Credit or Refund - General Time Period for Submitting a Claim, for information to identify the 3-year period for refund for tax year 2019 and 2020 per Notice 2023-21.

- (2) Timely Mailing Rule:

- a. In general, an original tax return or a claim for refund that is received after a due date (including an extended due date), but that is postmarked or marked by a designated Private Delivery Service (PDS) on or before the due date, is deemed to be filed on the date of the postmark (or designated PDS mark). A document filed with an authorized electronic return transmitter is deemed to be filed on the date of the electronic postmark given by the electronic return transmitter per Treas. Reg 301.7502-1(d).

Note: The IRS updates the list of designated PDS' as needed (e.g., Notice 2016-30, 2016-18 I.R.B.676, is effective April 11, 2016.)

- b. Privately metered mail: Mail that is privately metered qualifies for the timely mailing rule if the meter date is timely and if the document is delivered within the time ordinarily required for the delivery of a document

properly mailed and postmarked at the same point of origin by the United States Postal Service. See Treas. Reg. 301.7502-1(c)(1)(iii)(B)(1)

- c. Foreign postmark: A document officially postmarked in a foreign country (or marked by an international designated PDS) may be accepted if postmarked on or before the last day for filing. See Rev. Rul. 2002-23, 2002-1 C.B.811.

(3) Saturday, Sunday, or Legal Holiday (SSLH) Rule:

- a. In general, when the last day for filing falls on a Saturday, Sunday or legal holiday and the taxpayer actually filed by the next succeeding day which is not a Saturday, Sunday, or legal holiday, the tax return or claim is considered to be timely filed on day received. For example, when the April 15 falls on a Sunday, IRC 7503 extends the due date of income tax returns to Tuesday April 17, because Monday April 16, is a legal holiday. IRC 7503 does not deem a different filing date when a filing is actually received by the next succeeding day. For example, a Form 1040 received on Tuesday, April 17 is considered filed on Tuesday April 17. See Rev. Rul. 81-269, 1981-2 C.B. 243 (at Situation 2).
- b. Early filed return: IRC 7503 does not change the date prescribed for filing to the next succeeding day. For example, a Form 1040 received on Friday, April 13 is deemed filed on Sunday, April 15 (under the early-filed tax return rule, above). See Rev. Rul. 81-269 (Situation 1).
- c. Coordination of Timely Mailing Rule and the SSLH Rule: When the last day for filing falls on a Saturday, Sunday, or legal holiday, the timely mailing rule applies based on the next succeeding day which is not a Saturday, Sunday, or legal holiday. A document received after the next succeeding day is treated as timely filed on the due date (April 15) when the date of the postmark (or designated PDS mark) is on or before the due date. A document received after the next succeeding day is treated as timely filed on the date of the postmark (or designated PDS mark) when the date of the postmark (or designated PDS mark) is after the due date (April 15) but on or before the next succeeding day that is not a Saturday, Sunday, or legal holiday.

Example: A return postmarked on Saturday, April 14, and received on Wednesday, April 25, is deemed filed on April 15 under the timely mailing rule and the early-filed tax return rule.

Example: A return postmarked on Monday, April 16, and received on Wednesday, April 25, is deemed filed on Monday, April 16, under the timely mailing rule and the SSLH rule because April 15 fell on a Sunday.

Example: A return postmarked on Tuesday, April 17 and received on Wednesday, April 25 is deemed filed on Tuesday April 17, under the timely mailing rule and SSLH rule because Monday, April 16 is a legal holiday.

- d. Legal Holiday includes a Statewide Legal Holiday: Whether a taxpayer is covered by the SSLH rule regarding a statewide legal holiday depends on where the taxpayer is directed to file or pay and not on whether or not the taxpayer is a resident of that state. See Rev. Rul. 2015-13, 2015-22 I.R.B. 1011, concerning Patriots' Day in Massachusetts. See IRM 25.6.1.6.18(3), List of Legal Holidays, for more information.

- (4) **Place Prescribed for Filing or Payment:** In general, a document or a payment sent to a place or hand-delivered to a person not designated to receive documents or payments is not considered filed or paid until it is forwarded and received by the designated function or person. For example, returns received by Taxpayer Advocate Service (TAS) or the IRS Office of Chief Counsel are not properly filed and a received date (or fax date stamped on the return) by that office is not the official **IRS Received Date**.
- (5) **Identifying the Tax Return That Starts the Period of Limitations:** In some situations, there may be a question concerning the type of return that starts the period of limitations:
 - a. Partnership's or S Corporation's Items of Income, Deduction, Loss and Credit flowing through to partners or shareholders.
 - b. Entity Not Subject to the Tax Equity and Fiscal Responsibility Act (TEFRA) Procedures: The return at issue for items of income, deduction, loss and credit from a partnership or S corporation that flow through to partners or shareholders is the return of a partner or shareholder. See the last sentence of IRC 6501 (a) which codifies the result in *Bufferd v. Commissioner*, 506 U.S. 523 (1993).
 - c. Partnership subject to the TEFRA procedures (TEFRA IRC 6221–6234. TEFRA items may require a referral to a TEFRA specialist.
 - d. Excise Tax under IRC 4971: For purposes of the excise tax under IRC 4971 (on a failure to satisfy the minimum funding standards of IRC 412), the filing of Form 5330, Return of Excise Taxes Related to Employee Benefits Plans, starts the period of limitations on assessment.

25.6.1.6.16
(10-02-2023)

**Processable -
Unprocessable Returns**

- (1) In processing returns, a tax examiner may informally use the term unprocessable to indicate the return cannot be entered in the computer. Overpayment interest does not begin to run on an unprocessable return. See IRC 6611(g)(1). For example, a submission of a tax return showing withholding tax without a Form W-2 may be entered in the computer, but it is not processable for the purpose of accruing overpayment interest. A return that begins the period of limitations is termed a valid return. IRM 25.6.1.6.14, Criteria for Establishing a Statute of Limitation Period, for the test for determining the validity of a return.
- (2) The test for whether a return is processable for the purposes of accruing overpayment interest is set forth in IRC 6611(g)(2). Both a valid return and a processable return must have sufficient data to calculate the tax liability shown on the return, but processability also considers the IRS' processing tasks. Therefore, it requires the taxpayer to be in compliance with the IRS processing tasks. For example, a return will be valid even though it is missing Form W-2 or Schedule D, but it will not be processable because the calculations are not verifiable.
- (3) If an original timely return is filed but is not processable and the taxpayer does not timely provide the requested information, follow the Claim Disallowance procedures and issue a Letter 105C , letter of claim disallowance. After which, the taxpayer has two years to file suit. If the taxpayer subsequently submits the information requesting a refund and the two-year period for filing suit has not expired, you may consider the claim to save all parties the time and expense of litigating the matter. If you do not allow the claim, do not issue a second disallowance letter. Instead, notify the taxpayer by issuing a Letter

916C, that the refund/credit will not be allowed and inform the taxpayer that they must file suit within the two-year period that started with the mailing of the disallowance letter sent previously.

Note: The 2-year period for filing suit is the general rule. The taxpayer and the IRS can agree to extend the period on Form 907, Agreement to Extend the Time to Bring Suit.

- (4) If a processable return (original and timely) is received reporting tax data and indicates an overpayment and IRS processed the return with incorrect data (e.g., no tax data or withholding credit and zero tax liability), the taxpayer is entitled to a refund with interest even though the RSED may be expired because the taxpayer filed a timely claim and the IRS did not send a notice of claim disallowance.
- (5) Effective January 1, 1990, Integrated Data Retrieval System (IDRS) allows the on-line input of the Return Processable Date (RPDT) to reflect the correct received date. (Not valid for MFT's 13 and 29). The action releases "I-" freeze and allows credit interest to generate on subsequent refunds with the new date. See IRM 2.4, IDRS Terminal Input, for additional information.
- (6) Manual computation and allowance of interest must be made using the correct RPDT for adjustment made to the account prior to RPDT. Interest due the taxpayer on refunds issued prior to the release of the erroneous "I-" freeze will be manually computed and allowed with Transaction Code (TC) 770. Refer to IRM 20.2.4, Overpayment Interest, for additional information.

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25.6.1.6.17
(05-16-2012)
CP Notice 81/081

- (1) CP 81 (IMF) and CP 081 (BMF) are generated when the RSED is within six months of expiration and a return has not been filed. The notice coincides with annual news and press releases to remind taxpayers that:

- A return has not been filed.
- The time to claim an overpayment/credit is about to expire and.
- A return/claim must be filed to claim the overpayment before the RSED.

Note: CP 81 (IMF) notices printed after July 01, 2012 will have the SSN redacted/masked (e.g., XXX-XX-0123) to help safeguard against possible ID theft. In order to identify the account, a hand-held barcode scanner must be used to read the taxpayer account information. If the scanner cannot read the barcode, Command Code (CC) TPIIP can be used to get taxpayer account information. For more information on the CC, refer to IDRS Command Code Job Aid <http://serp.enterprise.irs.gov/job-aids/command-code/command-code.html> located on Servicewide Electronic Research (SERP) under IRM Supplements.

- (2) Follow normal statute procedures in IRM 25.6 when responses to the notices are received.

Note: IRM 25.6.1.6.1, Taxpayer /Internally Generated Correspondence, for addressing most responses.

25.6.1.6.18
(10-01-2021)
List of Legal Holidays

- (1) The term “legal holiday” means a legal holiday in the District of Columbia and in the case of any return, statement, or other document required to be filed or any act required under authority of the law to be performed at any office of the U.S. or agency located outside the District of Columbia, the term “legal holiday” also means a statewide legal holiday in the state where such office is located. See IRC 7503 for more information on this issue.
- (2) The legal holidays in the District of Columbia are:
 - January 1 - New Year’s Day
 - 3rd Monday in January - Martin Luther King Jr. Day
 - January 20 - Inauguration Day (every 4th year)
 - 3rd Monday in February - President’s Day
 - April 16 - Emancipation Day in Washington D.C.
 - Last Monday in May - Memorial Day
 - June 19 - Juneteenth
 - July 4 - Independence Day
 - First Monday in September - Labor Day
 - Second Monday in October - Columbus/Indigenous Peoples’ Day
 - November 11 - Veterans Day
 - 4th Thursday in November - Thanksgiving Day
 - December 25 - Christmas Day

Note: If a federal holiday is declared (IRS offices are closed by the President or the Congress of the United States) due to the death of a former President, the next business day will be considered timely for the Assessment Statute Expiration Date (ASED) and Refund Statute Expiration date (RSED).

- (3) When April 15 falls on a Monday, it is Patriots’ Day (a legal statewide holiday celebrated in the states of Massachusetts and Maine on the third Monday of April). Taxpayers have until Wednesday April 17 to file a timely return if they are directed by the IRS to submit a tax return to a location in Massachusetts or Maine or have the right to elect to hand carry a return to a person authorized to receive a hand-carried return in Massachusetts or Maine. See IRC 7503 ; Treas. Reg. 1.6091–2(d); Rev. Rul. 2015-13, 2015-22 I.R.B. 1011. These taxpayers have another additional day because Emancipation Day would fall on Tuesday April 16 in DC (see paragraph 4 below).

Example: Taxpayers from Maine and Massachusetts have the right to elect to hand carry their return to a person authorized to receive the return at the taxpayer’s local Taxpayer Assistance Center. If one of these taxpayers hand-carried a return to a Taxpayer Assistance Center in Maine or Massachusetts on Wednesday April 17, the taxpayer’s return will be considered timely filed by the due date. Additionally, a return properly mailed by such a taxpayer on Wednesday April 17 is also considered timely filed by the due date under the Timely Mailing Rule, even if the return was mailed to an address outside the state such as Kansas City.

- (4) When April 15 falls on a Sunday, the following Monday is generally the day on which returns are timely filed; however, in Washington D.C., April 16 is Emancipation Day, a legal holiday. All taxpayers have until Tuesday April 17 to file a timely return. When April 16 falls on a Saturday, Friday April 15 is considered the holiday. All taxpayers have until Monday April 18 to file a timely return due to the Emancipation Day holiday. Taxpayers affected by Patriots’ Day have until Tuesday April 19. When April 16 falls on a Sunday, Monday April 17 is the date

of the Emancipation Day holiday. All taxpayers have until Tuesday April 18 to file a timely tax return due to the Emancipation Day holiday.

25.6.1.7
(04-01-2007)
Credits and Payments

- (1) Credits are usually money amounts allowed on the taxpayer's return to reduce original or additional tax liability.
- (2) Payments are usually money amounts submitted by the taxpayer to satisfy tax liabilities on an original return or an amended return.
- (3) Some examples of credits/payments may be:
 - Earned Income Credit (EIC)
 - Child and Dependent Care Credit
 - Child Tax Credit
 - Credit from prior year
 - Withholding Tax
 - Federal Tax Deposit (FTD)
 - Estimated Tax Payments
 - Subsequent Payments

25.6.1.7.1
(04-01-2007)
**Credits/Payments
Research**

- (1) To deal with timeliness of credits/payments you need to refer to the following Internal Revenue Code (IRC) and Internal Revenue Manuals (IRMs):
 - IRC 6407, Date of Allowance of Refund or Credit
 - IRC 6511, Limitations on Credit or Refund
 - IRC 6513(a), Time Return Deemed Filed and Tax Considered Paid
 - IRC 6513(b), Time Return Deemed Filed and Tax Considered Paid
 - IRC 7502, Timely Mailing Treated as Timely Filing and Paying
 - IRC 7503, Time for Performance of Acts where Last Day Falls on Saturday, Sunday, or Legal Holiday
 - IRM 3.17.220, Excess Collections File
 - IRM 25.6.1.7.2, Time When Payments and Credits are Considered to be Made
 - IRM 25.6.1.10.2.5.5, Reconsideration of a Disallowed Claim

25.6.1.7.2
(10-03-2022)
**Time When Payments
and Credits are
Considered to be Made**

- (1) This section will help you determine when an amount is treated as paid or a taxpayer's credit election is treated as being made under the IRC. When a payment is made with a tax return, it is considered to be made on the filing date of the return in accordance with the rules. IRM 25.6.1.6.15, When a Document is Treated as Filed Under the IRC.
- (2) A Payment is Made with a Request for an Extension. A payment submitted with a request for an extension of time to file (e.g., a Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return) is treated as a payment of estimated tax described in 3(b), below.
- (3) Advance Payments are considered to be paid as follows (under IRC 6513):
 - a. Income Tax Withheld at the Source: Withholding made during any calendar year is deemed to have been paid by an employee on the 15th day of the fourth month following the close of the taxable year (i.e., the Return Due Date for a calendar year taxpayer). See IRC 6513(b)(1). Income tax withheld from nonresident aliens and foreign corporations

- (under Chapter 3 of the IRC) are deemed paid on the Return Due Date (determined without regard to any extension of time for filing) IRC 6513(b)(3).
- b. Estimated Taxes: Estimated taxes are deemed paid on the Return Due Date (determined without regard to any extension of time for filing), IRC 6513(b)(2).
 - c. Employment Tax- Federal Unemployment Tax Act (FUTA): Any payment of FUTA tax, for a calendar year or a period within that year (e.g. a calendar quarter under IRC 6157), that is made before such last date prescribed for filing the return for the calendar year (determined without regard to any extension of time for filing) shall be considered made on such last day. See IRC 6513(e).
 - d. Employment Tax- Federal Insurance Contribution Act (FICA): Any payment of FICA tax made with respect to remuneration or other amount paid during any period ending with or within a calendar year paid before April 15 of the succeeding calendar year is deemed paid on April 15 of the succeeding calendar year. See IRC 6513(c)(2).
- (4) Overpayment Credited to Next Period's Estimated Tax: When an overpayment is credited to the next tax period estimated tax pursuant to a taxpayer's request (on a tax return), it becomes an estimated tax payment treated as paid as provided in (3)(b) above. See IRC 6402(b) .See also Treas. Reg. § 301.6402-3(a)(5).

Note: The amount ceases to be a payment for the year of the tax return and can no longer be claimed for credit or refund for that period.

(5) Overpayment Credited to Another Tax Period or Type of Tax:

- a. An overpayment, including any interest allowed on the credit by the IRS (using the authority in IRC 6402(a)) credited to an underpayment of another year or to another type of tax (e.g., income tax overpayment applied to an excise tax underpayment) constitutes a payment on the date the credit is allowed.

Note: In general, each type of tax (Income Tax, Estate & Gift Tax, Employment Tax and Excise Tax) and each tax period of the taxpayer are treated separately; however, the IRS' authority to credit an overpayment against a timely assessed tax is not limited by tax types or tax periods.

- b. IRC 6402 does not specify the date that an amount is considered paid, but that date is provided under IRC 7422(d) regarding payment dates for civil refund actions. The IRS should not; however, automatically conclude that a payment is untimely based on a cycle date without determining the actual date on which the credit was allowed. A credit is **allowed** on the date on which the Secretary first authorizes the scheduling of an over-assessment in respect of any internal revenue tax. IRC 6407, and Rev. Rul. 2001-40, 2001-2 C.B. 276 provides that the certifying officer authorizes a credit or refund by signing a schedule of overassessments identifying the taxpayer and the amount of the overassessment.

Note: The IRS must allow the credit before the CSED. To determine if a credit was allowed timely, the cycle date of the credit generally may be used. The IRS should not; however, automatically conclude that a payment based on a cycle date, appears to be untimely and not allowable without determining the actual date on which the credit was allowed.

- (6) Timely Release of Federal Tax Lien: See IRM 5.12.3.3.1(5), Liability is Satisfied - 6325 (a)(1), regarding the necessity of a manual lien release. Employees of functions with access to the Automated Lien System (ALS) will input lien release requests in these situations. For those functions that do not have access to ALS, determine the Centralized Lien Unit (CLU) lien release contact on the IRS intranet by going to:

- IRS Homepage
- SERP
- Who/Where
- Advisory Unit Contact List

An internal use only telephone number is also provided along with the contact information on the CLU website. Ensure all e-mail communications regarding liens are via secure email.

25.6.1.7.3
(01-02-2013)
**Excess Collection File
(XSF) and Unidentified
Remittance File (URF)**

- (1) Transfer credits to XSF, if less than one year after the IRS received date, if the payment was:
- a. Received with a Form 1040X or other amended return filed timely, but due to IRS employee error, assessment or additional liability was not made before expiration of the statute of limitations for assessment. The history item on Form 8758 must be "barred assessment—IRS error" and in box 16 of the form enter "Statute Team". No additional research is required
 - b. For additional liability timely determined by the Examination function, but due to an IRS employee error, assessment of additional liability was not made before expiration of the statute of limitations for assessment. The History item on Form 8758 must be "barred assessment—IRS error."
- (2) XSF: A file within IDRS containing all non-revenue receipt credits. You must apply all non-refundable payments and credits that are more than one year old to the XSF.
- (3) Before moving any undeterminable credit or payment to XSF or URF, you are required to input a Transaction Code (TC) 971 Action Code (AC) 296 on the taxpayer's account to indicate all research action was completed. On all undeterminable credit modules, you are required to make telephone contact with the taxpayer. If a phone number cannot be located, you are required to use all internal IRS research and internet web sites (i.e., Google, SEC, EDGAR, VIVISIMO, and SWITCHBOARD) tools to find a telephone number for the taxpayer to resolve the credit module. If no phone number is found, you must clearly state it on the Form 8758, or the form will be rejected back to you by the Excess Collection employee. If a phone number is found, you must state the result of the contact on the form. Also, on all large dollar credit modules of
- #
- on Form 8758 prior to the transfer of credit to XSF or URF. Any large dollar case sent to XSF will be rejected by XSF employee back to the originator for a manager's signature on the large dollar case if the manager's signature is not present on Form 8758, as required. For additional information, see IRM 3.17.220.2.2.2, Form 8758 Reason for Rejection.
- (4) For additional information, see IRM 3.17.220 , Excess Collection File.

25.6.1.7.3.1
(10-02-2023)

Transferring Credit to XSF

- (1) Use Form 8758, Excess Collection File Addition, to transfer payments and credits to the XSF.
- (2) Attach current IDRS print (TXMOD/IMFOL/BMFOL) that shows the amount of credit on the account as well as the research performed prior to transferring to XSF. If any other IDRS command codes are researched, list the command codes used and state the analysis of your finding for each code. If no additional research is required, you must state on the Form 8758 that no additional research was required on the barred credit and enter "Statute Team" in box 16 of the form. If a payment is not received with the late filed amended tax return no letter is sent to the taxpayer. If the taxpayer files a timely amended tax return with payment and the IRS employee fails to assess the tax prior to the ASSED passing, no letter is sent to the taxpayer. Failure to provide proper audit trail of the barred assessment document on the Form 8758 will be rejected by XSF employee back to the originator.
- (3) See IRM 3.17.220.2.2.1, Preparation of Form 8758, for instructions in the preparation of Form 8758. See IRM 3.17.220.1.8, Trace ID Number for Tracking Credits, when completing box 21 of Form 8758.
- (4) Use a separate Form 8758 for each credit which is to be applied to the XSF. **You must input TC 570 on all Forms 8758 (Box 8 to prevent credits from releasing for refund or offset when credits are transferred to XSF)** when multiple credits are being applied.
- (5) Statute employees must check box 16 of Form 8758 with the appropriate statement below when adding credits to XSF:
 - Unassessable Credit—Assessment Barred
 - Assessment of Tax Barred
 - Unassessable Credit—Barred Advance Credit
 - Only the Statute Team Can Restore This Credit To Master File
 - Barred Assessment—Voluntary Payment
 - Barred Assessment—IRS Error
 - Non Refundable Credit—RSED Expired
- (6) Use the Return Due Date (RDD) for TC 806 when transferring credits to XSF. Use the actual date(s) of payments reflected on the tax module and the DLNs of the payments when transferring estimated tax payments, subsequent payments, federal tax deposits, or credit elect. Credits and payments often applied to XSF are:
 - TC 806 (Credit for Withheld Tax and Excess FICA)
 - TC 710 (Overpayment Credit Applied from Prior Tax Period)
 - TC 716 (Generated Overpayment Credit Applied from Prior Tax Period)
 - TC 660 (Estimated Tax Payment—Applicable to Form 990C, Form 990T, Form 990PF, Form 1041, Form 1040 and Form 1120) IMF/BMF
 - TC 660 (Federal Tax Deposit)-Applicable to Master File Tax Code (MFTs 02, 05, 33, 34 and 44). BMF
 - TC 764 (Earned Income Credit)
 - TC 768 (Generated Earned Income Credit)
 - TC 650 (Federal Tax Deposit)-Applicable to MFT's 01, 03, 09, 10, 11 and 12.
 - TC 766 (Generated Refundable Credit Allowance)
 - TC 670 (Subsequent Payment—Only if Payment Received on or before RDD).

- (7) Exercise caution when resolving statute cases. Multiple tax modules may be involved in multi-function action and tax assessments may/may not have been made. Examples of “refund/credit statute” cases requiring further research and possible action are:
 - a. Credits from tax module represents a type of return which the taxpayer has never previously filed and paid.
 - b. Credits represent an advance payment of deficiency or designated payment of interest, and examination action is complete/ **not** complete, but additional assessment is less than amount of advance payment or payment of designated interest.
 - c. Credits are from secondary taxpayer’s module for which a return was not received, but a joint return was filed for the same period. The credit must be applied to the joint liability although source documents indicate it was intended for payment of this type of tax for this period.
 - d. Credits or payments posted to a tax module and the liability was paid by moving credits from other tax periods or type of tax.
- (8) See IRM 3.17.220, Excess Collections File, for additional instructions for preparing Form 8758.

25.6.1.7.3.2
(10-01-2021)
Researching the XSF

- (1) As soon as a record is added to the XSF, it is available for research at any IDRS terminal. Any function that establishes control bases on its cases and adds a credit to the XSF, may consult CC XSINQ to determine appropriate closure of its control base.
- (2) Use CC XSINQ to research XSF by amount of credit, name control or by DLN. You must input at least one of these elements. The search is narrowed by using as many of these pieces of information as possible. See IRM 3.17.220-8, CC XSINQ, for further information.

Note: An inquiry by credit amount produces a display of only the name control and control number. Further inquiry is necessary to display the complete XSF record.

25.6.1.7.3.3
(10-01-2021)
Transferring Credits from the XSF

- (1) Use Form 8765, IDRS Control File Credit Application, to transfer credits from the XSF. The credits that were previously sent to XSF need to be returned to the taxpayer’s account before the processing of a return is completed, in order to prevent any balance due notices from being sent in error.
- (2) On claims for credit or refund after the RSED has expired, you must only bring back from XSF allowable credits or payments which will satisfy the balance due amount. Determine if an amount can be refunded or credited to another tax module after the RSED has expired. IRM 25.6.1.10.2.7, Claims for Credit or Refund - General Time Period for Submitting a Claim. On balance due only accounts (no refund is involved), you must only bring back the credits or payments which will satisfy the account module balance.
- (3) The Statute Function will send Form 8765 to Accounting, if it determines a credit/payment must be transferred from the XSF. You must provide documentation to identify the credit and indicate its proper application. See IRM 3.17.220.2.12, Applying Amounts From XSF-General, for further instructions.

- (4) Other functional areas **must** route Form 8765 and completed case files (includes research, returns, etc.) through the Statute function for their review to ensure the credit is not barred for refund or transfer.
 - a. The Statute function will place the "Statute Cleared" stamp in the "Remarks" section of Form 8765 and forward to Accounting if the credit/payment is not barred.
 - b. You must follow instructions in (4)(a) above except, write or stamp "reject" in the "Remarks" section if credit/payment is barred, do not forward to Accounting, instead return Form 8765 to the originator.
- (5) If the credit/payment was sent to Excess Collection File by another Campus, the area requesting the credit/payment to be posted back to the account must prepare Form 8765 and route to Statute function to clear the Form 8765 as required in the instructions for (3) above. The Statute function will route the cleared Form 8765 to the other Campus Accounting, without routing it to the other Campus Statute function for clearing.

25.6.1.7.3.4
(10-01-2001)
**Changing the XSF
Record**

- (1) Research or realization that an error was made when adding a record to the XSF may require changing or debiting the record or voiding it completely from the XSF.
- (2) You may use a buck slip to make changes with supporting documentation to the Excess Collection function for action. See IRM 3.17.220, Excess Collections File, for further information.

25.6.1.7.3.5
(10-01-2021)
**Transferring Credits to
and from the URF**

- (1) You must use Form 2424, Account Adjustment Voucher, to transfer credits to and from the URF.
- (2) Attach documentation providing the existence of the credit to be transferred, as well as, indicating the research performed prior to the transfer request.
- (3) Use TC 670/672 when applying subsequent payments to the URF on accounts reinstated from the Retention Register. (Do not use TC 820/700).
- (4) For additional information, see IRM 3.17.220, Excess Collections File.

25.6.1.7.4
(10-03-2022)
**Earned Income Credit
(EIC)**

- (1) The Statute function will review transcripts or original delinquent returns where the Earned Income Credit (EIC) has been allowed and computed on statute imminent or expired periods.
- (2) The taxpayer must file a return to receive the EIC. Married taxpayers must file a joint return to qualify for the credit. Beginning in 2021, married but separated spouses who do not file a joint return may qualify to be treated as not married for Earned Income Tax Credit purposes if they meet certain requirements. To qualify, the spouse claiming the credit must have a qualifying child living with them for more than half the year. The spouse claiming the credit must also meet one of the following conditions:
 - Did not live in the same household as the other spouse for at least the last six months of the year, or
 - Was legally separated according to their state law under a written separation agreement or a decree of separate maintenance, and did not live in the same household as their spouse at the end of the tax year.

- (3) Allow EIC even when a taxpayer, other than making this claim, is not liable for tax on a return and has no withholding credit. The credit is considered applied to the eligible taxpayer's account on the due date or extended due date of the return.
- (4) For taxable years beginning before January 1, 2002, the amount of credit allowed, is reduced by the taxpayer's liability for Alternative Minimum Tax.
- (5) You must transfer cases to the Adjustments/Correspondence Operation if:
 - a. An IRC provision extends this type of adjustment.
 - b. **The Refund Statute Expiration Date has not expired.**
- (6) Transfer non-refundable EIC to XSF if the RSED is expired.
- (7) See IRM 21.6.3, Credits, for additional information.

25.6.1.8
(10-01-2007)
Original Delinquent Returns

- (1) Original delinquent returns are returns received after the required and prescribed due date or extended due date and the taxpayer's account does not contain a TC 150 for zero or any other amount. Original delinquent returns which are 2 years and 9 months old or older (based on the return due date) must be cleared by the Statute function before going to Submission Processing.
- (2) Original delinquent returns received more than three years after the due date or extended due date may have Refund Statute Expiration Date (RSED) implications.

25.6.1.8.1
(10-02-2023)
Original Delinquent Returns Research

- (1) To determine if a return is delinquent, you must check:
 - Integrated Data Retrieval System (IDRS)
 - Master File (MF)
- (2) If a Transaction Code (TC) 140 is on the taxpayer's account without a TC 150 present (IMF account) or current Status Code 02 or 03 (IMF/BMF account), you must input a TC 599 with a Closing Code 18 to indicate that an original delinquent return has been received. If you are reprocessing a return as an original, to a module on which a TC 150 has not posted, you must input a TC 971 Action Code (AC) 017, on the tax period the return is to post. See IRM 21.5.2.4.23.8, IDRS Account Actions, for more information.

25.6.1.8.2
(02-03-2023)
Original Delinquent Return Procedures

- (1) The Statute function's primary responsibility in processing "Newly Received Returns" is to determine if the return is an original delinquent or an amended return.
- (2) The Statute function will "clear" for processing tax returns with potential statute criteria, regardless of tax class. This process does not apply to returns submitted by the taxpayer as part of Automated Substitute For Return (ASFR) Compliance Program or SFR Examination Program that contain a dummy TC 150 for zero already on the tax module or returns submitted by the taxpayer as part of the A6020(b) program. See IRM 5.18.2.2, A6020(b) Case Selection, for more information. In addition, the Statute function will not clear returns with indications of Identity (ID) Theft, which includes copies of police reports indicating ID Theft, Form 14039, Identity Theft Affidavit, Form 14039-B, Business Identity Theft affidavit, copies of Social Security cards, passports, driver's

licenses, notation of **IDT**, notation of identity theft on Form 8948, Preparer Explanation for Not Filing Electronically and/ or TC 971 Action Code 522, 501 or 506 found on EMMOD/IMFOLE. Statute will route the ID Theft case. See IRM 3.11.6.7.4(7), Identity Theft, for where to route the Statute Return.

Note: If a return/correspondence is received with a Letter 1085C or Letter 4349C, it does not need to be statute cleared and should be sent to the A6020(b) unit, unless a TC 150 has posted to the account. If a TC 150 has posted and the literal "6020b" is on the right of the TC 150 DLN, check IDRS for -A Freeze code (TC 976). If a -A Freeze code is present route to Accounts Management. If no -A Freeze code is present, route your case to A6020(b) unit.

- (3) Check IDRS or MF to see if a TC 150 is posted. If there is no record of a TC 150, check CC NAMEI and CC NAMEB for an invalid, temporary and/or spouse's SSN. Also, check for a different taxpayer identification number.

Note: Use CC INOLE to research for the validity of a TIN or name control. You must use these command codes when IDRS input response indicates an entity problem. If the tax return is part of the streamline process or it is not part of the streamline process, you should clear the tax return for processing as any TIN or name control problem will kick out to Submission Processing Error Corrections area for resolution.

If a TC 150 for .00 with a Tax class and Document code of 210 in the DLN, and the literal "SFR" to the right of the TC 150 or some other SFR indicator is posted to MF and/or IDRS, do not route the return to SP for processing. See IRM 5.19.2.6.4.5.12.1, IMF Response with Original Return ASFR or -L Freeze Present, for where to route the tax return.

Note: When processing ASFR International Returns with Form 2555, see IRM 4.13.7-1, ASFR Reconsideration Returns- Centralized Processing Site, for information on where to route these cases.

- (4) The following will help you determine if your "Newly Received Return" is an original delinquent or amended return and how it should be processed.

IF	AND	THEN
A TC 150 is posted with a tax amount	The return in hand is a duplicate of the TC 150, e.g., TC 976/TC 977).	Input a TC 290 for zero and close your control base.
A TC 150 is not posted or pending to post	The IRS received date on the return is not more than 33 months old	Stamp return for clearance and forward for normal processing. Follow appropriate editing procedures, including circling out copy or amended on the return.

IF	AND	THEN
A TC 150 is not posted or pending to post	The IRS received date on the return is more than 33 months old (ASED has not expired)	Manually assess tax if today's date is within 60 days of the ASED (computed based on the IRS received date shown on the unprocessed return).
A TC 150 is not posted or pending to post	The original return is received timely but unprocessed (and it is now more than 36 months from the IRS received date shown on the return)	Work as a barred assessment. (Stamp the return statute expired). Input TC 290 blocking series 300-309 after sending a dummy return to processing for input of a dummy TC 150 for zero. After the dummy return is processed, allow any tax credit amount minus the tax owed amount found on the original timely return. Also, allow any refund or offset of overpayment indicated on the original return.
A TC 150 is posted	A tax return showing an additional tax increase or refundable credits decrease, such as EIC/ ACTC decrease is received before the ASED expired but is not assessed before the ASED expired (without conditions to extend the ASED)	Work as a barred assessment. (stamp the return statute expired). Transfer any credits to XSF. TC 290 blocking series 300-309.

IF	AND	THEN
A TC 150 is posted	A tax return is received showing an additional tax increase or refundable credits decrease, such as EIC / ACTC decrease after the ASED has expired (without conditions to extend the ASED)	Do not assess tax. (stamp the return statute expired). If payment was received with the amended return, refund the taxpayer's payment and send the 2765 C letter stating their payment will be returned in a separate letter if they do not owe any other debts. Input TC 290 for zero and blocking series for the type return received.
A TC 150 is posted	A tax return is received after the ASED has expired showing an additional tax increase (with conditions that extend the ASED)	Forward to the Statute team for a manual assessment.

- (5) An original return indicating a balance due may be an overpaid return. Check the W-2(s) for withholding amounts. Check CC RTVUE & IMFOL before requesting MFTRA for estimated tax payments or other credits. A refund/offset of prepaid credits is allowed if an original return is postmarked within three years of the Return Due Date (RDD) (plus extensions), IRC 6511(b)(2)(A).
- (6) If an original return is received more than three years after the RDD, a refund/offset is limited to the tax paid (tax paid includes interest and penalties) within three years immediately preceding filing of the return plus extensions.
- (7) Contact taxpayers when you are unable to locate a TC 150 and your "New Return" indicates it is amended. Request a signed copy of the original return with all schedules, attachments and a copy of canceled checks (front and back) from the taxpayer.
- (8) Process a "New Return" as a "Delinquent Original" if research reveals no TC 150 posted and you do not receive a response from the taxpayer.
- (9) "New Returns" are considered Amended Returns if a TC 150 has posted. These can either be for a tax increase, with or without remittance or a tax decrease.
- (10) The Ogden Statute team will receive the Form 8038-CP, Return for Credit Payments to Issuers of Qualified Bonds for statute clearance as normal and will route the document back to Submission Processing in Ogden.
- (11) When the Form 8038 is processed and it has been determined by the FAST Lead that the refund statute has expired, the FAST Lead will send the scanned copy of the Form 8038-CP to Statutes lead via secured email. The statute

employee will transfer the credit amount to Excess Collections File and send the taxpayer letter 5980C, Claim Disallowance.

Note: When sending the 5980C letter use the EIN, name, & address of the entity located in Part II (Issuer), which may be different from the entity's information located in Part I. This usually occurs when a Payee is involved (i.e., Wells Fargo, BNYM, etc.). If Part II, line 7 has "SAME" annotated, then the letter should be sent to the Part I entity.

25.6.1.8.2.1
(02-19-2014)
**Procedures for
Processing
Non-resident/Non-filer
Tax Returns**

- (1) The Non-resident/Non-filer original return is an international return project for Large Business and International (LB&I) work group. The non-resident/non-filer taxpayer is required to file a tax return for the last three years starting September 2012. These original international tax returns are processed by Austin Submission Processing. LB&I has requested that we are to keep all three tax returns together as filed by the taxpayer. If one or more of these original returns need to be cleared by the Statute team, all three tax returns will be sent to the Statute team for clearance. The Statute team employee will clear the return(s) as needed and forward all three returns to SP together for processing.
- (2) If one or more of the returns is an amended tax return and the amended tax return requires an immediate tax assessment, the statute employee will forward the entire tax returns package to the Correspondence Imaging Inventory (CII) with a cover sheet instructing them to scan only the amended tax return needing an assessment. The amended tax return(s) will be scanned into CII and forwarded to Philadelphia Statute team via CII as stated in IRM 25.6.1.6.6, Transmitting/Transshipping Cases To Another Campus. The statute employee will not need to make a copy of the amended return(s) prior to sending to CII.

25.6.1.8.3
(01-16-2009)
Virgin Island Returns

- (1) The Statute Function will "clear" for processing tax returns from the Virgin Islands where the return was timely filed but the Virgin Islands were late in forwarding the return to the IRS. The Foreign Investment Real Property Tax Act (FIRPTA) Unit will hand-carry Virgin Island returns to the Statute function. All Virgin Islands List Return DLN's must be posted to the MF for further action by the FIRPTA Unit. (Austin Service Center only). See IRM 21.8.1.7, U.S. Virgin Islands for more information on this issue.

25.6.1.8.4
(06-16-2023)
**Processing Original
Delinquent Returns**

- (1) Once a "New Return" is determined to be an "Original Delinquent", and it indicates a tax assessment, you must stamp "Cleared for Assessment," **Cleared by Statute or Delinquent Return Cleared and the date of clearance on the return. Enter your employee number and current date. Place the stamp in the area of the upper left margin.** The stamp is valid for 90 calendar days. The Statute function must clear the return again if the assessment has not been made within 90 calendar days of the clearance.

Exception: Due to the continued impact of COVID-19 and processing delays, SP and AM have developed procedures for IMF and BMF 2019 and prior year original delinquent returns to bypass AM Statute clearance and be processed as original returns. In addition, any 2019 and prior year returns previously cleared by AM Statute will not be returned by SP to AM to be cleared again if the 90-day statute stamp has expired. If a tax return is later found to be barred due to this process change, the

barred case will not be charged to SP or AM. The barred case will be considered systemic and reported on the quarterly barred statute report under the responsible area "N/A".

- (2) Before you send the cleared return for processing, check the postmark date stamped on the return by Receipt and Control or the attached taxpayer's envelope against the IRS received date stamped on the return. If the postmark date will make the return timely for refund, you must circle or X out the IRS received date using red ink and input the postmark date as the new IRS receive date in red ink on IMF returns. On BMF tax return, use green ink to circle out or X out the IRS received date and input the postmark date as the new IRS received date. This will help to reduce the generation of STEX or STEX-XSF Transcripts due to the processing of an original delinquent return.
- (3) Statutes will not clear "dummy returns" with no money amounts, which are prepared by Examination and Collection Operations in the "Substitute for Return" program. If the taxpayer submits a return for an account that already contains a dummy TC 150 posted, it also does not require clearance by Statute. The return must be routed to the area stated above. In addition, Statutes will not clear a return that has indications of Identity (ID) Theft. If the taxpayer submits a return for an account that already has a TC 150 posted and there are indications of ID Theft, it does not require clearance by Statutes. The return must be routed to the local IDTVA unit. IRM 25.6.1.8.2, Original Delinquent Return Procedures.
- (4) Certain Forms 1120S have tax to be assessed because the filing corporations are liable for tax at the entity level. All functional areas must route Form 1120S to the Statute function for clearance if the return is received within the statute imminent period and contains an entry on the "Tax Due" line along with tax computations and tax credit lines. Functional areas will route Non-taxable Forms 1120S to the Statute function on an as needed basis, e.g., if it is determined during processing that it contains information which will result in an assessment of tax. The following are items assessed at the entity level of the flow-through entity:
 - Built-in gains (IRC 1374) (Line 22b of Form 1120-S for 2003),
 - Excessive passive investment (IRC 1375) (Line 22a of Form 1120-S for 2003),
 - Investment credit recapture (IRC 1371(d) (Line 22c of Form 1120-S for 2003), and
 - LIFO recapture (IRC 1363(d) (Line 22c of Form 1120-S for 2003).
- (5) Tax on pass-through amounts to partners or S corporation shareholders generally is controlled by the statute on the partner's or shareholder's return, i.e., generally tax on those amounts must be assessed within three years from the date the partner or shareholder filed their return. Some partnerships may be subject to the TEFRA partnership procedures, which require a unified examination of partnership items and provide a minimum period of limitations for assessing a tax attributable to any partnership items and other special TEFRA items. See TEFRA IRC 6221–6234; Treas. Reg. 301.6241–1T.
- (6) The Statute function must research a tax year or quarter in question to determine whether any payments and/or credits had posted and were trans-

ferred to Excess Collection. If yes, and the taxpayer is entitled to the payment and/or credit, then transfer the entire credit back to the account before clearing the return for processing.

- (7) Before processing an original delinquent return, determine if Criminal Investigation (CI) has requested the IRS Campus to control the taxpayer's account, or any account associated with the return.

- (8) Refer cases to CI control function for processing instructions if:

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- (9) If an original delinquent return is received showing an overpayment, it is a claim for refund, and you must process it quickly because of the 45-day interest-free period. The limitation period for claims for refund is applicable.

- (10) Always apply credit elect and withholding credit(s) first to tax liability.

- (11) Apply payments by earliest received date. Any overpayment is then refunded, offset, or applied to XSF, as appropriate.

- (12) To "clear" a return, you must take the following steps:

- a. Ensure that the date of clearance for the tax return is not more than 33 months old from the received date on the tax return. If so, use manual processing method. This tax return should not be cleared. If it has not been more than 33 months from the received date of the tax return, then, you should continue to clear the tax return for processing.
- b. Stamp the return as stated in paragraph (1) above after all necessary research has been performed. Enter your employee number and current date in the upper left hand margin.
- c. Route the return(s) to the batching/numbering unit for normal processing through the system.

Note: Route all original delinquent returns with "KITA" written on the return to the KITA (Killed In Terrorist Attack) Function after clearance. Do not input these returns through normal processing.

Note: If the return is numbered, route the return(s) to Rejects to continue normal processing through the system.

25.6.1.8.5
(10-01-2021)
**Processing Original
Delinquent Returns
Claiming an
Overpayment**

- (1) The IRS accepts the U.S. Mail Service postmark date for establishing the filing date of an original return claiming a refund. If the date of the postmark on the envelope is within the period that is three years (plus the period of any extension of time to file) from the day the tax is paid or considered paid (e.g., a calendar year taxpayer's prepaid credits are considered paid on April 15) but the claim for credit or refund is delivered after this three year period, the claim will be treated as timely as long as the document was properly addressed and postage was prepaid.
- (2) The postmark date will be treated as the filing date of any payment or document mailed and delivered in an envelope bearing a postmark date after January 11, 2001. See Treas. Reg. 301.7502-1(g)(1). This also applies to

claims made on an original delinquent return except claims for credit or refund which were otherwise barred as of January 11, 2001 by either:

- a. Expiration of the two-year period for filing suit that began after the issuance of a notice of claim disallowance, or
 - b. The operation of any other law or rule of law (including res judicata).
- (3) Review all newly received original delinquent returns claiming an overpayment.
 - (4) Review taxpayer's account to determine credit/payment received dates.
 - (5) Check the postmark date for a possible timely filed claim for refund.
 - (6) Allow a postmark date and edit this date as the return received date if:
 - a. The return claims an overpayment.
 - b. The postmark date would make the return a timely filed claim for refund.

Note: An original delinquent return claiming an overpayment is a claim for refund. A taxpayer is entitled to a credit/refund for any payment paid (the payment could be for tax, interest or penalties) within three years from the received date of an original delinquent return, including extensions. Also, the postmark date will establish the start date for the Assessment Statute Expiration Date (ASED)

- (7) A postmark date is extended to the next business day if the normal RSED falls on a weekend or holiday. If this is the case, you must edit the return received date with the normal RSED. IRM 25.6.1.6.15, When a Document Is Treated as Filed Under the IRC, for editing postmark criteria.

Example: A taxpayer's original return for 2002 was postmarked 04/17/2006. The normal RSED was 04/15/2006. Since 04/15/2006 was a Saturday, the taxpayer was entitled to the next business day for a timely filed claim. You must edit the return received date as 04/15/2006 and not 04/17/2006.

Note: If a late-filed return does not have an envelope attached and the return is received (IRS Received) within 7 days from the normal RSED, then consider the return as timely filed by the RSED.

25.6.1.8.6
(03-01-2006)
**Processing Delinquent
Non-Master (NMF)
Returns**

- (1) The refund or credit claimed on any Pre-Automatic Data Processing (ADP) return filed are barred, unless payment of the tax was within 2 years of the date the claim was filed.
- (2) Code and Edit must flag Delinquent NMF returns to Accounting to alert them of statute conditions. A "Statute Specialist" in NMF Accounting must research the return for any previous assessments involving the same tax year and tax period. The specialist will research the Automated NMF, Unit Ledger Card (ULC) and the Index Cards maintained by the Return Files area. After all necessary research is performed, the Statute specialist will expeditiously route the return to the Statute Limitations Unit for statute clearance via a Form 3210 transmittal.
- (3) The Accounting "statute specialist" must attach all necessary research for the statute examiner to review before they "clear" the return.

- (4) The Statute function will verify the transmittal with taxpayer's name control, TIN, type of tax, tax period, and Area Office for each item and attachments being transmitted. (If any item or attachment is missing, the Statute function will not accept the case. Indicate this action on the transmittal).
- (5) Sign a copy of Form 3210 and return one copy to the originator and retain one signed copy in the statute area.
- (6) Code and Edit must also flag amended returns (NMF) to Accounting on which the statute is imminent (120 days or less) to alert them of statute conditions. (These are assessed in the NMF Accounting Branch with a 23C Date on or before the statute expiration date).
- (7) The Statute function will examine the cases to determine the correct statute expiration date. Request a MFTRA transcript if no transcript was attached by the accounting function or the transcript request date is more than 30 days old when received in the Statute team.
- (8) The statute examiner will determine if a credit entered on the return is barred by the statute of limitations. If all or part of the credit is barred, place an "X" immediately before the line entry. If part of the credit or adjustment is allowable, enter such amount to the left of the "X". (The NMF accounting function, is responsible for initiating correspondence to notify the taxpayer of the disallowance).
- (9) Indicate the correct expiration date on the body of the return and stamp as stated in (1) above. Show the date cleared and your employee number on those documents on which the statute will NOT EXPIRE within 120 days.
- (10) Statutes must route the case back to NMF accounting via a Form 3210 transmittal (see (2) above), retaining a receipted copy after the procedures above have been completed.
- (11) The NMF Accounting Operation will process statute cases in accordance with instructions in IRM 3.17.46, Automated Non-Master File Accounting and IRM 21.7.12, Non-Master File (NMF) Adjustments.

25.6.1.9
(10-01-2021)
Assessments

- (1) Assessments are a recordation of a tax liability that post to either IMF, BMF, IRAF and NMF taxpayer accounts. Assessments may be the result of:
 - Original Returns
 - Amended Returns
 - Math errors on returns
 - Substitute For Return (SFR)
 - Claims for credit, refund, or abatement
 - Tax Audits
 - Tax Reconsiderations (e.g., after a request from the taxpayer after an audit or from a collection function,)

25.6.1.9.1
(10-01-2009)
Assessments Research

- (1) To process tax assessments, you may need to reference other Internal Revenue Manuals (IRMs) and Internal Revenue Code (IRC) based on specific IRM section procedures such as:
 - IRM 3.17.243, Miscellaneous Accounting
 - IRM 21.5.1, General Adjustments
 - IRM 21.5.9, Carrybacks

- IRM 21.6.1, Filing Status and Exemption/Dependent Adjustments
- IRM 21.7.1, BMF/NMF Miscellaneous Information
- IRM 20.2, Interest
- IRM 25.6.1, Statute of Limitations Processes and Procedures
- IRC 6013, Joint Returns of Income Tax by Husband and Wife
- IRC 6201, Assessment Authority
- IRC 6501, Limitations on Assessment and Collection
- IRC 6503, Suspension of Running of Period of Limitation

25.6.1.9.2
(11-01-2004)

**General Assessment
Period**

- (1) The general rule is that the assessment of tax must be made within three years after the return is filed. See IRC 6501(a).

25.6.1.9.3
(03-01-2006)

Received Date

- (1) The Received Date does not necessarily establish the filing date. The filing date is established after applying IRC rules. IRM 25.6.1.6.15, When a Document Is Treated As Filed Under the IRC, for rules which may override the Received Date. The most commonly applied filing date rules are:

- a. Early return. A return submitted before the original due date is considered to be filed on the due date. IRC 6501(b)(1).

Note: A return submitted before an extended due date is not subject to this rule and is considered filed on the date received.

- b. Employment tax return. Form 941, Employer's Quarterly Federal Tax Return, Form 943, Employer's Annual Tax Return for Agricultural Employees, or Form 945, Annual Return of Withheld Federal Income Tax, for any period ending with or within a calendar year that is submitted before April 15 of the succeeding year, is considered filed on April 15 of that succeeding year. IRC 6501(b)(2).
- c. The Timely Mailing Equals Timely Filing Rule. IRC 7502.
- d. Saturday, Sunday, or Legal Holiday Rule. See IRC 7503.

25.6.1.9.4
(11-01-2004)

**Returns That Begin the
Period of Limitations**

- (1) The following subsection describes when the period of limitations begins for a tax return.

25.6.1.9.4.1
(10-01-2013)

Valid Return

- (1) A taxpayer is not considered to have filed a tax return (which begins the period of limitations on assessment) until the taxpayer files a valid tax return. See IRM 25.6.1.6.14, Criteria for Establishing a Statute of Limitation Period, for valid return criteria. In general, a tax return is considered sufficient for establishing a statute of limitations period if it meets the following criteria:

- a. It has sufficient data to calculate a tax liability,
- b. It purports to be a tax return,
- c. It is an honest and reasonable attempt to satisfy the requirements of the tax law, and
- d. It is signed under penalties of perjury.

Note: Unsigned income tax returns will not be accepted for processing. An unsigned tax return is not a valid tax return. This business decision is reflected in Policy Statement 3-5 (Formerly P-2-11), in *IRM 1.2.1.4.5*. The IRS policy is not to accept an unsigned income

tax return for processing, although these returns may constitute informal claims for refund or credit if the taxpayer reports overpayments of tax on the tax return. The IRS will return unsigned income tax returns to the taxpayers requesting that the taxpayer sign the tax returns and resubmit them for processing.

- (2) A return filed on the wrong form may be a valid return for the purpose of starting the period of limitations if it provides sufficient data to calculate a tax liability.
 - a. Federal Insurance Contributions Act (FICA) form instead of Railroad Retirement Tax Act (RRTA) form. A FICA return did not start the period of limitations on an employer's RRTA tax liability because the FICA return did not include all the information necessary to compute the RRTA tax. See *Atlantic Land & Improv. Co. v. United States*, 790 F.2d 853, 860 (11th Cir. 1986).
 - b. RRTA form instead of FICA form. It appears that a RRTA return filed for a FICA tax liability might be sufficient to start the period of limitations on that liability. See the suggestion in *Atlantic Land & Improv. Co.*, 790 F.2d at 860 n. 11.
- (3) IRM 25.6.1.9.9.3, Correct Records on Expired Statute Periods, for information on how to correct timely original returns that were processed under an incorrect tax period/account.

25.6.1.9.4.2
(10-02-2023)
Amended Return

- (1) In general, the filing of an amended return by a taxpayer does not extend the statute of limitations on assessment. It is the timely received date of the amended return, not the postmark date, that determines if the additional tax on an amended return can be assessed per the account's posted Assessment Statute Expiration Date (ASED). If an amended income tax return is received within 60 days from when the Assessment Statute Expiration Date would otherwise expire, a period of 60 days from the received date is allowed for the assessment of the additional amount of tax on that return imposed by IRC 6501, Subtitle A (income tax). Per IRC 6501(c)(7) amended income tax returns are from Form 1040, U.S. Individual Tax Return, Form 1041, U.S. Income Tax Return for Estates and Trusts, Form 1120, U.S. Corporation Income Tax Return, and Form 990-T, Exempt Organization Business Income Tax Return. The 60-day period does not apply to employment taxes, excise taxes, gift or estate taxes. For example, if an amended income tax return for the 2018 tax year was received on April 9, 2022, you would have 60 days from that date to assess the additional amount of tax on that income tax return.
- (2) *IRS Notice 2020-23*, Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic, did not change the ASED, including the 201612 ASED period of April 15, 2020. However, pursuant to the Secretary's authority under IRC 7508A, it does provide for an additional 30 days to be added to the normal 60-day assessment period for timely filed amended income tax returns received on or after April 6, 2020 and before July 15, 2020, with an ASED before July 15, 2020. This does not apply to any amended income tax received after the ASED posted on the taxpayer's account. For additional information on *IRS Notice 2020-23* go to https://www.irs.gov/irb/2020-18_IRB#2020-23.

Example: If you have an amended income tax return with a June 15, 2020, ASED that has a received date within 60 days prior to June 15, 2020, a period of 60 days plus another 30 days from the received date is allowed for

the assessment of the additional amount of tax on that return. If the ASED on the amended income tax return expires on or after July 15, 2020, the additional 30 days is not provided. The normal 60-day period will apply.

- (3) For Civil Service Retirement System and Federal Employee's Retirement System (CSRS & FERS), if an employer amends an original Form 941, Employer's Quarterly Federal tax Return, because of a change in the CSRS, the normal three-year period of limitations remains in effect.
- (4) Form 2290, Heavy Highway Vehicle Use Tax Return, covers a beginning tax period on the month the vehicle is first used to June 30 of the following year. Thereafter, July 1 through June 30 is the period covered. The due date to file is the last day of the next month following the month (1) that the vehicle is first used in a given tax period, (2) that the vehicle's mileage use limit is exceeded, (3) that an increase in the vehicle's taxable gross weight results in an additional tax liability, or (4) that a person acquires a vehicle for which the tax has been suspended. Generally, the period of limitation is 3 years after the due date of the return, or 3 years after the return was actually filed, whichever is later. See IRM 4.24.22.4.2.1, Form 2290, Taxable Period and Due Date.

Note: If an amended return is filed that reports one or more vehicles not previously reported on the original filed Form 2290, the ASED is still 3 years from the due date of the original return, or 3 years after the date the original return was filed, whichever is later.

25.6.1.9.4.2.1
(10-02-2023)

**Superseding Return
Filed during an
Extension Period**

- (1) An amended (Form 1040X) or corrected (duplicate) return filed on or before the due date or the extended due date is a superseding return. The filing of a superseding return during an extension period does not extend the Assessment Statute Expiration Date (ASED).

Note: The filing of a superseding return during an extension period also does not extend the Refund Statute Expiration Date (RSED).

Example: On April 15, 2019, a calendar-year, corporate taxpayer filed a timely extension, Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns, to extend the time for filing its 2018 Form 1120 to October 15, 2019. Also, on April 15, 2019, the taxpayer filed a valid 2018 Form 1120. The taxpayer then filed a superseding 2018 Form 1120 within the extended period on August 10, 2019. The statutes of limitation for assessment and refund began on April 15, 2019, and the general three-year periods of limitation for assessment and refund will expire on April 15, 2022.

Example: On April 15, 2019, an individual taxpayer filed a timely extension, Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, to extend the time for filing the individual's 2018 Form 1040 to October 15, 2019. On September 30, 2019, the taxpayer filed a valid 2018 Form 1040. The taxpayer then filed a superseding 2018 Form 1040 within the extended period on October 11, 2019. The statutes of limitation for assessment and refund began on September 30, 2019, and the general three-year periods of limitation for assessment and refund will expire on September 30, 2022.

25.6.1.9.4.3
(02-03-2023)
**Forms Reporting More
Than One Item of Tax**

- (1) In general, some tax forms show more than one tax amount (i.e., a multipurpose form). Questions may arise as to whether a return for a tax has been filed where there are no entries for that particular tax on the multipurpose form and a required schedule for that tax has not been attached to the return.
 - a. Factual Determination: Whether a return that reports one item, but has no entries regarding the other item starts the period of limitations on that latter item is generally a question of fact that depends on whether the items are separate and distinct items or “closely connected.” See Rev. Rul. 82-185, 1982-2 C.B. 395 (discussed below) for an example of how to address this question.
 - b. Miscellaneous excise taxes in subtitle D (IRC 4001-5000C): Filing a return for a specified period on which an entry is made for a tax imposed by subtitle D (including an entry showing no liability for that tax) constitutes the filing of a return for such period of all amounts of subtitle D tax which, if properly paid, would be required to be reported on that return for such period. IRC 6501(b)(4).
- (2) The Self Employment Contribution Act (SECA) is calculated on Schedule SE, Self-Employment Tax, (an attachment to Form 1040) and the tax is entered on Form 1040. A taxpayer has filed a return for purposes of SECA even though the Form 1040 contains no entry with respect to the SECA tax. See Rev. Rul. 82-185 (the rationale is that the SECA tax imposed by chapter 2 of the Code and the individual income tax imposed by chapter 1 are so closely related that they are not separate and distinct taxes for reporting purposes).
- (3) FICA tax on tips and income tax on Form 1040: The social security tax imposed on tips by IRC 3101 is calculated on Form 4137, Social Security and Medicare Tax on Unreported Tip Income, (an attachment to Form 1040) and the tax is entered on Form 1040. An employee has not made a valid return for purposes of the social security tax imposed on tips by IRC 3101 if they make no entry for the tips on Form 1040 because they are separate and distinct taxes. See Rev. Rul. 79-39, 1979-1 C.B. 435.
- (4) Household Employment Tax and Form 1040/Form 1041: The household employment taxes (the Social Security and Medicare taxes imposed under the Federal Insurance Contributions Act (FICA), the tax imposed under the Federal Unemployment Tax Act (FUTA) and withheld income tax) are calculated on Schedule H, Household Employment Tax, (an attachment to Form 1040/Form 1041), and the tax is entered on Form 1040/Form 1041. An employer has not made a valid return for purposes of the household employment taxes if they make no entry for the taxes on Form 1040/Form 1041. If the Schedule H is filed without the Form 1040/Form 1041, the statute of limitation for assessment begins with the filing of the Schedule H document. The statute employee should prepare Form 2859, Request for Quick or Prompt Assessment to manually assess the tax found on the loose Schedule H. The ASER of the Schedule H is based on the received date of the valid filed document with or without Form 1040 tax return. The Form 2859 assessment document should contain MFT 30 for the Form 1040 tax return.
- (5) Various excise taxes on Form 720: Form 720, Quarterly Federal Excise Tax Return, reports many miscellaneous excise taxes imposed by subtitle D (IRC 4001-5000C).

- a. Line for a category of tax with no entry: An entry must be made on the Form 720 line for the IRS Number in order to file a return of the tax corresponding to that number. See Treas. Reg. 40.6011(a)-1(a)(1).
 - b. Effect of Return Filed by a Collector on the Limitations Period for a Taxpayer: In the case of collected excise taxes, the taxpayer is not the person required to file the return; Treas. Reg. 40.6011(a)-1(a)(3) provides that the collector must file the return. Therefore, the return with respect to taxes paid by the taxpayer is the return of the collector and it begins the period of limitations on assessment of the taxpayer. Moreover, under IRC 6501(b)(4), the filing of an excise tax return on which an entry is made for a particular tax constitutes the filing of a return of all amounts of that tax which, if properly paid, would be required to be reported on that return; i.e. it constitutes the return for taxes that should have been but were not paid by taxpayers during the period covered by the return.
- (6) Excise tax paid with Form 1040: Form 5329, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts (an attachment to Form 1040), is used for additional taxes on individual retirement arrangements, other qualified retirement plans, modified endowment contracts, Coverdell education saving accounts, qualified tuition programs, and Archer medical saving accounts. The amount of any tax is entered on Form 1040 for the Form 5329 as follows:
- a. One tax reported on Form 5329 concerns early distributions from a qualified retirement plan, including an IRA, which is imposed by IRC 72(q) and (t). This tax will take on the ASED of the Form 1040. The other taxes are miscellaneous excise taxes imposed by subtitle D which will not take on the ASED of the Form 1040 unless Form 5329 is filed with that return.
 - b. If the Form 5329 is not attached, the period of limitations on assessment for the tax imposed by IRC 72(q) and (t) begins with the filing of the Form 1040. The period of limitations on assessment for the miscellaneous excise taxes does not begin with the filing of the Form 1040. The other miscellaneous excise taxes carry their own period of assessment based on when the Form 5329 is received for assessment.
 - c. If a taxpayer files the Form 5329, you may need to look at the nature of the entries made to determine the assessment period for each of the miscellaneous excise taxes required to be reported on the form. For example, if the taxpayer enters a calculation of the liability owed or a denial of liability, such as the number \$1,000 or the word zero or none, on a particular line, then the taxpayer is considered to have filed a return for the category of tax to which that line relates. Therefore, the assessment period will begin to run for that category of tax from the date the form is considered filed. However, if the taxpayer leaves an entry line blank, then the taxpayer has not filed a return for that category of tax; thus, the assessment period will not start to run for that category of tax. See IRC 6501(b)(4).
 - d. Any documents prepared and input through the system by Examination that unpost with UPC 750 will be routed to the Examination Function for determination/correction to the ASED.
 - e. See IRM 21.6.5.4.4, Early Distributions, for rules on early distributions pertaining to 10% tax assessed on IMF, not IRAF.

25.6.1.9.4.4
(10-01-2020)
**Joint Return After
Separate Return**

- (1) IRC 6013(b) allows a husband and wife to file joint returns after one, or both spouse(s) file(s) a married filing separate return. Under IRC 6013(b)(2)(A)-(D), the election **may not** be made:
 - a. Later than three years from the due date of the return for the year (without regard to any extension); or
 - b. After a notice of deficiency has been mailed to either spouse for that year if the spouse files a timely petition with the Tax Court; or
 - c. After either spouse has commenced a suit in any court for the recovery of any part of the tax for the taxable year; or
 - d. After either spouse has entered into a closing agreement under IRC 7121 with respect to the year or has compromised any civil or criminal case under IRC 7122 with respect to the year.
- (2) For tax years beginning on or before 07/30/1996, the election **may not** be made unless the amount shown as tax on the joint return is paid in full.
- (3) For ASED purposes, the filing date of the joint return depends on what returns were filed before the election (IRC 6013(b)(3)(A)(i)-(iii)).
 - a. The joint return is deemed filed on the filing date of the last separate return (but not earlier than the due date) where both spouses filed separate returns.
 - b. The joint return is deemed filed on the filing date of the separate return (but not earlier than the due date) where only one spouse filed a separate return and the other spouse had gross income of less than the exemption amount for the year (less than \$5 for tax years 2018 through 2025).
 - c. The joint return is deemed filed on actual filing date of the joint return where only one spouse filed a separate return and the other spouse had gross income of the exemption amount or more for the year (\$5 or more for tax years 2018 through 2025).
 - d. The IRS has three years from the deemed filing date of the joint return to make an assessment. In no event, however, will the IRS have less than one year from the actual filing date of the joint return to make an assessment. IRC 6013(b)(4).
- (4) A Transaction Code (TC) 560 extends the ASED. The function responsible for resolving the case will input the TC 560.
- (5) If the deadline for filing a separate to joint return has expired (see paragraph (1) above) and the non-filing spouse has not filed a separate return, the IRS is not authorized to process a return based on the joint return information. A disallowance letter must be sent to the taxpayers in which a return has been previously filed. A separate letter (916C or 112C) must be sent to the non-filing spouse requesting an original return.
- (6) If the election for filing a joint return is made later than the dates provided in paragraph (1) above, and both taxpayers have previously filed a return, you must send a separate disallowance letter (105C) to both taxpayers.

25.6.1.9.4.5
(10-05-2016)
**Substitute for Return
(SFR)**

- (1) Under IRC 6020(b), the IRS has the authority to prepare and process a tax return when a person fails to file a required return or files a false or fraudulent return. If the IRS processes a tax return prepared under the authority of IRC 6020(b), assessing the tax accordingly, the assessment date will start the period for the statute of limitations for collection per IRC 6502(a)(1), but does not start the period of limitations for assessment per IRC 6501(b)(3).
- (2) If the taxpayer signs a SFR return prepared from income information received from the taxpayer, it becomes the taxpayer's return per IRC 6020(a) and starts the assessment period of limitations. If the taxpayer signs a waiver of restriction on assessment (Form 870, 4549, etc.), it does not constitute a return under IRC 6020(a), in accordance with Rev. Rul. 2005-59. If the IRS has processed an unsigned Substitute for Return (SFR), the taxpayer may still file a signed tax return for the same tax year as the SFR return. The assessment statute period for that tax year will begin with the received date of the taxpayer's signed return. See IRC 6501(a) and (b)(3).

Note: If the IRS collects tax payments or if the taxpayer sends in payments beyond the Collection Statute Expiration Date (CSED), the taxpayer may be legally entitled to a refund per IRC 6501 (a) and IRC 6402. The taxpayer would not be entitled to a refund of these amounts if the taxpayer owes other unpaid liabilities for the same tax period that equal or exceed the amount of the payments or the taxpayer's claim for refund of these amounts is barred under other code provisions. The taxpayer also is not legally entitled to a refund if the payments were made pursuant to a fixed and determinable levy that predates the CSED.

25.6.1.9.4.5.1
(10-01-2007)
SFR Program

- (1) In general, the SFR Program and its automated version (ASFR) were developed to deal with taxpayers who have not filed income tax returns voluntarily and for whom income information is available to substantiate a significant income tax liability without costly field investigation. The purpose of the program is to assess the correct tax liability by either:
 - a. Securing a voluntary income tax return from the taxpayer, or
 - b. Computing tax, interest, and penalties based upon the IRP documents submitted by payers or other internally available information.
- (2) When a taxpayer fails to file a return as prescribed by law, they are sent a series of notices advising them of the delinquency condition. If the taxpayer does not respond to the notices, a final notice is sent informing them that the IRS is authorized to prepare a substitute return unless they file a correct signed return within the period allowed by the notice. See IRM 4.19.17, Non-Filer Program, at IRM 4.19.17.1, and IRM 5.18.1, Automated Substitute for Return (ASFR) Program (for the Compliance Services Collection Operation (CSCO)), and IRM 5.18.2, Business Returns IRC 6020(b) Processing.

25.6.1.9.4.5.2
(03-01-2006)
**Statute Function
Processing**

- (1) If a case is referred to the Statute function or a transcript reflects a TC 599 with CC 39, 64, or 89 without a TC 150 within 16 cycles after posting of the TC 599:
 - a. Route the case to the area who is responsible for SFR condition in CSCO.
 - b. Explain that the closing action by the SFR unit is not complete without a TC 150. The resolution of the SFR case is incomplete without a TC 150.

- (2) The Statute Function will retain the original case /transcript to ensure the appropriate tax is assessed on the TC 976 return, if the statute period for assessment will expire within 180 days.
- (3) The Statute function will receive only the returns for “clearance” where the tax period is imminent or expired for assessments and/or refunds.
- (4) The Compliance Services Collection Operations (CSCO) personnel are responsible for reviewing requests for abatement of SFR assessments.

25.6.1.9.4.6
(10-02-2023)
**Filing Form 941 and
Failing to Timely File
Form 942**

- (1) Form 942, Employer’s Quarterly Tax Return for Household Employees, is obsolete for tax years beginning in 1995, but it may still be referred to the Statute team for clearance. Because Form 942 and Form 941, Employer’s Quarterly Federal Tax Return, report the same taxes, but for different employees, the period of limitations for assessment for a period starts for the taxes that should have been shown on a Form 942 if a Form 941 is filed for that same period.
- (2) The role of the Statute function in processing these employment tax forms will be: Upon receipt of a Form 942 for a period, check whether Form 941 was filed for the same period.
 - a. If a Form 941 was filed and the ASSED for that return has passed, do not assess the tax shown on the Form 942. Transfer any credits to XSF. If the payment was received after the ASSED, inform the employer that they may obtain a refund by filing a claim for refund within two years of the payment. Inform the employer that the claim should reference Form 942 and state that the return cannot be processed because the ASSED has expired based on the date the Form 941 (and the payment) was received.
 - b. Form 941 was filed and the ASSED has not passed, but it is imminent, assess tax on the 941 account.
 - c. If a Form 941 has not been filed, then the ASSED is three years from the received date of the Form 942.
- (3) If the ASSED is imminent, any assessment must be made on the Form 941 account. You must monitor for the posting of the TC 150 since this will establish filing requirements for Form 941 and/or 940. Delete any Form 941 and 940 filing requirements, which may have been created by processing Form 941 after posting of the TC 150.

Exception: If the taxpayer has been filing current Forms 940 and Form 941, do not delete the filing requirements.

- (4) If Form SS-16, Certificate of Election of Coverage Under the Federal Insurance Contribution Act (FICA) of Election is received with or for Form 941, see IRM 21.7.2.5.6 for more information on how this form affects the ASSED.
- (5) If a Form 941 has not been filed, clear the Form 942 and route to Code & Edit where it will be converted to Form 941.

- 25.6.1.9.4.7
(11-01-2004)
Return Reporting Less Than a Full Period of Information
- (1) A return reporting for a period that is less than the tax period (whether it is a full or short tax year), does not start the period of limitations, *Gensinger v. Commissioner*, 18 T.C. 122 (1952), *aff'd*, 208 F.2d 576 (9th Cir. 1953); see also *Pittsburgh Realty Investment Trust v. Commissioner*, 67 T.C. 260 (1976) (liquidation of corporation). Where the taxpayer incorrectly reports on a fiscal year, the limitations period for a calendar year covered by two such returns begins with the filing of the second return. *Atlas Oil & Refining Corp. v. Commissioner*, 22 T.C. 552 (1954). The rationale is that the improperly filed returns will, if pieced together, provide the Commissioner with sufficient information to determine the tax liability for the period for which the return should have been filed. *Paso Robles Mercantile Co. v. Commissioner*, 12 B.T.A. 750, 753 (1928), *aff'd*, 33 F.2d 653, 654 (9th Cir. 1929).
- 25.6.1.9.4.8
(03-01-2003)
ASED About to Expire
- (1) IRM 25.6.1.9.9.1, Procedures for Expeditious Assessments, for procedures on how to make assessments when the ASED is about to expire. IRM 25.6.1.9.9.2, After Hours and Imminent Assessments, for additional information on making after hours imminent assessments.
- 25.6.1.9.5
(10-01-2021)
Special Assessment Periods- Related to Return or Item on Return
- (1) These subsections describes special assessment periods as they relate to returns or items on the return.
- 25.6.1.9.5.1
(10-02-2023)
Form 872 Waiver
- (1) A Form 872, Consent to Extend the Time to Assess Tax, signed by the taxpayer and an IRS representative prior to the expiration of the normal ASED, extends the ASED to the date agreed to by both parties. See *IRM 25.6.22*, Extension of Assessment Statute of Limitations by Consent.
- Note:** A period extended by a waiver does not necessarily extend an assessment date for all situations. The agreement between the IRS and the taxpayer may restrict adjustments to certain items.
- 25.6.1.9.5.2
(10-03-2022)
Fraudulent Return
- (1) There is no period of limitations on assessment for a false or fraudulent return with intent to evade tax.
- (2) An amended non-fraudulent return submitted after a fraudulent return does not begin the period of limitations. See *Badaracco v. Commissioner*, 464 U.S. 386 (1984).
- (3) In processing the amended return, you must coordinate fraud/potential fraud cases with Examination. See IRM 25.6.1.9.9.1, Procedures for Expeditious Assessments, if examination does not select the case.
- (4) Fraud is not defined in the Code or regulations, but several indicators of fraud are provided in IRM 25.1.2.3, Indicators of Fraud. There are two terms used in the fraud development process: Indicators of Fraud and Affirmative Acts (Firm Indications) of Fraud.
- a. Indicators of Fraud are actions that may have been done for the purpose of deceit, concealment or to make things seem other than what they are. Examples include substantial unexplained increases in net worth, sub-

stantial excess of personal expenditures over available resources, and bank deposits from unexplained sources substantially exceeding reported income. See IRM 25.1.1.4, Indicators of Fraud vs. Affirmative Acts of Fraud, in and of themselves do not establish that a particular process was done. Fraud is an actual, intentional wrongdoing. While bad faith or evil intent need not be shown, it must be shown that the taxpayer had the specific purpose to evade a tax believed to be owed in mind when performing an act (or making an omission).

- b. Affirmative Acts (Firm Indications) of Fraud are those actions that establish that a particular process was deliberately done for the purpose of deceit, subterfuge, camouflage, concealment, some attempt to color or obscure events, or make things seem other than what they are. Examples include omissions of specific items where similar items are included, concealment of bank accounts, failure to deposit receipts to business accounts, and covering up sources of receipts.

- (5) Generally, the taxpayer whose return is at issue will be the one who committed the fraud. In the case of a joint return, the fraud of one spouse will keep the assessment period open with respect to both spouses.

Note: If the IRS has asserted the civil fraud penalty against the taxpayer, the taxpayer's MF account will show a TC 320.

- (6) For purposes of IRC 6501(c)(1), fraud is not limited to the fraud of the taxpayer. The fraudulent return exception may apply if someone affiliated with the taxpayer's return (such as a tax return preparer) committed the fraud that caused the taxes on the return to be understated, even if the taxpayer did not commit fraud and did not know of the other person's fraudulent intent at the time the return was filed. See *Allen v. Comm'r*, 128 T.C.37, 42 (2007).

Note: When considering whether the fraudulent return exception applies to a particular return due to the fraudulent intent of someone other than the taxpayer, the person in question must have committed fraud with respect to the return at issue for the exception to apply. For example, if the IRS is investigating returns prepared by a particular tax return preparer because it suspects that the preparer may have committed fraud with respect to the preparation of one or more returns, the fraudulent return exception applies only to those returns that the IRS can show were prepared with fraudulent intent.

- (7) Consult with local counsel if you have questions on whether the assessment statute is open because the fraudulent return exception applies.

25.6.1.9.5.3
(10-02-2023)
25% Omission

- (1) The tax may be assessed within six years after the original return was filed (IRC 6501(e)), if the taxpayer omits:
 - More than 25% of the gross income reported on an original return of a tax imposed by subtitle A, such as Form 1040, 1041, 1042, 1120, 990-C, 990-T or 990-PF (IRC 6501(e)(1)(A)(i))

Note: Gross income is the total income before adjusted gross income (AGI). For purposes of this section, the term "return" refers to the income tax return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).

Example: For 2020 Form 1040, the “**Total Income**” is listed on line 9.

- More than \$5,000 in income attributable to foreign financial assets required to be reported on Form 8938 (disregarding the dollar reporting threshold), regardless of whether or not the specified foreign financial assets are reported on Form 8938 or another IRS form per IRC 6501(e)(1)(A)(ii) (the Form 8938, Statement of Foreign Financial Assets reporting requirement applies only to tax years beginning after March 18, 2010)
 - More than 25% of tax on original Form 720 and Form 5330 for excise tax (IRC 6501(e)(3))
 - Includable items in excess of 25% of the gross estate on original Form 706 (IRC 6501(e)(2))
 - Gifts in excess of 25% of the total gifts on original Form 709 (IRC 6501(e)(2))
- (2) The 25% omission rule, per IRC 6501(e), which extends the original ASED by 3 years for a total of 6 years from the received date of the original return, should be considered for amended Economic Impact Payment (EIP) returns where the taxpayer used the Non-File tool or reported \$1 AGI.

Note: The 25% omission rule should also be considered for superseding/amended EIP returns filed by the due date July 15, 2020, or the extended due date of October 15, 2020. The 25% omission should be considered against the last superseding/amended return if multiple superseding/amended returns were filed.

- (3) Input TC 560 to update the ASED if 25% omission has been identified as described above. Do not forward to Statute unless it is within 90 days from the ASED of the six-year statute period.
- (4) The 60 days rule on an amended income tax return assessment (found in IRC 6501(c)(7)) and the Saturday, Sunday and Legal Holiday rule (found in IRC 7503) each applies to extend the six-year assessment period.

Example: A 2018 amended tax return was filed on April 15, 2022. The six-year assessment statute period would normally expire on April 15, 2025, when using the Saturday, Sunday and Legal Holiday Rule. If the taxpayer files an amended return on April 3, 2025, reporting gross income increase of 25 % Omission, a tax examiner will have 60 days from April 3 (June 3, 2025) to assess the additional tax reported on the amended return. You will need to update the ASED on the taxpayer’s account by inputting a TC 560 for the new six-year statute expiration period. You will only forward the case to statute team if the ASED will expire within 90 days of the six-year statute period.

- (5) An item other than an overstatement of basis is not considered omitted from gross income, the gross estate, total gifts, or excise tax reported on Form 720 if the taxpayer adequately disclosed the item on the return or on an attached statement. The disclosure must adequately apprise the IRS of the nature and approximate amount of the item; the actual dollar amount of the omission need not be disclosed.
- (6) For purposes of determining gross income, IRC 61 reflects the general principle that gross income takes into account the gross income derived from business, Treas. Reg. 1.61-3(a) provides that in a manufacturing, merchandis-

ing, or mining business, "gross income" means the total sales, less the cost of goods sold. Under IRC 6501(e)(1), however, in the case of a trade or business, gross income means receipts from sales of goods or services before reduction by cost of sales or services.

- (7) An understatement of gross income caused by an overstatement of basis is an omission from gross income for the tax period for which the assessment statute was open on July 31, 2015 and for returns filed after July 31, 2015.
- (8) The period of time for assessment, if extended due to an omission of more than 25% of gross income or more than \$5,000 in income attributable to foreign financial assets, applies to all items affecting the amount of income taxes owed, not just the omitted items.
- (9) Other returns showing income are as follows:
 - a. In general, the return which shows the disclosure normally is the taxpayer's own return. *Slaff v. Commissioner*, 220 F.2d 65 (9th Cir. 1955). Income taxable to the beneficiary reported on the trust return is not, by itself, a disclosure for purposes of omissions on the beneficiaries return even though the IRS knows the beneficiary and trust are related.
 - b. Flow-through returns. Where a partner lists a partnership on Schedule E of Form 1040, the partner is deemed to have disclosed on the return all of the gross income reported on the Form 1065. *Harlan v. Commissioner*, 116 T.C. 31, 49 and 54-55 (2001). See also *Benderoff v. United States*, 398 F.2d 132 (8th Cir. 1968) (A balance sheet attached to an S corporation's return disclosing that its beginning balance of undistributed income account was the same as the amount of distribution to stockholders during the fiscal year, and that the ending balance was the same as taxable income reported for that year, was an adequate clue that there had been a distribution of the shareholders' undistributed taxable income).

Note: Without such a reference in the taxpayer's own return, there is no relief, even if another return actually discloses the transaction. See *Taylor v. United States*, 417 F.2d 991 (5th Cir. 1969); *Mel Dar Corp. v. Commissioner*, T.C. Memo. 1960-56, rev'd on other issue, 309 F.2d 525 (9th Cir. 1962).

25.6.1.9.5.4
(11-01-2004)
**Net Operating Loss
(NOL) or Capital Loss
Carrybacks**

- (1) A decrease in tax, created by the carryback of a net operating loss or a capital loss can be reassessed at any time within the ASER of the year in which the NOL or capital loss occurred. See IRC 6501(h). Also, the amount of a carryback to a year may be adjusted even if the loss year is closed.
- (2) Generally, the IRS may only make an assessment under IRC 6501(h) of an amount that is attributable to the carryback; however, if a taxpayer receives a refund for a tentative carryback adjustment under IRC 6411 (on Form 1139, Corporation Application for Tentative Refund, or Form 1045, Application for Tentative Refund), the taxpayer has opened the door so that the assessment period is open for items unrelated to the carryback under IRC 6501(k). The amount, however, that the Service can assess is limited to the amount erroneously refunded, reduced by amounts assessed under IRC 6501(h).

25.6.1.9.5.5
(11-01-2004)

**Investment Credit (IC)
Carrybacks**

- (1) A decrease in tax, as a result of IC carried back from a later year, can be reassessed at any time within the ASED of the year from which the carryback originated. However, if the IC was made available (for carryback to a prior year tax) because of the application of an NOL or capital loss carryback from a later year, the decrease can be reassessed at any time within the ASED of the year in which the NOL or capital loss occurred. See IRC 6501(j).
- (2) Generally, the IRS may only make an assessment under IRC 6501(j) of an amount that is attributable to the carryback; however, if a taxpayer receives a refund for a tentative carryback adjustment under IRC 6411 (on Form 1139, Corporation Application for Tentative Refund, or Form 1045, Application for Tentative Refund), the taxpayer has opened the door so that the assessment period is open for items unrelated to the carryback under IRC 6501(k). The amount, however, that the IRS can assess is limited to the amount erroneously refunded, reduced by amounts assessed under IRC 6501(j).

25.6.1.9.5.6
(11-01-2004)

**Personal Holding
Company**

- (1) If a taxpayer fails to file information described in IRC 543(a) and IRC 544 with the return, then Personal Holding company tax can be assessed at any time within 6 years after the corporation return was filed. See IRC 6501(f).

25.6.1.9.5.7
(04-01-2007)

Involuntary Conversion

- (1) In cases where property is involuntarily converted into cash and the taxpayer timely purchases qualifying replacement property, the taxpayer may elect to defer gain (if any) on the conversion to the extent the amount realized from the conversion exceeds the cost of the replacement property. There are two special limitation periods for assessment related to involuntary conversions for which the taxpayer has made the election.
- (2) If the taxpayer elects to defer gain attributable to an involuntary conversion, the period of limitations for assessment does not expire before three years from the date that the taxpayer notifies the IRS in accordance with applicable regulations of the taxpayer's (a) replacement of the converted property, (b) intention not to replace, or (c) failure to replace within the replacement period. See IRC 1033(a)(2)(C); Treasury Regulation 1.1033(a) - 2(c)(5).
- (3) If the taxpayer purchases replacement property before the beginning of the last taxable year during which any part of the gain is realized (i.e., an anticipatory replacement) a deficiency arising from an election to defer for any taxable year ending before such last taxable year may be assessed within the period of limitations for that last taxable year. See IRC 1033(a)(2)(D); Treas. Reg. 1.1033(a)-2(c)(6).

25.6.1.9.5.8
(09-20-2016)

Listed Transactions

- (1) IRC 6501(c)(10) provides for an extended period of limitations to assess any tax with respect to a listed transaction for which a taxpayer failed to disclose any information as required under IRC 6011 and the regulations thereunder. If IRC 6501(c)(10) applies, then the period of limitations on assessment will not expire before the date that is one year after the earlier of (a) the date the taxpayer discloses the transaction in accordance with prescribed procedures (see Treas. Reg. 301-6501(c)-1(g) and Rev. Proc. 2005-26 or subsequent published guidance) or (b) the date a material advisor meets the requirements of IRC 6112 with respect to a request by the Secretary under IRC 6112(b) relating to the transaction.

Note: Because IRC 6501(c)(10) only applies if the taxpayer first fails to disclose the listed transaction as required under IRC 6011, IRC 6501(c)(10) would not apply if IRC 6011, and the regulations thereunder, do not require the taxpayer to disclose the listed transaction. Therefore, it is important to consider the various effective dates of the applicable regulations under IRC 6011 and the type of taxpayer involved in deciding if the taxpayer was required to disclose the transaction.

- (2) IRC 6501(c)(10) applies to taxable years with respect to which the period for assessing a deficiency did not expire before October 22, 2004.
- (3) The term “listed transaction” is defined in IRC 6707A(c)(2) as a reportable transaction that is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of 6011. IRC 6707 A(c)(2) is effective for returns and statements the due date for which is after October 22, 2004 and which were not filed before such date. Listed transaction also is defined in Treas. Reg. 1.6011-4(b)(2).
- (4) Treas. Reg. 301.6501(c)-1(g) sets forth procedures that taxpayers and material advisors may follow to disclose previously undisclosed listed transactions for purposes of 6501(c)(10) and guidance on the date on which the period of limitations will expire if these procedures are followed. Treas. Reg. 301.6501(c)-1(g) applies to taxable years with respect which the ASED had not expired before March 31, 2015. Rev. Proc. 2005-26, 2005-17, IRB 965 (Apr. 25, 2005) provides guidance for earlier years
- (5) If neither the taxpayer nor the material advisor disclose the required information regarding the undisclosed listed transaction, the period of time for assessment of any tax with respect to the listed transaction is unlimited. In order to determine if the one-year period that will end the period of limitations on assessment under IRC 6501(c)(10) has started to run, the examiner should consult Treas. Reg. 301.6501(c)-1(g) and Rev. Proc. 2005-26, to determine if the taxpayer or material advisor has complied with the requirements contained in the applicable published guidance. Once the required information is provided, an actual date for the ASED can be determined and entered.
- (6) Other exceptions to the normal statutory period for assessment of tax may also apply. Also, IRC 6501(c)(10) does not shorten any other applicable period for assessment, such as the general three-year period or the fraud exception.

25.6.1.9.5.9

(03-17-2022)

**IRC 965 Statute
Considerations**

- (1) IRC 965 pertains to the treatment of deferred foreign income upon transition to a participation exemption system of taxation. Specifically, IRC 965(k), provides that the statute of limitations for assessment with respect to an IRC 965 net tax liability will not expire before six years after the date the original return for the inclusion year is filed.
- (2) IRC 965 can be identified by the following Transaction Codes (TC) which are used for IRC 965 pipeline processing, and post processing adjustments:
 - TC 971 Action Code 114 represents the total net tax liability under IRC 965 reported by the taxpayer.
 - TC 971 Action Code 115 represents the total net tax liability under IRC 965 designated to be paid in installments (deferred) under IRC 965(h). The use was limited during the 2017 tax year to assist background programming (accounts processed 201852 and prior).

- TC 766 with Credit Reference Number (CRN) 263 - The amount of the net tax liability under IRC 965 to be paid in installments (deferred amount). When Statute TE's are reviewing transcripts and identify a case meeting IRC 965 criteria they should coordinate with the applicable IRC 965 AM Site Specialized Team.
- (3) For more information, see IRM 21.6.4.4.21, Transition Tax on Untaxed Foreign Earnings, for IMF, and IRM 21.7.4.4.25, IRC 965 Transition Tax, for BMF. For additional tax module indicators see IRM 3.14.2.7.5, IRC 965 Transition Tax.
 - (4) Amended returns with tax increases and credit decreases where the ASED will expire within 90 days will be sent to the Statute function. Statute will coordinate with the IRC 965 AM Site Specialized Team to identify any non-IRC 965 tax to be assessed before the original 3-year ASED expires.
 - (5) Amended returns, with tax increases and credit decreases on accounts where the original 3-year ASED has expired and the amendment or tax module contains IRC 965 indicators, will be routed to the applicable IRC 965 AM Site Specialized Team. The specialized team will take the following actions:
 - a. Identify and calculate any barred non-IRC 965 amounts.
 - b. Input TC 560 to update the ASED for the 6-year statute expiration period.
 - c. Input only the IRC 965 tax assessment.
 - (6) Any barred case info will be routed to the Statute function.

Note: Cases will be sent to the Statute function identifying the IRC 965 tax to be assessed for expedite processing when the ASED will expire within 90 days of the 6-year statute period.

25.6.1.9.6
(11-01-2004)
**Assessments Period -
Taxpayers in Special
Situations**

- (1) This subsection describes the assessment periods for taxpayers in special situations.

25.6.1.9.6.1
(10-02-2023)
**Request for Prompt
Assessment**

- (1) When a written request for a prompt assessment is received, the tax must be assessed within 18 months after receipt of the request or 3 years after the original return was received, whichever is earlier (IRC 6501 (d)). The request is generally made on Form 4810, Request for Prompt Assessment Under Internal Revenue Code 6501(d). The request must be:
 - a. Made by a fiduciary representing the estate of a decedent and concern the liability of the decedent or the estate for income tax or gift tax (but not estate tax).
 - b. Made by a fiduciary representing a dissolved corporation or one contemplating dissolution.

25.6.1.9.6.2
(09-29-2015)
**Statutory Notice of
Deficiency (90 Day
Letter)**

- (1) A statutory notice of deficiency may be issued by Examination, Collection, Appeals, Deferred Adverse Tax Consequence (DATC/ASTA) and the Document Matching functions. Except for certain limited exceptions, a statutory notice of deficiency must be issued to assess and collect an income tax, estate tax, gift tax, and certain excise and employment tax deficiencies.

- (2) The period of limitations on assessment is suspended during the 90 days (150 days if the notice of deficiency is addressed to a person outside the U.S.) which the taxpayer is given to petition the Tax Court from the deficiency notice and the time during which the IRS is prohibited from making the assessment plus 60 days thereafter. The suspension period begins on the day after the mailing of the notice (and not on the day the taxpayer receives the notice).
- (3) If the taxpayer petitions the Tax Court, then the IRS is prohibited from making the assessment until the Tax Court's decision becomes final. If an Entered Tax Court Decision includes the IRC 6213 waiver paragraph, then the tax, penalty, and interest determined by the Tax Court are immediately assessable and the Decision Entered Date is the Waiver Date. If the Entered Decision, or an Entered Order for Dismissal, does not also include a waiver paragraph, then the case must be suspended by Counsel for 90 + 10 days awaiting the filing of an appeal to the Court of Appeals by either the taxpayer, or the IRS. On the 101st day, the decision can be processed because the period for filing of an appeal to the Court of Appeals has expired. Whenever a tax and/or penalty is assessed on an entered decision without a waiver paragraph, then no agreement date is associated with the assessment.
- (4) The IRS or the taxpayer may appeal the Tax Court decision within 90 days. If no appeal notice is filed, the decision becomes final. If an appeal is filed, the date the Tax Court decision becomes final depends on the subsequent appeal proceedings. (The filing of an appeal notice by the taxpayer will not stay assessment unless the taxpayer files an adequate bond.)
- (5) If the taxpayer does not petition the Tax Court, and does not agree to the deficiency, then the case is closed as unagreed and the deficiency can be assessed since the taxpayer defaulted. The IRS has 60 days to process the assessment from the default date, plus the amount of time left on the period of assessment when the notice of deficiency was issued.
- (6) If the taxpayer simply informs the IRS that the taxpayer will agree to the asserted deficiency during the 90-day period, the suspension period continues; however, when a Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment, is filed during the 90-day period, the 60-day period begins because the IRS is no longer prohibited from making an assessment, per Rev. Rul. 66-17, 1966-1 C.B. 272.
- (7) Request technical assistance from the Examination Operation as to whether an assessment is valid if the case contains a deficiency notice.

25.6.1.9.6.3
(10-01-2018)
**Summonses (Including
Designated Summonses)**

- (1) Third-Party Summonses in general (see IRC 7609(a)). If a taxpayer or their agent, nominee or person acting under their control, files suit to overturn a third-party summons to which the notice procedures of IRC 7609(a) apply, or if the taxpayer (his agent, nominee etc.) intervenes in a summons enforcement suit, then the statutes of limitation under both IRC 6501 and IRC 6531 will be suspended while the proceeding and any appeals are pending. See IRC 7609(e)(1). If the recipient of a summons subject to IRC 7609(a) or a John Doe summons has not fully complied with the summons within six months after the date of service and there is not a pending proceeding to overturn or to intervene brought by the taxpayer, then the statute of limitation will be suspended beginning on the date which is six months after the service of the summons and ending on the date of the final resolution of summoned person's

response. The typical scenario is where a summoned third party who is not the taxpayer (or taxpayer's agent) ignores the summons or notice or files a suit to quash. See IRC 7609(e)(2).

- (2) A designated summons in a Coordinated Industry Case (CIC) examination served on a corporation (but not other types of taxpayers), or any other person to whom the corporation has transferred records, extends the assessment period of limitations during the "judicial enforcement period" as defined by IRC 6503(j)(3) (i.e., the period that begins on the day a court proceeding regarding the summons is brought and ends on the day there is a final resolution as to the summoned person's response to the summons). See IRC 6503(j)(3). The period is also suspended during the "judicial enforcement period" of a related summons as defined by IRC 6503(j)(1)(A)(ii) (i.e., one issued within 30 days of the issuance of the designated summons and relating to the same return as such designated summons). If the court requires any compliance with a designated or related summons by ordering that any record, document, paper, object, or items be produced, or the testimony of any person be given, the period of suspension consists of the judicial enforcement period plus 120 days. If the court does not require any compliance with a designated or related summons, the period of limitations on assessment provided in IRC 6501 shall not expire before the 60th day after the close of the judicial enforcement period.

Note: Assistance should be sought from local Area Counsel in cases involving extensions of the statute pursuant to IRC 7609(e)(1)-(2) and IRC 6503(j).

25.6.1.9.6.4
(10-02-2023)
Bankruptcy Cases

- (1) Generally, the automatic stay, as defined in IRM 5.9.3.5(1), Automatic Stay, is in effect from the date the bankruptcy petition was filed until the earliest of the date the case is closed, the case is dismissed, or the debtor is granted or denied a discharge.

Note: When an individual debtor has filed a bankruptcy petition within 12 months of a previous dismissal, the automatic stay may either terminate 30 days from the petition date or not go into effect at all. See IRM 5.9.5.7, Serial Filers.

- (2) The automatic stay does not prevent the IRS from issuing a statutory notice of deficiency but the taxpayer may be prohibited from filing a petition with the Tax Court (unless the stay is lifted by the bankruptcy court).

Note: The automatic stay does not apply to prohibit individual debtors from filing a petition with the Tax Court regarding the income tax liabilities of individual debtors for periods that end after the bankruptcy case was commenced. For corporate debtors, the stay applies to all income tax liabilities so long as it is a liability that the bankruptcy court may determine.

- (3) If a statutory notice has been issued, the period for petitioning the Tax Court has not yet expired before the taxpayer files for bankruptcy, and the automatic stay applies to prohibit the taxpayer from filing a Tax Court petition, the period for assessing the deficiency is suspended during the time the IRS is prohibited from making the assessment plus 60 days thereafter. IRM 25.6.1.9.6.2, Statutory Notice of Deficiency (90-Day Letter) and IRM 5.9.4.3.1, BAPCPA and BRA94's Effect on Assessments.

- (4) The petition date is input as the transaction date of the TC 520 and the discharge or dismissal date is input as the transaction date of the TC 521. In some instances, the court may close a case without issuing either a discharge or dismissal. A TC 521 is input for these cases, also. See IRM 5.9.5.6, Bankruptcy Freeze Code (TC 520).
 - (5) If you are in doubt that an assessment can be made, contact the Centralized Insolvency Operation (CIO) at *SBSE Field Insolvency*.
- 25.6.1.9.6.5
(10-03-2022)
Federally Declared Disaster Area or Significant Fire

 - (1) The deadline for assessment may be postponed for a period of up to one year for taxpayers (individuals and businesses) who the IRS determines are affected by a federally declared disaster or significant fire. See IRC 7508A.
 - (2) See IRM 25.6.1.10.2.9.2, Federally Declared Disaster Area, for details on what constitutes a taxpayer affected by a Presidentially declared disaster area.
- 25.6.1.9.6.6
(10-03-2022)
Terroristic or Military Action

 - (1) The deadline for assessment may be postponed for a period of up to one year for an individual who the IRS determines is affected by a terroristic or military action. See IRC 7508A.
 - (2) IRM 25.6.1.10.2.9.4, Terroristic or Military Action, for details on what constitutes such actions.
- 25.6.1.9.6.7
(11-01-2004)
Service in a Combat Zone, a Contingency Operation, or a Qualified Hazardous Duty Area, or Service Certified by the Department of Defense

 - (1) See IRM 25.6.1.10.2.9.6, **Combat Zone**, for Combat Zones procedures.
- 25.6.1.9.7
(11-01-2004)
Assessment Period-Special Types of Taxpayer Status

 - (1) This subsection describes the assessment period on special types of taxpayer status.
- 25.6.1.9.7.1
(10-01-2020)
Partnerships

 - (1) Tax on flow-through amounts to partners generally is controlled by the assessment statute on the partner's return, i.e., the tax must be assessed within three years from the date the partner filed their return.
 - (2) Some partnerships, however, may be subject to the TEFRA partnership procedures, which provides a special extension of the period of limitations for assessment of partnership and affected items. A partnership subject to these procedures is still a flow-through entity for income tax reporting purposes and income tax must be assessed against the partners. If a partnership is subject to TEFRA provisions, see IRM 21.6.6.4.24, Tax Equity and Fiscal Responsibility Act (TEFRA) Partnerships Related Claims, for more information. TEFRA was repealed in 2015 and replaced with the Bipartisan Budget Act of 2015 (BBA), which generally applies to partnership tax years starting in 2018, unless a partnership elects to be subject to the BBA rules otherwise. If an adjustment needs to be made to a BBA partnership-related item before the assessment is made, the BBA partnership's assessment statute under IRC 6235 is relevant.

See IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures, for additional information on BBA partnership audit procedures.

25.6.1.9.7.2
(11-01-2004)
**Fiduciaries and
Transferees**

- (1) Transferees and transferred assets: The period of limitations for assessment of an initial transferee is one additional year beyond that for the taxpayer. For a transferee of a transferee, the period is extended one year after the period for the prior transferee, but not more than three years after the period as to the taxpayer. See IRC 6901(c)(2). These periods may be extended by agreement and, moreover, an extension by the taxpayer affects the transferee's own period. The periods may also be suspended during certain court proceedings (see IRC 6901(c), (d) and (f)). Generally, a time limitation imposed by state law on fraudulent transfers has no bearing on the assessment period federal law controls. See *United States v. Summerlin*, 310 U.S. 414 (1940); *Bresson v. Commissioner*, 111 T.C. 172 (1998).
- (2) Fiduciaries and transferred assets: The period of limitations for assessment against a fiduciary end at the later of one year after the liability arises or the expiration of the period for collection of the tax. See IRC 6901(c)(3). This period may be extended by agreement. See IRC 6901(d).
- (3) Contact Examination Classification for clarification of the ASER on these types of cases.

25.6.1.9.8
(10-01-2020)
**Statutory Mitigation
Provisions**

- (1) In general, IRC 1311-1314 authorize correction of errors in years otherwise barred by the statute of limitations. These mitigation provisions apply only in situations that contain a qualified determination under IRC 1313 (a) (e.g., a closing agreement under IRC 7121, a Tax Court decision, or other final decision by a court of competent jurisdiction), that are consistent with the seven specific circumstances of adjustment described in IRC 1312 (e.g., double inclusion of an item of gross income, double allowance of a deduction), and that are consistent with one of the conditions necessary for adjustment described in IRC 1311 (b) (e.g., maintenance of an inconsistent position, a correction was not barred when the erroneous action was taken). When an adjustment described by IRC 1311(a) results in an increase in tax, an assessment can be made within one year from the date a determination has been made. See IRC 1314(b).
- (2) The mitigation provisions are intended to offset the benefit a party might otherwise obtain by maintaining a position in an open tax year that is inconsistent with the treatment of the same item in a closed year (e.g., a taxpayer receives a double deduction). It is also intended to remedy double exclusions of gross income and double disallowances of deductions or credits (e.g., when income exclusion in tax year 1981 means it should have gone in tax year 1982, or when the disallowance of a deduction in tax year 1981 means it should have gone in tax year 1982). These provisions may be used by the taxpayer (reducing tax liability) or the IRS (increasing tax liability). The statutory rules, however, are detailed and do not reach all such benefits. Refer cases for which you believe mitigation might apply to the Examination Operation.
- (3) Special Rule for Employment Tax and Worker Misclassifications. The mitigation rules do not apply to employment tax. See IRC 1314(d). IRC 6521, however, provides a special mitigation rule with respect to the tax on self-employment

income (SECA) and the tax under the Federal Insurance Contributions Act (FICA). It authorizes an offsetting adjustment if:

- a. An amount is erroneously treated as self-employment income instead of wages and the correction of the error would require an assessment of FICA tax and a credit or refund of SECA tax, or
- b. An amount is erroneously treated as wages instead of self-employment income and the correction of the error would require an assessment of SECA tax and a credit or refund of FICA tax, and
- c. The period of limitations for one of the taxes to be corrected is open, but the correction of the other tax is prevented by law or a rule of law (other than IRC 7122 relating to compromises).

25.6.1.9.9
(01-16-2009)
**Procedures for
Processing Amended
Returns - in General**

- (1) The subsection provides the general procedures for processing amended returns by Accounts Management.
- (2) If a tax increase or credit decrease is required and the ASSED is within 90 days of expiration, you must route the tax increase or credit decrease document to the Statute function for input on IDRS. Only a Statute function employee can input a tax assessment on IDRS if the ASSED is within 90 days of expiration.

25.6.1.9.9.1
(07-09-2021)
**Procedures for
Expeditious
Assessments**

- (1) Use IDRS or manual assessment procedures to make additional tax assessments.
- (2) When an original tax return cannot be located in time to compute an assessment, manually assess the tax shown on the amended return using Protective Manual Assessment (PMA) procedures.
- (3) The category code SRET will be used by Statute for paper XRET cases that are statute imminent and being worked by Statute. The category code will be used to manage statute imminent cases within Statute. When a statute imminent case has been selected by a Statute employee the original XRET base will be closed by the control base owner as MISC. The Statute function will obtain the paper case and establish a new control using the category code of SRET.
- (4) Resolve imperfections on amended returns in favor of the government, when the time remaining in the limitation period for assessment does not permit correspondence with the taxpayer.
- (5) Use Form 2859, Request for Quick or Prompt Assessment, when the ASSED is less than 60 days. Route to the Accounting function using Form 3210 and input a history item on IDRS (Form 2859 and tax amount) so that subsequent tax examiners will not prepare another assessment for the same amount causing a duplicate assessment document in Accounting. If your manual assessment is being prepared due to the 60-day rule for income tax returns, you will need to input **60-day rule-amended return** in the remarks area. In AMS, input a history item for the amount of tax assessed, penalty and interest when assessed on the Form 2859 and close your control base on IDRS. In addition, you must open a new IDRS control base with the date the Form 2859 was prepared to monitor the manual assessment being input. The monitoring of the manual assessment action will help to ensure the assessment post timely. It will enable you to know if the assessment unpost and you are able to correct any unpostable condition before the ASSED passes. If the Prompt Assessment (not the quick assessment) needs to be removed, see Form 1331-B prepara-

tion procedures found in the Accounting IRM 3.17.244.5.4, Statute of Limitations Expiration Cases (Protective Manual Assessments (PMAs)).

- (6) Assess the following types of assessments in an expeditious manner.
 - a. **Quick-Bankruptcy** (if a TC 520 for bankruptcy is not on the account), imminent statute, Trust Fund Recovery Penalty Cases; agreed deficiency Protective Manual Assessments. The Statute function will always check quick assessments for the reason for the assessment on the Form 2859.
 - b. **Prompt**-Collection of taxes in jeopardy at the time a delinquent return is secured/prepared. (Collection Activity).
 - c. **Jeopardy**-Collection of taxes in jeopardy (e.g., taxpayer may attempt to transfer assets), whether or not the due date for filing has expired. These assessments are usually requested by Examination but can also be requested by Collection.
 - d. **Termination**-The termination of a taxable year when a jeopardy situation exists. They protect the government's interest when the taxpayer has unreported income from illegal activities or attempts to move assets beyond the control of IRS.
- (7) Use IDRS to make assessments when there are more than 60 days before the ASED if you are a Statute employee. You must monitor IDRS to ensure the adjustment posts.
- (8) If the ASED has expired and the amended return is received showing a tax increase or credit decrease:
 - a. After the ASED, do not assess additional tax. Stamp the amended return Form 1040-X, 1120-X, etc., "Statute Expired" and input a TC 290 for a zero amount using the appropriate blocking series for the amended return. This is not a barred case for which a barred statute report is required. You must send the taxpayer Letter 2765C, Assessment Statute Expiration Date (ASED) Expired, stating that the amended return cannot be processed because the statute period for assessment has expired.
 - b. With remittance after the ASED, do not assess the additional tax. Stamp the amended return Form 1040-X, 1120-X, etc., "Statute Expired" and input a TC 290 for zero amount to allow the payment to refund back to the taxpayer. "Do not send the payment to Excess Collection File". You must send the taxpayer Letter 2765C, Assessment Statute Expiration Date (ASED) Expired, stating that the amended return cannot be processed because the statute period for assessment has expired and the payment is being refunded to the taxpayer.
- (9) If the ASED has expired and the amended return showing a tax increase or credit decrease was received with remittance before the ASED expired, report as a barred assessment. Input a TC 290 for zero amount using blocking series 300–309. Any credit will not be offset to other debt conditions and no refunds will be made. In this situation, the taxpayer will not be advised that the assessment cannot be made or that a claim should be filed for refund because the taxpayer legally owed the tax. "Do not send letter 2765C to the taxpayer." See IRM 25.6.1.10.2.5.6.1, Claim for an Amount Paid Before the ASED, for more information.

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25.6.1.9.9.2
(02-03-2023)

**After Hours and
Imminent Assessments**

- (1) There are different procedures for processing statute imminent cases/returns, depending on the number of days remaining before the statute expires. If the ASED is within the last 5 calendar days for assessment, the functional manager will ensure Form 2859 is prepared. Attach the return (if available) with clear identification of tax, penalty, and interest to be assessed, and have the case hand carried to the RACS in the Accounting Function for manual assessment. Refer to IRM 3.17.243, Miscellaneous Accounting, for procedures. Refer to *IRM 3.17.63*, Redesign Revenue Accounting Control System, for additional After Hours Assessment procedures.
- (2) If the ASED is within 6 to 14 calendar days, the **manager must hand carry or send through CII potential statute cases to the Statute function. No cases should be sent using EFax.** The Statute function will:
 - a. Confirm the receipt of the case and determine the ASED.
 - b. Authorize the assessment by preparing and signing appropriate documents (unique to each IRS campus) stating the statute expiration date.
 - c. Photocopy "with remittance" documents to use for manual assessment processing procedures.
 - d. Return the original remittance documents to the initiating function, on the same day, for reject action.
 - e. Route the signed assessment document with the case file, via "Hand carry Mail," to RACS Accounting function.
 - f. The RACS must take immediate action to assess statute imminent returns/cases.
- (3) If the ASED is within 15 to 90 calendar days, functional managers must:
 - a. Hand carry or send through CII all imminent assessment cases to the Statute function. No cases should be sent using EFax.

25.6.1.9.9.3
(10-01-2021)

**Correct Records on
Expired Statute Periods**

- (1) Use the following procedures to correct timely returns that were processed under an incorrect tax period/account, where the period is barred for assessment and tax has not been abated:
 - a. Request all appropriate research for both tax periods/accounts.
 - b. Request all returns/documents posted to the accounts.
 - c. Do not abate tax or move credits on the incorrect period via IDRS.
 - d. Prepare a Form 12810, Account Transfer Request Checklist to request Accounting function to transfer the tax module from master file to Non-Master file via TC 370 and TC 400.
 - e. Advise Accounting function to correct the records and post all accompanying transactions (assessments, abatements, credits and debits) to the correct period/account. Show the correct tax for each return and enter the 23C Date (received date of the return), along with all other transactions posted to the account(s).
 - f. Route the research and returns/documents with the Form 12810 to the Accounting function.

Note: These procedures only apply to correcting clerical errors made while processing assessments based on returns filed by the taxpayer. These procedures do not apply, for example, to correcting exam assessments.

- (2) Accounting must re-establish the accounts on master file (TC 402) when all actions are completed.
- (3) Accounting must forward a copy of the 12810 and transmittal to the Statute function annotating "Request Completed" when all actions in (1) and (2) above are completed and accounts are re-established on master file.

25.6.1.9.10
(10-02-2023)

**Assessment Procedures
for Processing Amended
Returns - Special Cases**

- (1) This subsection provides assessment procedures for processing amended returns - special cases

25.6.1.9.10.1
(10-24-2013)

**Examination Control on
Amended Returns**

- (1) If an amended return is referred to the Statute function for review, and research shows there is an unreversed TC 420 or 424 and the ASER is imminent, you must assess the tax increase before you route the amended return to Examination. This will eliminate the possibility of any barred assessment before the amended return is received in Examination. Research the AIMS file with CC AMDISA for the current status, location and organization codes for the area you will need to route the amended return to.

25.6.1.9.10.1.1
(10-01-2012)

**Amended Returns with
Offshore Voluntary
Disclosure Payment
(OVDP)**

- (1) OVDP payments are processed at the Austin Submission Processing Campus (AUSPC). Beginning March 13, 2012, these tax payments will be processed through Remittance Strategy-Paper Check Conversion (RS-PCC). RS-PCC processes the check image electronically and deposits the funds to the Treasury and credits customer accounts sooner. Images of checks will be available for viewing on the Remittance Transaction Register (RTR) system. On IDRS these payments can be identified by the Electronic Fund Trace number beginning with 29520. EFT-TRACE: 29520nnnnnnnn.
- (2) Payments that cannot be processed through RS-PCC will be processed manually and can be identified through the Document Locator Number (DLN) on IDRS:
 - Campus Code or File Location Code (FLC) DLN digits 1 & 2 - 71, 50, 53, or 20. (20 is the code for foreign remittances).
 - Block Number, DLN digits 9, 10, & 11 - The blocking series for these payments are always a three-digit number between 800 and 899. Since January 2010, only OVDP payments are processed at AUSPC with blocking series 800-899.
- (3) If you identify an amended return with payment criteria stated above or the amended return refers to offshore income or any other verbiage indicating offshore voluntary disclosure, take the following action:
 - Do not contact the taxpayer
 - Do not assess the tax (on any year)
 - Do not release the credit (on any year)
 - Close your IDRS control base
 - Send the amended return to the address below:
L B & I Austin Campus
Offshore Voluntary Disclosure Initiative
Mail Stop: 4301 AUSC
Austin, Texas 73301

25.6.1.9.10.2

(10-01-2021)

**Criminal Investigation
Control on Amended
Returns**#

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25.6.1.9.10.3

(10-01-2018)

**Excise Tax-Amended
Form 720**

- (1) Taxes are identified on Form 720 by IRS NO. (abstract numbers). Only one Form 720 should be filed for each quarter. When a Form 720 reports two or more taxes on different dates (for example, because an amended return is filed), use the later filing date rather than the original filing date.
- (2) Each abstract number is a separate return for penalty purposes. A return is considered filed for a particular abstract number only if an entry is made on that abstract number's line. If no entry was made for a particular abstract number when an entry should have been made, the statute with respect to that abstract number remains open for assessment.
- (3) The Statute function will request the assistance of the Excise Tax Program on complex issues unique to excise taxes.

25.6.1.9.10.4

(03-01-2006)

**Corporate Amended
Returns (with
Designated Summons)**

- (1) If a taxable amended corporate tax return or Form 1120X is referred to the Statute function for review, and research shows an unreversed TC 420 or 424, you must:
 - a. Using IDRS, research AIMS with CC AMDISA for the current status, location and organization codes
 - b. Route the case to the responsible area in Examination if in open status, and the status alpha code is "PP". The "PP" statute alpha code identifies an irregular statute date. It signifies a nontaxable Tax Exempt Government Entity return.
 - c. Use an Examination Referral Slip and complete the form in its entirety. Attach a copy of the IDRS print of AMDISA.
 - d. Close the case on IDRS with Activity CODE "CLTODO", or "CLTOEX" whichever is applicable. Annotate a History item on IDRS "Alpha Statute PP".
 - e. Statute will establish local procedures with Examination for flagging and expeditious routing of "Designated and Related Summonses" cases.

Note: These instructions pertain to either a decrease or increase to tax.

25.6.1.9.10.5

(09-12-2014)

**Railroad Retirement
Board (RRB)**

- (1) The Railroad Retirement Tax Act (RRTA) is codified at Chapter 22 of the IRC (3201-3233). Retirement taxes are imposed in two tiers: Tier I is the RRTA equivalent of FICA; it is computed on the same percentage rate and annual maximum tax base as FICA. Tier II is comparable to a private pension paid by both the employer and employee to provide an annuity. The employer must collect tax from each employee. An employer who does not collect employee tax is liable for that tax. IRM 21.7.2.6.2, Imposition of Tax (Forms CT-1) (1-1-2005). An employer deposits the taxes following the regulations under IRC 6302. These taxes are reported on the Form CT-1. The IRS makes available information to the RRB for the administration of the RRTA.
- (2) The Railroad Retirement Board (RRB) conducts investigations and determines if additional tax is due on the employer's CT-1 tax return. The RRB sends cor-

respondence to the service center to assess any additional tax. These assessments must be made manually due to the imminent statute expiration

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for assessments of less than that amount, take no action and return the request to the originating office.

- (3) Consents to extend the period of limitation on assessment. The RRB's Chief Financial Officer, in writing, addressed to the IRS Ground Transportation Technical Advisor, will request that the IRS take appropriate steps to protect against the running of the RRTA statute of limitations in cases that have been fully developed by the RRB auditors and where there is potential significant financial impact to the RRB's trust funds. The IRS will act at its own discretion with respect to the request and will advise the RRB's CFO in writing as to the decision. See IRM 4.23.2.3.3, Railroad Retirement Board (RRB) Coordination Agreement.

25.6.1.9.10.6
(10-03-2022)

Reduction in Foreign Tax Credit

- (1) The Statute of Limitations on Assessment of an underpayment relating to a reduction in foreign tax credit (FTC) (generally reported on Form 1116, Foreign Tax Credit, or Form 1118, Foreign Tax Credit- Corporations) may be extended beyond the 3-year assessment period as provided in IRC 905(c). IRC 905(c) requires taxpayers to report certain foreign tax adjustments. When a taxpayer must report an adjustment, IRC 905 (c) effectively suspends the assessment period indefinitely, but only to the extent of the deficiency resulting from the tax adjustment required under IRC 905 (c). Statute employees will need to review the return, including the Form 1116 or Form 1118, in order to determine whether the reduction in FTC is attributable to a refund of foreign taxes that were claimed as a credit; a failure to pay any accrued foreign taxes claimed as a credit within 24 months of the close of the taxable year to which the taxes relate; an over accrual of foreign taxes claimed as a credit in an earlier year, a change in foreign tax liability that affects the amount of distributions or inclusions under IRC 951, IRC 951A, or IRC 1293, or affects the application of the high-tax exception described in IRC 954(b)(4); or a change to claim a foreign tax credit for foreign income taxes that were previously deducted or a change to claim a deduction for foreign income taxes that were previously credited. If one of these three scenarios applies, IRC 905(c) allows Statute to input the U.S. tax increase.

Note: IRC 905(c) indefinitely extends the assessment period. However, the IRS should act promptly to assess the deficiency upon receiving notification of the foreign tax redetermination.

Note: Assessments under the authority of IRC 905(c) are not generally subject to deficiency procedures but are payable upon notice and demand.

- (2) IRC 905(c) does not extend the 3-year assessment period to permit assessments that are based on the discovery of errors on the original return that were not timely identified by the taxpayer. For example, the taxpayer amends the original return by reclassifying income originally reported as foreign source income as U.S. source income, thereby reducing the foreign tax credit limitation. Therefore, if you receive an assessment document for Form 1116 or Form 1118 in which the taxpayer states an error occurred on the original return filing and it is after the 3-year assessment period, no additional assessment is allowed under this exception (other exceptions may still apply).

Note: If an assessment arising in connection with a change in election, either from a deduction to a credit, or from a credit to a deduction, for foreign taxes paid or accrued, appears to be barred, there are certain judicial and equitable doctrines that may apply, especially if the changes could result in a refund in another tax year due to the carryover of an FTC or Net Operating Loss (NOL)

- (3) If the erroneous application of a foreign tax carryback results in a deficiency in a carryback year, IRC 6501(i) allows the deficiency to be assessed in the carryback year within one year after the expiration of the period within which a deficiency may be assessed for the year of the excess foreign taxes.

25.6.1.9.11
(02-03-2023)
**Self-Employment
Contributions Act
(SECA)**

- (1) Generally, Self-Employment Contributions Act (SECA) is a tax imposed on business income of \$400 or more unless the taxpayer is:
- A public official not paid with fees
 - A non-resident alien
 - An employee with limited exceptions, such as a U.S. citizen working in the U.S. as an employee of a foreign government or an international organization
 - A member of certain religious sects
 - A minister who has an approved Form 4361
- (2) SECA is computed on Schedule SE. It furnishes the Social Security Administration (SSA) with a date to compute Social Security (SS) benefits. It must be paid on net self-employment income over \$400, regardless of the taxpayers age, even if they are receiving SS benefits.
- (3) Self-Employment Income (SEI) is reported on Schedule C, F or on the line for other income on Form 1040. Any change in self-employment income may change the self-employment tax amount.
- (4) Examination must review all cases where a taxpayer reports additional income and indicates more income tax is due but fails to compute SECA tax. Refer to IRM 21.6.4, Tax Computation/ Accounting Period Changes for tolerances.
- (5) Each taxpayer reports his/her total self-employment income on his/her own Self-Employment (SE) Schedule. Each spouse is required to file separate Schedules SE. The computed self-employment tax (SET) is added to the taxpayer's regular tax on Form 1040.

25.6.1.9.11.1
(04-01-2007)
SECA Research

- (1) To handle SECA cases, you may need to refer to the following Internal Revenue Manuals (IRMs) and Internal Revenue Code (IRC) :
- IRM 21.5.1, General Adjustments
 - IRM 21.6.4, Tax Computation/ Accounting Period Changes
 - IRC 1401–1403, Self-Employment Tax
 - IRC 6017, Self-Employment Tax Returns
 - IRM 4.23, Employment Tax.

25.6.1.9.11.2
(10-01-2021)
SECA Procedures

- (1) When adjusting the Primary Self Employment Income (PSEI) or the Secondary Self Employment Income (SSEI), TC 878 and 879 must correspond with the information previously provided. Do not adjust the PSEI or SSEI below zero. If Self Employment Income (SEI) is reduced to less than \$400 for either taxpayer, you must reduce PSEI and/or SSEI to zero and assess no tax. Notify the taxpayer of any changes.
- (2) If you receive a SECA Tax case and the assessment statute expiration date (ASED) has expired:
 - a. Check for conditions which might extend the ASED beyond the 3-year statute expiration date. If the ASED cannot be extended, do not assess additional tax. Stamp the return or amended return "Statute Expired" and input TC 290 for zero amount.
 - b. If a credit balance module reflects a payment received on or before the ASED that is attributable to an adjustment for which the ASED has passed, transfer the barred assessment credit to the Excess Collection File (XSF) or Unidentified Remittance File (URF) as applicable. You must input a Transaction Code (TC) 971 with Action Code (AC) 296. No other research action is required. The payment may be retained even though the liability it pays can no longer be assessed. Do not use the credit to pay other debit conditions.
 - c. When a payment is made for Income Tax (IT) and/or SECA Tax and the payment was received after the Assessment Statute Expiration Date (ASED), do not assess the additional tax. You must input a TC 290 for zero amount to allow the payment to refund back to the taxpayer. "Do not send the payment to Excess Collection File". You must send the taxpayer Letter 2765C, Assessment Statute Expiration Date (ASED), stating that we cannot legally assess the tax because the statute for assessment of tax has expired and the payment is being refunded to the taxpayer.
- (3) Do not assess amended returns reporting SECA tax received after the ASED, which runs from the filing of the original return. If the IRS fails to make assessment on the original return or amended return before the ASED passes, do not assess any amount on either return. Instead, input TC 290 for zero amount, use Blocking Series 18 and reference numbers as appropriate. Transfer any remittance received to XSF or URF, as stated above in 2(b). Report the amount of the unassessed tax from the original return as a barred assessment.
- (4) Do not assess Form SSA 7000 information without a statutory notice of deficiency being sent prior to the statute date. Do not assess the tax if Examination did not issue a Statutory Notice of Deficiency and stamped the Form SSA 7000 "Survey" or "Accepted As Filed." Instead, use TC 290 for zero amount and blocking series 18 to associate the case with the original return.
- (5) Do not make adjustments reported on Form SSA-7000 after the ASED unless accompanied by a taxpayer's claim that was filed before the ASED.
- (6) If the taxpayer files an amended return after the ASED expires to increase SECA Tax, do not assess the tax as stated above. In addition, do not increase the Self-employment income reported on the amended tax return. The Social Security Administration will not use this information when computing the taxpayer's Social Security payment amount unless the ASED is still open for the assessment of social security tax on the increase in self-employment income.

25.6.1.9.11.3
(10-01-2007)
**Social Security Act
(SSA)-Section 218**

- (1) Section 218 of the Social Security Act provides that the Social Security Administration and a State may enter into agreements to provide coverage for state and local employees. IRC 6511 (d)(5) provides a special period of limitations for claims for refund or credit of overpaid self-employment tax attributable to such agreements.
- (2) Claims are timely filed if they are filed on, or before, the last day of the second year after the calendar year in which the agreement was made.

Example: Taxpayer paid SECA Tax for tax years 1993– 1996. An agreement was signed June 12, 1997. The taxpayer has until December 31, 1999, to file claims for tax years 1993– 1996.

Example: Taxpayer paid SECA Tax for tax years 1994–1997. An agreement was signed June 12, 1998. Since December 31, 2000, was a Sunday and January 1, 2001, was a legal holiday, the taxpayer has until January 2, 2001, to file claims for tax years 1994-1997.

25.6.1.9.12
(10-02-2023)
**Statute Unpostable and
Reject Records**

- (1) This section provides general information, guidelines, and procedures regarding the Generalized Unpostable Framework (GUF) for processing Statute Unpostable cases in the Statute function.
- (2) Statute Unpostable and Reject Records are transaction items that have not posted to Master File due to a variety of reasons and the statute of limitations for assessing, refunding and/or collecting taxes is imminent or has expired.

25.6.1.9.12.1
(09-20-2016)
**Statute Unpostable and
Reject Records
Research**

- (1) To handle statute unpostable and reject records, you may need to reference other Internal Revenue Manuals (IRMs) such as:
 - IRM 3.12.32, General Unpostables
 - IRM 3.12.179, Individual Master File (IMF)Unpostable Resolution
 - See *IRM 3.12.166*, EPMF Unpostables
 - See *IRM 3.12.278*, Exempt Organization Unpostable Resolution

25.6.1.9.12.2
(10-03-2022)
**Statute Unpostable and
Reject Records
Procedures**

- (1) Generally, unapplied master file credits (i.e., credit amounts that can no longer be refunded to the taxpayer) are transferred to the Excess Collection File (XSF). Occasionally, between the time the credit condition is identified and the debit transaction code (TC) 820 addresses the module, the credit is reduced or eliminated entirely by other transfer actions. Under these conditions, the debit transactions will not post to MF and will be recorded as Unpostable Code (UPC) 175 Individual Master File (IMF) and 325 Business Master File (BMF).
- (2) The Unpostable function will not nullify these unpostable records but must reassign them to the statute examiner, who initiated the credit transfer, for further consideration.
- (3) Statute employees must request a transcript of the entire account **and** the documents which caused/absorbed the credit balance, in whole or in part.
 - a. If the refund or offset action appears to be correct, no other action is required. Return the document(s) to the Files Function.
 - b. If the credit was erroneously refunded, apply erroneous refund and recovery procedures.

- (4) Statute unpostable cases are unique in that the record often must be deleted from processing. When the record is deleted, statute tax examiners will:
 - a. Replace the document with a manual assessment
 - b. Refile the document because it was received after the Assessment Statute Expiration Date (ASED); or
 - c. Delete the document and report as a barred assessment.
- (5) The Unpostable function will route to Statute function unpostable cases with a UPC 197 and Reason Code 0, per IRM 3.12.179.95.1.3, UPC 197 RC 0 – Resolution Procedures for TC 150. The reason for this unpostable is due to a second return attempting to post on a tax module that already has a TC 150, and the return was on the retention register. The Assessment Statute Expiration Date (ASED) has already passed on the account. Statute tax examiner will do the following to resolve this unpostable:
 - a. Delete the unpostable record by inputting Unpostable Reason Code (URC) D and prepare Form 2859, Request for Quick or Prompt Assessment to manually assess the tax if a condition exist that will extend the ASED,
 - b. Delete the unpostable record by inputting URC 8 and refile the document because no condition exists to extend the ASED, and report as a barred assessment,
 - c. Delete the unpostable record by inputting URC D and process the second return to the correct tax year or tax period if your research shows that the return belongs on another tax year or tax period and no other return has posted or is pending to post, or
 - d. Delete the unpostable record by inputting URC 8 and refile the document if a return is already posted on the other tax year or tax period and the ASED has passed. Report as a barred assessment.
- (6) If unpostable code 350 is received in statute and it involves an Estate and Gift Tax or Excise Tax return issue, you should route case to the area based on tax document involved in the unpostable.
- (7) When working a Form 1040-A or Form 1040-EZ unpostable (**Doc code 207-210 only**) that needs to be reprocessed, and you would normally close as URC 8, you will now close URC 1. Refer to IRM 3.12.179.3.7, Form 1040-A and Form -1040-EZ DOC code 207-210, for additional procedures.

25.6.1.9.12.2.1
(10-02-2023)

Generalized Unpostable Framework (GUF)

- (1) Generalized Unpostable Framework (GUF) is an automated unpostable system which sorts the weekly unpostable records generally into three categories. If the record attempting to post is for a statute period and is a return (TC 150 or TC 976/977) which is within 60 days of the ASED, the document will unpost in:
 - a. Category 1 (C–1), (UPC's 150, 350, 750);
 - b. C–2, (UPC's 150, 350, 750 document code 54); or
 - c. C–3, Potential statutes and any Unpostable (UNP).

Note: A C–1 unpostable record may also include Questionable Refund Detection Team (QRDT) returns. If one is received, coordinate the resolution with Criminal Investigation (CI). If CI determines a C–1 case is a “Refund Mill”, reassign the case on IDRS “C1–QRDT.”

- (2) Statute employees will use the following Unpostable Reason Codes (URCs) for C–1 cases:

- URC 0—Allows the record to post as prepared.
- URC 1—Nullifies the unpostable record and places it in the control of Data Control.
- URC A and 6—Changes a TIN, name control, tax period, or date on the unpostable record.
- URC 8—Nullifies the unpostable record and places it under the control of Rejects. See Exhibit 25.6.1–1.
- URC D—Deletes an adjustment document. No further action is necessary by the preparer of the document. This URC can be used when deleting a document and preparing a Form 2859 to replace it.

(3) Statute employees will use the following URCs for C–2 cases:

- **URC 6**—Changes a TIN, name control, date or tax period on the unpostable record.
- **URC D**—Deletes an adjustment document. Use URC D when deleting a document and preparing a Form 2859 to replace it.
- **URC 8**—Delete the document and report as a barred assessment when the ASED is expired.

(4) Statute employees will use the following URCs for C–3 cases:

- **URC 0**—Allows the record to post as prepared.
- **URC 1**—Nullifies the unpostable record & places it in the control of data control.
- **URC 2**—Nullifies the unpostable and opens an IDRS control base to the preparer.
- **URC 6**—Changes various fields on the GUF records (TIN, name control, tax period, date etc.).
- **URC 8**—Nullifies the record from the GUF.
- **URC D**—Deletes the record from GUF. This URC is used on adjustment type documents when a quick assessment will be prepared.

(5) Form 4251, Return Charge Out, is systemically generated for each C–1 and C–2 case and is routed directly to the Files function. The Files function will fill the request and route the document/return to the Statute function. Statutes will take the following action(s) to complete the process:

- a. If the tax return has indications of Identity (ID) Theft, such as copies of police reports, Form 14039, Identity Theft Affidavit, copies of social security cards, passports, driver's licenses, notation of "IDT", notation of identity theft on Form 8948, Preparer Explanation for Not Filing Electronically, or a TC 971 Action Code 522, 501, or 506 on ENMODA/IMFOLE, use URC 0 to post the return as a TC 976.
- b. If the ASED is imminent and it becomes necessary to prepare a manual assessment, use URC D or 8 to remove the record from GUF.
- c. If the ASED is **not** imminent and the discrepancy can be determined, use URC 0, 5, 6 or A to correct the GUF record.
- d. If the ASED is **not** imminent and the correction **cannot** be made on GUF, use URC 8 and notify the Rejects function of the correction.
- e. Use Command Codes (CC) UPDIS to correct the GUF System. When CC UPDIS is input, the GUF screen displays CC UPRES. The correct URC is then entered on the screen by Statute employees assigned the case will enter the correct URC on CC UPRES.

25.6.1.9.12.2.2
(10-02-2023)

Bankruptcy Unpostables

- (1) See IRM 25.6.1.9.6.4, Bankruptcy Cases, if it is discovered that the statute tax module is affected by an open bankruptcy stay of assessment (TC 520).
- (2) If the expiration period is not imminent, the Master File Tax (MFT) is other than 01 (Form 941), and there is not a TC 150, the Unpostable function will input a TC 560 to compute the new ASED.

Note: If the “new” ASED does not allow sufficient time (less than 90 days) to post the assessment systemically using URC 0, the Unpostable function will route the case to the Statute function.

- (3) If during research, it is discovered that the module is affected by a bankruptcy, and no TC 521 is posted to Master File, Statutes must reassign the case to the Unpostable Function. The Unpostable Function will coordinate with the Insolvency Function to determine if the bankruptcy freeze should be reversed. Insolvency is responsible for taking action to input a TC 521, if needed. If a TC 521 is posted to Master File, coordinate the resolution with the Unpostable function.

25.6.1.9.12.2.3
(10-01-2013)

Unpostable Report (GUF 11–40)

- (1) This report is generated weekly and identifies new unpostable cases. Two copies of the report are produced.
 - a. The “working copy” is broken down by category code. The Statute function will get the “working copy” for the statute categories only from Control D themselves.
 - b. The “master copy” is retained in the Unpostable function.

25.6.1.9.12.2.4
(10-01-2001)

UP Employee Assignment/Aged Listing (55–40)

- (1) This listing is an inventory listing produced from the GUF to all open cases for each employee assignment number (campus, unit, or individual).
- (2) The Unpostable function will use this list to identify cases which did not initially meet STATUTE criteria, but the period is now approaching STATUTE criteria.

Note: If an unpostable is becoming statute imminent (90 days or less to post to Master File) and the document has not been secured from the Files function, the Unpostable function will immediately reassign the case to the Statute function.

- (3) Contact the Unpostable function to view different unpostable listings.

25.6.1.9.12.2.5
(10-01-2001)

Category E–2 Examination Statutes

- (1) Category E-2 criteria are as follows:
 - UPC 150, 350, or 750 and the document code is 47 (IMF/BMF/IRAF)
 - Master File Code “S” is present, the transaction code is 300 (additional assessment by the Examination function), the document code is 47 and UPC is 191.
- (2) All records in category E–2 will be assigned to the Examination function.

25.6.1.9.13
(01-28-2015)
Civil Penalties

- (1) Civil Penalties exist to encourage voluntary compliance by supporting the standards of behavior expected by the Internal Revenue Code. Although penalties support and encourage voluntary compliance, they also serve to bring additional revenues into the Treasury, impose remedial charges against taxpayers, and indirectly fund enforcement costs; however, these results are not reasons for creating or imposing penalties. Compliance is achieved when a taxpayer makes a good faith effort to meet the tax obligations defined by the Internal Revenue Code.
- (2) Civil Penalties (CVPN) are assessed or abated, on master file civil penalty modules (Master File Tax (MFT) 55 for Individual Master File (IMF) and MFT 13 for Business Master File (BMF)). A transaction code (TC) 150 (return filed) will never post to a civil penalty file. In addition to facilitating the assessment/abatement process, these procedures will allow for the tracking of assessment data through use of designated penalty reference numbers.
- (3) The Examination, Collection and Information Returns Processing (IRP) functions assess civil penalties. The penalties are assessed or abated with a three-digit Penalty Reference Number (PRN) for the type of penalty. A TC 240 (assessment) or TC 241 (abatement) posts with the PRN to the account. The PRN identifies the type of penalty as well as the function responsible for assessing the penalty.
- (4) The Statute function will receive unpostable records for only those penalty assessments that have specific statute barred dates and the statute of limitations will expire within 120 days.

Note: The Unpostable function resolves all other unpostable records.

- (5) Some freezes on civil penalty modules were built into the Accounts Maintenance (AM) program. AM/STAT, AM/ST/-X 09, and AM/ST/-X 11 transcripts identify unresolved conditions from the AM program under MFTs 13 or 55. The AM/ST/-X12 transcript is identified by the posting of a credit balance from any credit payment on MFT55/13 without a TC 240 civil penalty assessment on the module. The Statute function will receive and resolve these freezes on transcript cases identified as CVPN if the statute expiration is imminent.
- (6) A Statute Control Date (SCD) cannot be computed with a "normal" Assessment Statute Expiration Date (ASED) on CVPN transcript cases because the statute bar date depends on action or non-action by the taxpayer. A "dummy" ASED date is established for CVPN transcript cases.
- (7) See IRM 21.2.4.3.3.2, Civil Penalty Modules Processing, for additional information.

25.6.1.9.13.1
(07-29-2008)
Civil Penalty Research

- (1) To handle Civil Penalty tax modules, you may need to refer to other Internal Revenue Manuals (IRMs) and Internal Revenue Code (IRC) such as:
 - IRM 21.2.4, Master File Accounts Maintenance
 - IRM 20.1, Penalty Handbook
 - IRC 6652, Failure to File Certain Information Returns, Registration Statements, etc.
 - IRC 6652(f), Returns Required under 6039C registration statement, etc.
 - IRC 6679, Failure to File Returns, etc., with respect to foreign corporations or foreign partnerships

- IRC 6686, Failure to File Returns or Supply Information by DISC or Former FSC
- IRC 6694(a), Understatements Due to Unrealistic Positions
- IRC 6695, Other Assessable Penalties with Respect to the Preparation of Income Tax Returns for Other Persons
- IRC 6702, Frivolous Tax Submission
- IRC 6707, Failure to Furnish Information Regarding Tax Shelters
- IRC 6707A, Failure to Include Reportable Transaction Information with Return Regarding Tax Shelters

25.6.1.9.13.2
(06-24-2022)

Civil Penalty Procedures

- (1) The Omnibus Budget Reconciliation Act (OBRA) of 1989 consolidated and re-numbered several IRC provisions containing penalties relating to information shown on or omitted from the return. The proscribed conduct is now addressed in IRC 6662 under the Accuracy-Related Penalty. See IRM 20.1.5.2, Return-Related Penalties, for a list of the penalties. The accuracy-related penalties are assessed with PRNs 680, 681, 683, and 786-792. See IRM 20.1.5.4.2, Penalty Assessments and Abatements, IRM 20.1.1-5, Penalty Reference Numbers (600 Series), and IRM 20.1.1-6, Penalty Reference Numbers (700 Series). The Accuracy Related Penalty is assessed on the Masterfile Tax Period (MFT) for the tax period, instead of the civil penalty module.

Note: The civil fraud penalty was also renumbered as IRC 6663 by OBRA 89 and made applicable only to return-related conduct. See IRM 20.1.5.16, IRC 6663, Civil Fraud Penalty, for more information. An increase to the penalty for a fraudulent failure to file was enacted at IRC 6651(f).

- (2) The examining officer in the area office will determine the SCD for civil penalty assessments under the following codes :

- IRC 6652
- IRC 6652(f)
- IRC 6679
- IRC 6686
- IRC 6694(a)
- IRC 6695
- IRC 6695A
- IRC 6702
- IRC 6707
- IRC 6707A

- (3) For a valid Penalty Reference number (PRN) for any of the penalties listed above, please refer to the current revision of Form 8278, Assessment and Abatement of Miscellaneous Civil Penalties.

Note: The Unpostable function will correct unpostable documents where there is no statute issue involved.

- (4) A taxpayer may voluntarily pay the penalty imposed by IRC 6723 for failure to provide a Taxpayer Identification Number (TIN). If a case is referred to the Statute function with an imminent statute, you must do the following:

1. Prepare Form 5734 to assess the payment amount using TC 200 in item 9 to indicate a penalty assessment.
2. Staple the source document to the case file.
3. Route to the Non-Master File (NMF) Accounting Function.

25.6.1.9.13.3
(10-01-2021)
**The Period of
Assessment**

- (1) In general, the delinquency penalties, the accuracy-related penalty and information reporting penalties are assessed, collected, and paid in the same manner as taxes pursuant to IRC 6665(a) and IRC 6671(a). The general rules for determining the period for assessment are provided at IRM 25.6.1.9, Assessments, and the guidance for when a return is filed can be found at IRM 25.6.1.6.15, When a Document is Treated as Filed Under the IRC.

Note: The IRS is not required to make a separate assessment of the accruals on the IRC 6651(a)(2) and IRC 6651(a)(3) delinquency penalties to collect the accruals. See *United States v. Krasnow*, 548 F. Supp. 686 (S.D.N.Y. 1982) (involving collection action to collect accruals for the addition to tax under IRC 6651(a)(3)). These penalties cannot be given full effect if the IRS were required to assess within three years from the filing of the tax return because they can accrue over a 50-month period. The penalty accruing cannot exceed 25 percent in the aggregate.

- (2) The Preparer Penalties under IRC 6694(a) or IRC 6695 may be assessed within three years after the filing of the return or claim for refund with respect to which the penalty is assessed. There is no period of limitations regarding a willful attempt to understate tax or a reckless or intentional disregard of the rules or regulations under IRC 6694(b). See IRC 6696 (d).
- (3) Promoter Penalties are penalties for promoting abusive tax shelters under IRC 6700 or abetting an understatement of tax liability under IRC 6701 may be assessed at any time because they do not relate to a return. See IRC 6703(b).

25.6.1.9.13.4
(11-15-2007)
**Resolution-CVPN
STAT/AM-X Transcripts**

- (1) Civil Penalty STAT transcripts are extracted using the minimum amount of time until the ASER. The “dummy” ASER date established for civil penalty accounts is 2 years and 6 months from the date of the control DLN in the module.
- (2) You will request a hard copy MFTRA transcript for all civil penalty cases (complete entity and all active modules). You must establish a civil penalty name line by using Form 2363 and TC 013, if the master file name line of the taxpayer being assessed is joint. DO NOT change the name line of the MFT 30 account.
- (3) A Master File (MF) entity must be established using Form 2363 for MFT 13 or 55, if MFTRA shows no record.

Note: Each campus will establish local procedures with the Entity function to accomplish the establishment of entities described above.

- (4) The Trust Fund Recovery Penalty Cases under IRC 6672 (the 100% penalty) are processed in the Compliance Service Collection Operation (CSCO). The Statute function will route any Trust Fund Recovery Penalty cases received to CSCO.
- (5) If there is a TC 240 in the account and research does not result in resolution, contact the area responsible for assessing the penalty for assistance in resolving the condition. If unable to determine the area responsible for assessing the penalty, **and** all other efforts have been exhausted to determine where the credit belongs, transfer the credit(s) to XSF as indicated in this IRM and IRM 3.17.220, Excess Collection File.

- (6) If there are multiple penalties in the account, contact the area responsible for the last assessed penalty. (A TC 240 in a 59 blocking series indicates a systematically (computer) generated IRP civil penalty).
- (7) If there is credit and no TC 240 on the account module, see the procedures in IRM 21.2.4.3.3.2, Civil Penalties Module Processing for resolution.
- (8) If the Civil Penalty transcript is a STAT-01 caused by an unreversed TC 360, the procedures to resolve this type of transcript is found in IRM 21.2.4.3.32, Debit Balance, No Return (01-X).

25.6.1.9.14
(10-01-2019)
**Protective Manual
Assessments (PMA)**

- (1) Use PMA processing procedures on Statute of Limitation cases where time does not permit normal research for statute clearance of original delinquent returns or other types of Accounts Management statute transcripts and amended returns.
- (2) Prepare Form 2859, Request for Quick or Prompt Assessment. Write "PMA" across top of Form 2859 in "red" and route it to the Accounting function. Establish local procedures on how these cases will be identified as PMA, e.g., red folders.

Note: If applicable, penalty and interest should be computed in addition to the tax to the 23C Date of the PMA.

- (3) When preparing Form 2859, assess necessary interest to the 23C Date.
 - a. If the PMA is to be assessed in full, do not adjust the interest. Input TC 190 for zero to restrict the interest. When the notice posts, the computer will assess the accruals to the posting date.
 - b. If partially abating PMA and the interest is not restricted, then it will automatically be reduced, when tax or penalties are reduced.

Note: By not assessing on IDRS, it will eliminate unnecessary "-I" freezes.

- c. If a TC 340 is required, do not assess interest on the PMA, instead update IDRS when assessing the PMA.
- (4) If there is not an existing IDRS control (e.g., transcript control), open an IDRS control base with status "S", suspense monitoring status, to indicate a PMA was sent to accounting. Input the IDRS activity with the PMA amount, (e.g., PNDAXXXXXX). Replace X, with the PMA amount. If there is an existing control base, update the IDRS control as directed above.
- (5) Advise Accounting function to delay assessment notices and transfer of account to the master file until the assessment is determined to be correct. The notification should never exceed 45 days from the date of the Form 2859.
- (6) If the assessment is substantiated, prepare a two-way memo with documentation attached and route to the Accounting function with a "copy". Be sure "Copy" is reflected on the Form 2859 of the original Form 2859. Close the IDRS control base to reflect the PMA is allowed. (e.g., PMAXXXXXX), replacing X with the PMA amount.
- (7) If full abatement is necessary, prepare Form 1331-B and route it to the Accounting function with a two-way memo and a "copy" of the original Form

2859. See the Accounting IRM 3.17.244.5.4, **Statute of Limitations Expiration Cases (Protective Manual Assessments (PMAs))**.

- (8) If the assessments are not abated or substantiated, the Accounting function must follow up with the originator for a determination. This will ensure that statutory notices required on certain types of assessments are issued to the taxpayers within 60 days of the date of the assessment (IRC 6303).
- (9) Refer to IRM 3.17.244, Manual Assessments, for processing Quick, Prompt, and Jeopardy Assessments.

25.6.1.9.14.1
(09-29-2015)
**Other Area Protective
Manual Assessment
(PMA)**

- (1) The other functional areas preparing the manual assessment must decide if the assessment is "Agreed" or "Unagreed" according to IRS's financial definition. These PMAs are usually IRS initiated assessments. Input one of the following in the remarks section of Form 2859:
 - Agreed Prompt
 - Unagreed Prompt
 - Agreed Other
 - Unagreed Other
 - Agreed Exam
 - Unagreed Exam
 - Appeals Assessment (not always agreed)
 - CAWR/FUTA
- (2) AGREED Assessments are as follows:
 - Taxpayer (TP) agrees to the assessment
 - The courts have ruled the amount is owed and the entered tax court decision also includes IRC 6213 waiver paragraph (usually included on page 2 of the decision)
 - Voluntary filed returns
 - TP agreed to pay through an installment plan
 - TP agrees to SFR assessment
- (3) UNAGREED Assessments are as follows:
 - TP does not respond to a proposed assessment
 - TP does not agree to the assessment
 - TP does not agree to SFR assessment
 - TP does not file an appeal to the Court of Appeals after an entered tax court decision without an IRC 6213 waiver paragraph appeal period expires (90+10 days from the decision entered date)
- (4) See IRM 3.17.46, Automated Non-Master File Accounting, for further information.

25.6.1.9.15
(10-05-2011)
**Assessment Tolerance
Level**

- (1) Do not prepare a barred assessment report if the tax assessment was not processed timely and the amount to be assessed is below the established tolerance level for your case type. Use Command Code (CC) FRM 77 to input Transaction Code (TC) 971 with Action Code (AC) 90 on IDRS for IMF and BMF account to identify under tolerance cases.

Note: Other functional areas should not take any further action on this type of case unless verified with Statutes.

25.6.1.10
(11-18-2011)

Claims, Abatements and Refunds

- (2) Input a TC 290 for zero amount using the appropriate blocking series and close your control base on IDRS after the above action is completed.
- (1) This section provides instructions for processing claims for credit or refund, request for abatements and non-tax claims.
- (2) To answer technical tax law questions, refer to individual tax law publications and the Internal Revenue Code (IRC) and the information provided in this section and the following provisions, which provide guidance or the rules for calculating the general period of limitations for claiming credit or refund:
- IRM 25.6.1.6.14, Criteria for Establishing a Statute of Limitations Period
 - IRM 25.6.1.6.15, When a Document Is Treated As Filed Under the IRC
 - IRM 25.6.1.7.2, Time When Payments and Credits are Considered to be Made
- (3) To handle claims, abatement requests and non-tax claims you may need to refer to the following Internal Revenue Manuals (IRMs):
- IRM 21.5.1, General Adjustments
 - IRM 21.5.2, Adjustment Guidelines
 - IRM 21.5.3, General Claims Procedures
 - IRM 21.5.6, Freeze Codes
 - IRM 21.5.9, Carrybacks
 - IRM 25.6.1, Statute of Limitations Process and Procedures
- (4) You may also need to refer to the following IRCs :
- IRC 6407, Date of Allowance of Refund or Credit
 - IRC 6511, Limitations on Credit or Refund
 - IRC 6513, Time Return Deemed Filed and Tax Considered Paid

25.6.1.10.1
(10-02-2023)

Requests for Abatement

- (1) In general, a taxpayer may request an abatement using Form 843, Claim for Refund and Request for Abatement. IRC 6404(b) provides that taxpayers have no right to file a claim for abatement of income, estate, or gift tax. A taxpayer may, however, request an abatement of an assessment of employment tax which is excessive or was illegally or erroneously assessed. The following is a list of some of the other items for which a taxpayer may request an abatement:
- Abatement of interest relating to income, estate, gift, generation-skipping, and certain excise taxes whose accrual is attributable to any unreasonable error or delay in performing a ministerial or managerial act as stated in IRC 6404(e).
 - Abatement of any penalty or addition to tax (but not the tax) attributable to erroneous written advice from the IRS pursuant to a specific written request and on which the taxpayer reasonably relied upon as stated in IRC 6404(f).
 - Abatement of penalty or interest for any taxpayer granted relief because of a federally declared disaster, significant fire, or terroristic or military action as stated in IRC 7508A(a)(2).

- Abatement of a “math error” assessment (any reassessment must use the deficiency procedures) as stated in IRC 6213(b)(2).
- Application of net rate interest netting on overlapping tax underpayments and overpayments under Rev. Proc. 2000–26, 2000–1 C.B. 1257 as stated in IRC 6621(d).
- Removal of penalties under the Post-Assessment Penalty Appeal process. See IRM 8.11.4, Penalty Appeals (PENAP) Program.

- (2) Although IRC 6404(b) provides that taxpayers have no right to file a claim for abatement of income, estate, or gift tax, the IRS will consider a taxpayer’s request for an abatement of such taxes where the taxpayer files an amended return with the IRS that shows a decrease in the tax that was assessed.

Note: If an amended return is received either before or after the ASED requesting an abatement of tax and there are conditions which meet Examination criteria, you must send to Exam for review before making the abatement. See Exhibit 21.5.3-1, Claim Processing with Examination Involvement, for more information.

- (3) A taxpayer may label a filing as a request for an abatement, but the filing may also include a request for the return of a paid assessment (i.e., a claim for credit or refund). The claim for credit or refund of an overpayment is subject to the requirements of IRC 6511. The period of limitations for filing a claim must be open and the amount of the credit or refund is limited by the lookback limitation per the 2- or 3-year rule.

25.6.1.10.1.1
(04-26-2023)

Abatement Authority

- (1) An abatement is the reduction or elimination of an assessment. There are several circumstances when a taxpayer may request an abatement. The authority for the IRS to make abatements comes from IRC 6404.
- (2) IRC 6404 provides the general abatement authority for the IRS.
- a. IRC 6404(a) permits the IRS to abate the unpaid portion of an assessment of any tax or any liability that is excessive in amount, was assessed after the expiration of the period of limitation or was erroneously or illegally assessed. This includes an assessment made after the expiration of the ASED. See IRM 1.2.1.4.15, **Policy Statement 3-15 (Formerly P-2-89), Reconsideration of an Unpaid Assessment**, which clarifies when the IRS will reconsider an unpaid assessment.
 - b. IRC 6404(c) permits the IRS to abate the unpaid portion of a small tax balance when it determines under uniform rules provided by the Secretary that the administration and collection costs involved would not warrant collection of the liability.

Note: IRC 6404(e) and (f) provide for the abatement of interest or penalties in certain specified situations.

- (3) The decision to abate or not abate should include a finding that the explanation or documentation to support the request for abatement is sufficient or insufficient. If Examination criteria applies and the request for abatement contains an explanation or documentation supporting the adjustment, forward the request to CAT-A Exam for classification (see Exhibit 21.5.3-1).
- (4) If you are unable to verify documentation to abate the balance due amount, you can send the taxpayer a 916C (no consideration) letter requesting full

payment of the amount owed and instruct the taxpayer to file a claim for refund with all supporting documents. Do not send a disallowance letter on these types of cases. Do not deny a request for abatement solely because the tax has not been paid.

- (5) If a case has been referred to the Department of Justice, a litigation freeze code, "TC 520," is placed on the taxpayer's account to prevent the IRS from taking any unauthorized action on the account. When a freeze code is in place on the account, IRS personnel are instructed to take no action on the account without first contacting the "litigation contact" and getting appropriate authorization. IRM 25.6.1.10.2.1.1.2, Unauthorized Abatements Made After Referral to the Department of Justice.

Note: The IRS can process and apply any payments or credits that are made by a taxpayer after a liability has been referred to the Department of Justice.

- (6) An abatement should not be made of any paid portion of an assessment for which a refund cannot be made. IRC 6511 (a) provides that a claim for credit or refund must be filed within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever is later. IRC 6511(b) limits the amount of the credit or refund to the amount paid within the 2- or 3-year period before the date of a claim. See IRM 25.6.1.10.2.7, Claims for Credit or Refund – General Time Period for Submitting a Claim, for information to identify the 3-year period for refund for tax year 2019 and 2020 per Notice 2023-21.
 - a. If the entire claim for credit or refund is non-refundable due to the Refund Statute Expiration Date (RSED) passing, do not input a correction to create an overpayment. Input a TC 29X for zero with Blocking Series 98/99, and send the taxpayer Letter 105C, Claim Disallowed-Full.
 - b. If the taxpayer is entitled to a partial credit or refund, you must input the tax decrease that will generate only partial credit or refund, and send the taxpayer Letter 106C, Claim Disallowed-Partial for the amount barred from crediting or refunding.
 - c. If the claim for refund is fully allowable, input the tax adjustment to create the overpayment. A manual refund must be input if the normal 3-year period for refund has expired.
- (7) Penalties and interest should not be abated on a full paid account if the overpayment created is barred from refunding because the RSED has passed, and no condition exists that will extend the refund period. Input a TC 29X for zero with Blocking Series 98/99 and send the taxpayer a disallowance letter as stated in paragraph (6) above. This is true even if the taxpayer's claim for penalty abatement is based on reasonable cause.
- (8) Employees must not release credit balances for refund or offset where a Substitute For Return (SFR) assessment is on an account. SFR adjustments are input with a Hold Code 4. The hold code freezes the credit from refunding or offsetting and will cause an AM05, ST08 or AM-X05 Transcript to generate for review.

25.6.1.10.1.2
(11-18-2011)

**Abatement After the
Assessment Statute
Expiration Date (ASED)**

- (1) Although an abatement (tax, penalty, or interest) may be made before or after the ASED, the tax cannot be reassessed if it is determined that the tax decrease was erroneous after the ASED has expired. IRM 25.6.1.10.2, Erroneous Abatement, for more information. Therefore, it may be necessary to consider the ASED in determining whether it is appropriate to exercise the IRS'

abatement authority, or to require the taxpayer to pay the assessed tax in full and file a claim for refund or petition the Tax Court with respect to a final notice of determination.

25.6.1.10.2
(11-18-2011)
Erroneous Abatement

- (1) An erroneous abatement is an abatement of tax that is later determined to have been made in error, either because the information provided by the taxpayer did not justify the tax abatement or because the IRS lacked the authority to make the tax abatement.
- (2) It is important to understand the context of the erroneous abatement because this will likely dictate how the IRS can proceed. In some instances, the amount abated can be reversed but otherwise it must be reassessed.

25.6.1.10.2.1
(11-18-2011)
Corrective Action for an Erroneous Abatement

- (1) The context of the erroneous abatement will dictate the corrective action required. The general rule is that when an assessment is abated and the IRS later decides that its decision to abate was incorrect, the IRS must make a new assessment. There are, however, three exceptions to this general rule where an erroneous abatement can be reversed and a new assessment is not required. Reversal of an erroneous abatement is accomplished by the responsible Statute and Originating Functions. IRM 25.6.1.10.2.2, Controlling Erroneous Abatement Cases, for all cases involving erroneous abatements where reversal is not authorized because the information provided by the taxpayer did not justify the tax abatement. The account correction is handled by Exam, if the ASED has not expired.

Caution: Where an erroneous abatement results in an erroneous refund, additional rules may govern the corrective actions required of the IRS. In these cases, refer also to IRM 21.4.5, Erroneous Refunds and IRM 25.6.1.10.2.3, Remedies for Recovering an Erroneous Refund.

- (2) The first step is to determine whether the erroneous abatement can be reversed. Reversal is only appropriate in three circumstances, where the erroneous abatement was based on a clerical error, was an unauthorized post-referral abatement, or was due to a collectability determination made following a bankruptcy discharge. For more information on reversal of erroneous abatements IRM 25.6.1.10.2.1.1, Reversal of Erroneous Abatements.
- (3) If the erroneous abatement cannot be reversed, the next step is to determine whether it can be reassessed. In order to be reassessed, the amount abated must be greater than the tolerance level and the new assessment must occur before the ASED expires. For specific instructions, IRM 25.6.1.10.2.2.1, Correction of Erroneous Abatements by Exam Function.
- (4) If the erroneous abatement cannot be reversed or reassessed certain administrative steps must be followed, including the preparation of a Barred Assessment Report on Form 9355, Barred Statute Report. For specific instructions, IRM 25.6.1.10.2.2.1, Correction of Erroneous Abatements by Exam Function.

25.6.1.10.2.1.1
(10-01-2021)
Reversal of Erroneous Abatement

- (1) Erroneous abatements can be reversed in limited circumstances. In these cases, new assessments are unnecessary. Reversal is appropriate only in the following circumstances:
 - Clerical errors

- Unauthorized abatements made after referral to the Department of Justice
- Abatements due to bankruptcy discharges

Note: IRM 25.6.1.10.2.3, Remedies for Recovering an Erroneous Refund, for instructions on how to collect a balance due that results from the reversal of an erroneous abatement.

25.6.1.10.2.1.1.1
(11-18-2011)

Clerical Errors

- (1) A clerical error is a change to an assessment that is not based on an adjustment in the tax liability. Examples of a clerical error are:
 - a. An input document is misread or a keypunch error is made, e.g., misreading an input document with a disallowance of a deduction to be an allowance or keypunching a \$15,000 abatement instead of a \$1,500 abatement.
 - b. An abatement is entered for the wrong tax year, wrong tax type, or wrong taxpayer based on a misreading of input documents or a keypunch error.
- (2) In general, an erroneous abatement due to a clerical error may be reversed before or after the ASER unless the taxpayer would be prejudiced by the reversal. See *Crompton-Richmond Co. v. United States* 311 F. Supp. 1184, (S.D.N.Y. 1970); *Bugge v. United States*, 99 F.3d 740 (5th Cir. 1996).
- (3) Where clerical error abatement results in an erroneous refund and cannot be reversed, the IRS is limited to the following methods for collecting the erroneous refund: erroneous refund suit, refund offset or voluntary repayment. See IRM 21.4.5, Erroneous Refunds and IRM 25.6.1.10.2.3, Remedies for Recovering and Erroneous Refund.

25.6.1.10.2.1.1.2
(11-18-2011)

**Unauthorized
Abatements Made After
Referral to the
Department of Justice**

- (1) Any abatement of an unpaid tax made by the IRS for a liability that has been referred to the Department of Justice must be authorized by the Department of Justice or it will be void. Because an unauthorized post-referral abatement is void, it can be reversed and the original assessment remains valid.
- (2) Following the referral of a case to the Department of Justice, the Department of Justice has the exclusive authority to make and approve adjustments to the referred liabilities. Title 28 of the United States Code and Executive Order 6166 provide that the conduct and control of all federal tax litigation, except in the Tax Court, is vested in the Department of Justice. In addition to Title 28 and the Executive Order, IRC 7122(a) gives the Attorney General the exclusive authority to compromise a case arising under the Internal Revenue Code after referral to the Department of Justice for prosecution or defense.
- (3) After a case has been referred to the Department of Justice, a litigation freeze code, "TC 520" is placed on the taxpayer's account to prevent the IRS from taking any unauthorized action on the account. When a freeze code is in place on the account, IRS personnel are instructed to take no action on the account without first contacting the "litigation contact" and getting appropriate authorization. Note: The IRS can process and apply any payments or credits that are made by a taxpayer after a liability has been referred to the Department of Justice
- (4) A Justice Department referral is considered to be in effect with respect to any tax liability once a suit letter or a defense letter is sent from the IRS to the Department of Justice. A referral remains in effect unless the Department of

Justice notifies the IRS in writing that the referral is terminated. Even if the Department of Justice has obtained a judgment for the tax liabilities and then returns the case to the IRS for collection, authority remains with the Department of Justice.

25.6.1.10.2.1.1.3
(11-18-2011)
**Abatements Due to
Bankruptcy Discharge**

- (1) Bankruptcy discharges do not extinguish the discharged tax liabilities. The IRS may, however, abate otherwise proper assessments against a taxpayer following a bankruptcy discharge, where the IRS determines that collection of the discharged tax is unlikely. Such an abatement is generally based on the factual assumption that the taxpayer has no assets or money to collect.
- (2) If collection of the discharged tax later becomes feasible within the applicable collections limitations period, certain abatements made because of the bankruptcy discharge may be reversed in order to reflect the taxpayer's liability once again on the IRS' books and account for the collection of the liability.
- (3) IRC 6404(c) authorizes abatement of a discharged tax liability. IRC 6404(c) permits the IRS to reduce assessments when the IRS determines that the administration and collection costs would not warrant collection of the amount due. Unlike a determination made under IRC 6404(a), a determination under IRC 6404(c) has nothing to do with the merits of a taxpayer's tax liability or the merits of an assessment. An IRC 6404(c) determination is a collection determination and is therefore reversible.

25.6.1.10.2.2
(11-18-2011)
**Controlling Erroneous
Abatement Cases**

- (1) For all cases involving erroneous abatements where reversal is not authorized, correction is handled by Exam. In general, with an erroneous abatement, the amount abated must be reassessed using the Examination deficiency procedures (route case to the Examination Operation) before the ASSED passes. If Examination cannot reassess the erroneous abatement because the ASSED has passed, you must prepare Form 9355, Barred Statute Report. IRM 25.6.1.13.2.4, Identifying Barred Statute Cases, for more information on barred cases. The overpayment created by the tax decrease must be moved to XSF. Statute function employees must never reassess the tax on this type of case.
- (2) For all cases requiring reversal of erroneous abatements, the Statute function is the "Centralized Control Point" between the function that made the erroneous abatement ("Originating Function") and Accounting. IRM 25.6.1.10.2.2.2, Correction of Erroneous Abatement Cases by Statute, for controlling such cases in Statute. IRM 25.6.1.10.2.3, Remedies for Recovering an Erroneous Refund, for an overview of the legal remedies for such cases. As the "Central Control Point" Statute will ensure corrective actions are taken on the case.
- (3) For cases involving erroneous abatements requiring reversal after the ASSED has passed, the Originating Function must initiate corrective action. IRM 25.6.1.10.2.2.3, Correction of Erroneous Abatement Cases by the Originating Function, concerning the preparation of Form 3465, Adjustment Request, and Form 12810, Account Transfer Request Checklist.

Note: If the Originating Function is an Area Office, Statute will initiate the corrective action.

25.6.1.10.2.2.1
(02-01-2019)

Correction of Erroneous Abatements by Exam Function

- (1) These procedures apply to all erroneous abatement cases where reversal would not be appropriate. Reversal of an erroneous abatement is only appropriate when there is a clerical error, a post-referral erroneous abatement, or when there was an abatement due to a bankruptcy discharge.

Note: For cases where the erroneous abatement resulted in an erroneous refund, refer to IRM 21.4.5, Erroneous Refunds, for additional instructions on the corrective actions required.

- (2) The tax liability erroneously abated must be reassessed before the ASER (by use of the Examination Operation procedures for the underlying tax including where applicable, the deficiency procedures) in order to collect any balance due that would result after correcting the erroneous tax abatement. "Statute Employees" do not have the authority to reassess the erroneous abatement even if the overpayment created is still on the account.

Note: For BMF Employment Tax Returns only, the statute employee can reassess the erroneous tax abatement without referring the case for reassessment of tax to Examination Operation.

- (3) Once the tax has been reassessed, normal administrative collection procedures apply, and any erroneous refund can be recovered within the Collection Statute. See IRC 6502 or IRM 25.6.1.12, Collection Statute Expiration Date (CSED).
- (4) Additionally, an erroneous refund can be recovered by an erroneous refund suit, refund offset or voluntary repayment. See IRM 21.4.5, Erroneous Refunds.
- (5) If the Examination Operation cannot reassess the tax because it is below the tolerance level required for assessment or the ASER has passed and the overpayment credit is still on the account, you must do the following 4 things:
- Send the overpayment credit to the Excess Collection File (XSF).
 - Input a Transaction Code (TC) 29X for zero using Blocking Series 98/99 and send a disallowance letter (105C).
 - Prepare Form 9355, Barred Statute Report, if the abatements are above the tolerance level. IRM 25.6.1.13.2.4, Identifying Barred Statute Cases, for erroneous abatements tolerance level.
 - Input transaction code (TC) 971 action code (AC) 90 on IDRS if the abatement does not meet the tolerance level. IRM 25.6.1.10.2.2.4, Tolerance Level, for erroneous abatements cases.
- (6) If you are making a correction to the tax liability after the ASER, you must not do the following:
- Collect any balance due. Any balance due that would result after correcting the erroneous abatement may not be collected if the correction is not made until after the ASER.
 - Offset against a claim for credit or refund.

Exception: In situations where the request for credit or refund relates to the same taxpayer and same tax year as the adjustments for which the ASER has passed. Under these circumstances, the IRS may net out the amount requested with adjustments for which the ASER has passed.

See IRM 25.6.1.10.2.5.7, Offsetting the Amount of a Refund With a Time-barred Adjustment, for more information on offset of a time barred adjustment.

25.6.1.10.2.2.2
(09-20-2016)

Correction of Erroneous Abatement Cases by Statute

- (1) As the “Central Control Point” between an Originating Function and Accounting, the Statute team provides a tracking method to ensure that erroneous abatement (non-rebate) cases are being corrected. Statute will not review cases from other areas for accuracy, completion of case, etc.
- (2) Statute will determine the responsible function for an erroneously abated tax. You must manually control all “Erroneous Abatement” cases on IDRS and use Category Code “ERAB”.
- (3) When a case has been routed to the responsible function for corrective action, create and maintain a control on IDRS. Statute will control one and the Originating Function the other.
- (4) You must route the case via transmittal, Form 3210, Document Transmittal, to the Originating Function area. Statute will retain one copy of Form 3210. If the case is not returned to Statute within 30 calendar days, Statute employees must access IDRS to determine if it is controlled and being worked by the Originating Function. The manager of the Originating Function should be notified that the turn-around time has expired, and Statute has not received the case file (method of notification is optional in each campus).
- (5) The Originating Function will reassign their control base on IDRS to the control base assigned to Statute when the corrective action has been taken. The case will be routed to Statute via Form 3210. Statute will sign the Form 3210 reflecting date of receipt, check off case(s) by TIN, and return original Form 3210 to the Originating Function. Statute will update their control base at this time indicating the case has been sent to Accounting.
- (6) Statute will receive notification from Accounting Journal Unit when the Accounting action is completed.
- (7) Statute employees will review the tax module to ensure a TC 400 has posted to the master file when the Journal Unit notifies the Statute Team that action was taken to reverse the erroneous abatement and the taxpayer has been sent a copy of the reversal document.

Note: You must allow 45 days for Accounting to complete the action necessary to reverse the abatement. The statute examiner who has responsibility of the case must notify their manager if notification is not received within 45 days. The statute manager should notify Accounting of any delays.

- (8) Close your control base on IDRS once you receive notification from Accounting that all actions outlined above were taken.

25.6.1.10.2.2.3
(09-20-2016)

Correction of Erroneous Abatement Cases by the Originating Function

- (1) The originator of an erroneous abatement requiring reversal must initiate the corrective action whether or not assigned to Statute.
Exception: If the initiator is an employee in an Area Office, Statute will correct the erroneous abatement.

Note: The Originating Function is responsible for corrective actions on cases where the originator is no longer working in the area where the erroneous abatement occurred. This is regardless of whether the assessment statute has/has not expired.

(2) Employees who are responsible for correcting erroneous abatement cases must follow the instructions below on cases above the tolerance level where errors were made or discovered after the ASED had expired. IRM 25.6.1.10.2.2.4, Tolerance Level.

- a. Prepare Form 3465, Adjustment Request and Form 12810, Account Transfer Request Checklist. The Originating Function will prepare a Form 3465, and Form 12810, requesting Accounting to reverse the erroneous abatement using the date the assessment posted to MF of the prior tax assessment (i.e., TC 150, 290, 300). Multiple assessment dates must be addressed and included on Form 12810 if the erroneous abatement being reversed exceeds the prior tax assessment. Show the amount of erroneous abatement to be reversed. Enter the amount in red on Form 12810.
- b. Request Accounting to transfer the account to Non-Master File (NMF) using TC 400 procedures.
- c. Compute any penalty, addition to tax, and interest as if the erroneous abatement had never occurred.
- d. Enter taxpayer's name, address, TIN and all other pertinent information
- e. Enter in the Remarks area "Reversal of Erroneous Abatement-For NMF Processing".
- f. State on Form 12810 "Do Not Bill the Taxpayer" Circle this entry in red.
- g. Include a current MFTRA transcript print with your case.
- h. Prepare a credit transfer document(s), if appropriate.
- i. Prepare a 510C Letter to the taxpayer if a balance due results from the reversal. Compute penalty, addition to tax, and interest to the date of billing and provide the taxpayer with the balance due. In addition, include an explanation to the taxpayer.

Note: Do not send the letter at this time but include it with the case file. Accounting will send the letter and the bill to the taxpayer.

Note: Master File computer programming prevents the reversal of an abatement after the ASED.

(3) To handle such erroneous abatements you may need to reference:

- Integrated Data Retrieval System (IDRS)
- IRM 3.17.243.3, Reversal of Erroneous Abatements
- IRM 3.17.46.3.9, Reversing Erroneous Abatements

(4) The role of the Accounting Function after the ASED has expired is to reinstate the assessment on Non-Master File (NMF) using an automated accounting system and, if a balance remains on the account, bill the taxpayer pursuant to IRM 3.17.46.3.9, Reversing Erroneous Abatements. When the reinstatement must be made expeditiously, the Accounting Function will use IRM 3.17.243.3, Reversal of Erroneous Abatements.

(5) Memorandum document is sent to Accounting

- a. The Originating Function will prepare a memo to the Chief, Accounting Operation.
- b. The memo will set forth the conditions surrounding the erroneous abatement, the amount of tax considered still due, penalty, addition to tax, and interest, TIN, type of tax, and the tax period.
- c. The Operation Chief of the preparer of the memo must approve and sign the memo before it is routed to the Accounting Operation (through Statute for control purposes).
- d. Statute will “stamp” the memo in the lower right corner to show the case has been routed through Statute before being routed to the Accounting Operation.

(6) Missing Information or Incorrectly Prepared Cases-

- a. If required information is missing or case is incorrectly prepared, Accounting will route the case through Statute for control purposes before routing to the originator.
- b. Statute will “X” through the area on the memo which was previously “stamped” before routing to the originator. Do this in red. Statute will re-stamp the memo on all corrected cases.
- c. Returned cases indicated in (a) and (b) must be routed through the manager of the employee that caused the erroneous abatement.
- d. For control purposes, the manager of the employee must ensure the case is corrected and returned within 10 workdays to Statute. Statute will update control bases and then route the case to Accounting.

25.6.1.10.2.2.4
(11-18-2011)
Tolerance Level

has expired because the Originating Function did not take action due to the tolerance level.

#

Note: If an account is in credit balance for an under tolerance amount, you must transfer the amount to Excess Collection and follow procedures in (2) and (3) below. If an account is not in credit balance for an under tolerance amount, but payments have posted to the account for the tolerance amount, route the case to Accounting for reversal under normal procedures.

- (2) Use CC FRM77 to input TC 971 with Action Code (AC) 90 on IDRS for IMF and BMF accounts to identify under tolerance cases. If more than one account is involved, put the action above on each account.

Note: Other functional areas should not be taking further action on these cases unless first verifying with Statute.

- (3) Input TC 290 for zero amount using the appropriate blocking series and close your control base on IDRS after the above action is completed. Also, you must send a disallowance letter to the taxpayer because the taxpayer is not entitled to a refund.

25.6.1.10.2.3
(11-18-2011)
**Remedies for
Recovering an
Erroneous Refund**

- (1) You may need to reference the following:
 - IRM 21.4.5, Erroneous Refunds
 - IRM 3.17.80, Working and Monitoring Category D, Erroneous Refund Cases in Accounting Operations

- (2) In processing the recovery of refund, you must route all IMF Rebate Refund Cases to the Examination function for assessment before the ASER expires. For Non-Rebate Refund Cases, you should follow the procedures in IRM 21.4.5.4, depending on the type of clerical error in your case.

25.6.1.10.2.3.1
(11-18-2011)

Recovery of Assessable Erroneous Refunds

- (1) Recovery may be made by tax assessment procedures to the extent an erroneous refund results from an erroneous abatement due to a substantive redetermination of tax liability. The assessment may be recovered through tax collection procedures described above.

Note: The IRS would assess more than the amount of the erroneous refund if more was owed (e.g., interest, penalty, and etc.)

Note: An example of a substantive redetermination of a tax liability is when a taxpayer submits an amended return requesting a decrease in tax, which was allowed by the IRS without fully screening the return. The abatement of tax results in a reduction in the tax liability shown on the taxpayer's account even though the IRS fails to review or inadvertently fails to screen the entire return prior to the tax decrease.

- (2) Once the erroneous amount has been assessed, normal administrative collection procedures apply and the amount can be recovered within the Collection Statute. See IRC 6502 or IRM 25.6.1.12, Collection Statute Expiration Date (CSED).
- (3) Additionally, an erroneous refund that has been assessed can be recovered by an erroneous refund suit, refund offset or voluntary repayment. See IRM 21.4.5, Erroneous Refunds.

Caution: An Erroneous Abatement case must not be reassessed on Masterfile or Non-Masterfile after the ASER has expired. It would be an illegal assessment of a tax. (A reversal of an erroneous abatement is not considered a reassessment of tax.)

- (4) If an erroneous abatement has occurred due to a substantive redetermination of tax liability (Rebate Abatement) after the ASER has passed and the credit is still on the account, you must send the credit to the Excess Collection File (XSF) and not reassess it on the taxpayer's account. You must prepare a barred assessment report (i.e., Form 9355 Barred Statute Report) because the assessment cannot be legally reversed on the taxpayer's account.

25.6.1.10.2.3.2
(11-18-2011)

Recovery of Unassessable Erroneous Refunds

- (1) This section generally involves "double" refunds made to a taxpayer or a refund made to the wrong party. For additional examples of unassessable erroneous refunds, See IRM 21.4.5.5.5, Overview of Category D Erroneous Refunds.
- (2) Unassessable erroneous refunds can be recovered by an erroneous refund suit, refund offset or voluntary repayment. See IRM 21.4.5.15, Collection Methods for Category D Erroneous Refunds. Administrative collection actions such as the issuance of a lien or a levy cannot be taken.

25.6.1.10.2.4
(11-18-2011)

**Overstated Estimated
Tax or Withholding
Credits**

- (1) You may need to reference IRM 21.4.5, Erroneous Refunds, (see Category “B” Erroneous Refunds).
- (2) Taxpayer’s account overstates the amount of Estimated Tax Credits (ES) or Withholding (WH) Credits, and the overstated amount was allowed against the tax reported on the return, then the overstated amount of ES or WH Credits will be assessed as an amount due on the taxpayer’s account, just like an assessment made for a math error. You must input a TC 29X for the ES or WH overstated amount and use reason code for ES or WH on your adjustment without reference number. Unlike the math error, the taxpayer may not request an abatement of the assessment and any balance due may be assessed per IRC 6201(a)(3). With respect to overstated ES or WH credits, you are allowed to reverse these credits after the ASED expires. However, you must not reverse other prepaid credits (i.e., EIC, Additional Child Tax Credit (ACTC) after the ASED expires). You must not make an adjustment to reduce the amount of EIC or Additional Child Tax Credits after the ASED expires because it will create a negative tax amount per IRC 6211(b)(4)(B). If you allow any of the other prepaid credits after the ASED, the credit must be applied to the Excess Collection File, and a 105C, Claim Disallowance letter must be sent to the taxpayer with appeal rights.
- (3) A refund based on overstated credits may be recovered by a civil suit. IRM 25.6.1.10.2.3.1, Recovery of Assessable Erroneous Refunds, for more information on this type of refund recovery.
- (4) If the overstated ES or WH credits are discovered before a refund is issued, the overstated credits should be assessed rather than “reversed” on the taxpayer’s account on Master File, unless a notice regarding the disallowance of the claim for refund based on the overstated credits is sent by certified or registered mail. See IRC 6532 (a)(1).

25.6.1.10.2.5
(05-17-2004)

**Claims for Credit or
Refund - Processing
Directions**

- (1) This section provides procedures for processing claims for credit or refund.

25.6.1.10.2.5.1
(10-02-2023)

**Statute Year Amended
Returns Requesting a
Credit, Tax Decrease, or
No Tax Change**

- (1) Amended returns reflecting a decrease in tax are generally processed following the procedures in IRM 21.5, Account Resolution, with reference to the guidance provided by IRM 21.6, Individual Tax Returns, and IRM 21.7, Business Tax Returns and Non-Master File Accounts.
- (2) Submission Processing (SP) at the two IMF SP Campuses (Kansas City and Austin) work claims for credit, refund and no tax change on statute year amended tax returns. BMF Campuses (SP) work BMF claims for credit, refund and no tax change statute year amended tax returns. All statute year returns 2020 and prior will be forwarded to the statute team for assessment screening. On claims for credit, refund and no tax change, the statute team employee will stamp the document as “No Statute Issue” and forward the amended returns to SP following local procedures (no cover sheet required). SP will follow the procedures in IRM 3.11.6.7, Processing Form 1040X Using IDRS for Input of Adjustment and IRM 3.11.6.15, 1040X Routing Guide, for forwarding amended return cases to Accounts Management that meet Adjustments Function Criteria (AFC) at the three campuses stated above. The Accounts Management/ Adjustment Function will continue to process amended returns from the other

statute campuses indicating a tax decrease where the Refund Statute Expiration Date (RSED) is imminent/expired. If a timely amended return or an untimely amended return claiming a decrease in tax is received in statute for processing, the statute employee will stamp the document as "No Statute Issue" and return it to the originator or forward it to Accounts Management/Adjustment for resolution. Exhibit 25.6.1-2., Form 1040 Extended RSED, for more information.

- (3) If a timely claim for a tax decrease is referred to the Statute function for review and research shows an unreversed TC 420 (Examination Indicator) or 424 (Examination Request Indicator), you must:
 - a. Stamp the claim timely.
 - b. Enter your employee number and current date.
 - c. Route the claim back to the originator.
- (4) If an untimely claim for refund is referred to the Statute function for review and research indicates an unreversed TC 420 or 424, forward the claim to the Examination function.
- (5) Employees must not release credit balances for refund or offsets where a Substitute For Return (SFR) assessment is on an account. SFR adjustments are input with a Hold Code 4. The hold code freezes the credit from refunding or offsetting and will cause a transcript to generate (i.e., AM05, ST05 or AMX-05, etc.) for review.
- (6) On carryover of a Net Operating Loss (NOL) or a Net Capital Loss:
 - a. The Statute function will request technical assistance or forward the case to Examination on all carryback or carryforward claims.
 - b. The Accounts Management/Adjustment Function must resolve Form 1040X or 1120X cases filed for a carryback if it involves a two-part adjustment for credit/refund and at least one part is for a statute expired period that does not involve a carryback. See IRM 21.5.9, Carrybacks, for carryback claim processing.
 - c. IRM 25.6.1.10.2.8.1, Net Operating Loss (NOL) Carryback or Capital Loss Carryback, for the special period of limitations for carrybacks of a NOL or a Net Capital Loss provided by IRC 6511 (d)(2).
- (7) Injured spouses may file Form 8379 within the normal RSED timeframes for filing a claim for refund. So, when a joint return was timely filed, the non-debtor spouse generally has three years from the return due date to make his/her injured spouse claim. For additional information on tax refund due to an injured spouse claim, see IRM 21.4.6.5.8.10, Time Period for Submitting Form 8379.

25.6.1.10.2.5.1.1
(09-20-2016)

Appeals Determinations

- (1) When Appeals requests that the Statute team clear a payment currently located in the Excess Collection File for credit or refund to the taxpayer, the following information is required with the requested document:
 - a. A written statement that sufficiently explains why the limitation period that allows amount to be credited or refunded is open.
 - b. If the limitations period was suspended or extended, Appeals should include a statement that identifies when the suspension or extension period began and when it ended, and state why the limitations period was suspended or extended.

Example: If the limitations period is suspended under IRC 6511 (h) due to a financial disability of the taxpayer, Appeals should state when the disability began, whether it is ongoing, or when it ceased. The Statute team cannot request or review the proof Appeals relied on to determine that a rule applies that kept the period of limitations for claiming a credit or refund open, the quantity and quality of proof is a matter solely within the discretion of Appeals.

- (2) In Collection Due Process cases under IRC 6320 or IRC 6330 in which Appeals considers the underlying tax liability, Appeals may determine that the taxpayer made an overpayment. If Appeals asks the Statute team to approve a credit or refund, the procedures stated in paragraph (1) above, will apply.
- (3) If the taxpayer appeals 105C or 106C Disallowance Letter and the Office of Appeals finds that the claim was timely filed, Appeals will return to Accounts Management for processing as a timely filed claim for refund. See IRM 8.7.7.15, Claims Disallowed by Compliance Based on Timeliness Determinations for more information.

25.6.1.10.2.5.2
(10-02-2023)

**Submission of
Additional Information
Necessary to Make a
Determination on the
Claim After the Refund
Statute Expiration Date
(RSED)**

- (1) If a claim was received before the RSED, additional information was requested to process the claim and the taxpayer submits the information after the RSED but within 45 days of the IRS request, then allow the claim. Use a response date that reflects local experience with late responses and misrouted mail. If the request for additional information is not received within the response date requested and the RSED has expired, disallow the claim.

Note: However, if the taxpayer submits the requested information after the response date, but before the claim is disallowed the information needs to be considered since it was a timely filed claim.

- (2) Even though the IRS requests the information be provided in a certain number of days and needs the information to substantiate the claim, a claim is not disallowed until the IRS provides a final disallowance notice as described below, or the taxpayer executes and files a Form 2297, Waiver of Statutory Notification of Claim Disallowance.
- (3) Allow taxpayer correspondence received after the RSED that corrects a math error notice to adjust a previous math error provided that no formal notice of claim disallowance was previously issued by either certified/registered mail. If a notice of claim disallowance was previously issued, follow normal claim disallowance procedures.

25.6.1.10.2.5.3
(10-01-2021)

**Notification to Taxpayer
Upon Disallowance of a
Claim**

- (1) Do not allow a claim for refund if the claim for refund is received after RSED has expired, even if the claim contains an issue that the taxpayer has a right to appeal. Issue a certified Letter 105C, Claim Disallowed, to the taxpayer. Input a TC 290.00 amount, using Blocking Series (BS) 98 or 99, as appropriate.
- (2) Taxpayer's Period of Limitations for Filing a Refund Suit. The two-year period of limitations for filing a refund suit under IRC 6532 (a) does not begin until the IRS sends a notice of claim disallowance unless the taxpayer executes and files a Form 2297, Waiver of Statutory Notification of Claim Disallowance, which would start the two-year period.

Note: To start the IRC 6532(a) period, a notice of claim disallowance must unequivocally state that the claim was disallowed. It also must be mailed by certified mail or registered mail by the Secretary to the taxpayer and notify the taxpayer of the disallowance of the part of the claim to which suit or proceeding relates (unless the taxpayer executed Form 2297). See Letter 105C Claim Disallowed, or Letter 106C Claim Partially Disallowed. A math error notice is not a final notice of claim disallowance.

Note: IRM 25.6.1.6.2, Identifying Undeliverable Mail, if the 105C letter is undeliverable, for more information.

- (3) A notice of a claim disallowance is not mandatory. The IRS may make a business decision not to send a notice of claim disallowance in every situation even though the taxpayer's period for filing a refund suit remains open: e.g., if the IRS denies an Earned Income Tax Credit (EITC) and issues a notice of deficiency, a taxpayer may file a Tax Court petition and the Court will have jurisdiction to redetermine the EITC. The IRS may decide not to issue a notice of claim disallowance in this situation.

Note: All claims when filed that request a refund of \$1 or more and that overpayment would be allowable, hold an open statute until that claim is either paid or disallowed. Such disallowance must be made via notice served as stated above or notice waived by the taxpayer via Form 2297. Otherwise the statute remains open and live on that issue until resolved.

- (4) A disallowance letter may be sent when the claim is untimely, as well as when the IRS disagrees with the taxpayer's position on a substantive matter; however, a "no consideration" letter is not a disallowance letter. A disallowance letter shows that the taxpayer satisfied the requirement in IRC 7422 that the taxpayer must file a claim with the IRS before filing suit in a district court or the Court of Federal Claims.

25.6.1.10.2.5.4
(10-03-2022)

**Reconsideration After
the RSED Where Notice
of Claim Disallowance
Not Sent**

- (1) The IRS may have fully considered a claim, decided to disallow it, and entered the disallowance on Master File, but did not send a notice of claim disallowance. Until a notice of claim disallowance described above is sent, the taxpayer's two-year period of limitations for filing a refund suit does not begin to run regardless of how many years have passed. The IRS may consider supplemental information subsequently submitted by the taxpayer and allow the claim.

Note: IRM 25.6.1.10.2.6.4, Supplemental Claims, concerning whether additional information supplements a timely pending claim or constitutes an untimely new claim.

- (2) Special handling is required when allowing adjustments on these cases. If, after reviewing a case, it's determined the taxpayer is entitled to a credit/refund, follow procedures below using Command Code ADJ54. An example may be tax law changes enacted after the RSED (i.e., KITA).
- (3) On timely claims/amended returns received after the RSED:
1. Input TC 29X with appropriate tax amount.
 2. Input applicable notice/hold codes.

3. Input the received date (postmark date, if timely mailed) of the taxpayer's claim amended return in the "RFSCDT" field.
 4. Input Override Code "S" in the "OVERRIDE CD." field.
 5. Issue a manual refund (apply any offsets if applicable) for the requested amount on timely supplemental claims/amended returns received after the RSED.
 6. Monitor case until tax adjustments have posted and account is in zero balance.
- (4) If allowing math error substantiations, input the received date of the original return (not the received date of the math error substantiation) in the "RFSCDT" field on ADJ54 on a timely filed original return. If the original return was not timely filed that contains the math error, you must correct the math error as stated above, but use a hold code to prevent the refund from going out. Also, send the taxpayer a disallowance letter (105C) if one has not already been sent and move overpayment to XSF.

25.6.1.10.2.5.5

(10-01-2021)

Reconsideration of a Disallowed Claim

- (1) Although a claim may be reconsidered after the issuance of a final notice of claim disallowance described above, any reconsideration or action by the IRS will not operate to extend the period within which suit may be begun. Therefore, if the taxpayer provides additional information substantiating the claim after issuance of a final notice of claim disallowance do not reconsider the claim unless:
- a. Time remains in the taxpayer's two-year period of limitations for filing a refund suit under IRC 6532(a), or
 - b. The taxpayer has timely initiated a refund suit, which is still pending.
- Note:** The IRS and the taxpayer may consent to extend the two-year period before it expires using Form 907, Agreement to Extend the Time to Bring Suit.

- (2) If the taxpayer sends additional information after the two-year period has expired above, and the claim still cannot be allowed, see IRM 21.5.3.4.6.3, No Consideration Procedures, on how to process.

25.6.1.10.2.5.6

(05-17-2004)

Claims Based Upon an Untimely Assessment

- (1) This section provides procedures for processing claims based upon an untimely assessment.

25.6.1.10.2.5.6.1

(10-01-2021)

Claim for an Amount Paid Before the ASSED for Tax Determined by the ASSED

- (1) A taxpayer is not entitled to a refund of a payment made before the ASSED on the grounds that the IRS failed to make an assessment by the ASSED if the taxpayer filed an amended return before the ASSED or the IRS determined a deficiency before the ASSED and the taxpayer would otherwise owe that amount. See Rev. Rul. 85-67, 1985-1 C.B. 364, distinguishing Rev. Rul. 74-580, 1974-2 C.B. 400.
- (2) If the payment was erroneously refunded to the taxpayer, the refund can be recovered by using the Erroneous Refund procedures. IRM 25.6.1.10.2.3.1, Recovery of Assessable Erroneous Refund, which states that the IRS may file a civil suit per IRC 7405 by the ERSED and per IRM 3.17.80.1.17, Methods Used to Recover Erroneous Refunds, in order to recover the erroneous refund.

- (3) If the refund is stopped, is returned as an undeliverable, or is offset to another balance due account, the payment must be returned to the original barred assessed account and applied to the Excess Collection File. If the refund was applied to another balance due, send a letter to the taxpayer explaining the action taken and why the balance on the account is still owed.

25.6.1.10.2.5.6.2
(10-01-2018)

**Claim for an Amount
Paid After the ASED or
Paid for Tax Determined
After the ASED**

- (1) The IRS is not entitled to a payment, whether paid before or after the ASED, if the payment is for tax reported on an amended return filed after the expiration of the period of limitations on assessment. The IRS will generally refund to the taxpayer the payment made for the late-filed amended return without requiring the taxpayer to file a claim for refund.

Exception: Any payment made with a Streamlined return on an expired/barred year should NOT be automatically refunded. A streamline payment will have Designated Payment Code (DPC) 61 per IRM 3.8.45.10.1, **Designated Payment Code (DPCs)**. These voluntary payments should be accepted and moved to Excess Collections to avoid any erroneous refunds. LB&I will indicate on the AM Streamlined Coversheet that the taxpayers made these payments under the published terms of the Streamlined Procedures. You are **no longer** required to send Letter 2765C, Assessment Statute Expiration Date (ASED) Expired, informing the taxpayer they can file a claim for refund within two years of the payment receive date. No refund will be sent on LB&I Streamlined tax return payment when the ASED is expired.

25.6.1.10.2.5.7
(10-01-2021)

**Offsetting the Amount of
a Refund with a Timely
Refund Claim with a
Time-barred Adjustment**

- (1) If a taxpayer presents a valid and timely claim for refund after the ASED, the IRS may consider amounts that are time-barred by the period of limitations on assessment when determining the taxpayer's overpayment, so long as the refund involves the same taxpayer, the same tax, and the same tax period. Move the time-barred amounts that cannot be assessed to XSF in order to refund only the payments of tax, interest, or penalties that exceed the correct tax. IRM 25.6.1.10.2.5.6.2, Claim for an Amount Paid After the ASED or Paid for Tax Determined After the ASED, above for more information.

- (2) Limitation. See CCDM 34.5.2.4.2.2, Overpayments due to new issues raised in Refund Litigation.

Note: The tax on self-employment income (SECA tax) and the individual income tax are treated as the same type of tax for this purpose. See Rev. Rul. 82-185, 1982-2 C.B. 395 (the filing of a Form 1040 starts the period of limitations on assessment for the SECA tax).

- (3) Taxpayer's Offsets: If substantiated, a taxpayer may offset the IRS' adjustments with credit amounts that are time-barred by the period of limitations on refunds.

25.6.1.10.2.6
(05-17-2004)

**Claims for Credit or
Refund - Form and
Content**

- (1) This section provides details on the form and content for claims for credit or refund.

25.6.1.10.2.6.1
(05-17-2004)

**Background on the
Acceptability of Claims
Failing to Comply with
Prescribed
Requirements for the
Content and Form**

- (1) Requirements Prescribed by the Service: Treas. Reg. 301.6402-2(b)(1) provides that a claim must set forth in detail each ground upon which a credit or refund is claimed and facts sufficient to apprise the Commissioner of the exact basis thereof. The statement of the grounds and facts must be verified by a written declaration that it is made under penalties of perjury. A claim which does not comply with this requirement will not be considered for any purposes as a claim for refund or credit. Treas. Reg. 301.6402-3 prescribes special rules applicable to claims related to income tax.
- (2) Claims Made on Original Tax Return: A return filed on the form prescribed by Treas. Reg. 301.6402-3 that constitutes a valid return under the Beard standard generally meets the requirements of Treas. Reg. 301.6402-2(b). The Beard standard is as follows: First, there must be sufficient data to calculate tax liability; second, the document must purport to be a return; third, there must be an honest and reasonable attempt to satisfy the requirements of the tax law; and fourth, the taxpayer must execute the return under penalties of perjury. See *Beard v. Commissioner*, 82 T.C. 766, 777 (1984), *aff'd per curiam*, 793 F.2d 139 (6th Cir. 1986).
- (3) Court-Created Informal Claim Doctrine: In the past, courts have stated that the IRS may insist upon full compliance with the regulations governing refund claims and may reject a refund claim that fails to satisfy the requirements of the regulations. See *Angelus Milling Co. v. Commissioner*, 325 U.S. 293 (1945). The informal claim rule (discussed in IRM 25.6.1.10.2.6.3, below), however, makes it clear the Service cannot insist on a claim being filed on the prescribed form (at least when the claim includes an adequate written component and meets the other requirements noted below). The ongoing development of the informal claim rules leaves it uncertain in some cases whether the taxpayer has included sufficient detail regarding the grounds and facts of a claim. If a claim fails to present sufficient detail, it may be rejected for failure to meet the requirements of IRC 6402. The taxpayer (absent corrective action as described for informal claims) would then be barred from filing a refund suit, because IRC 7422 requires the taxpayer to file a claim that meets the requirements of IRC 6402 before bringing suit.

Note: Courts have stated that the Service may be deemed to have waived any defects by considering a defective claim filed before the Refund Statute Expirations Date (RSED) but be aware, the Service may not consider a claim that is filed after the RSED.

- (4) Treatment of Claims with Insufficient Detail: If the detail is insufficient to consider a claim and the taxpayer fails to provide the additional information requested, but there is uncertainty as to whether the insufficiency is enough to warrant that the claim be rejected as deficient, the IRS may simply disallow the claim. See IRM 25.6.1.10.2.5.2, Submission of Additional Information Necessary to Make a Determination on the Claim after the RSED, in (1) above.

Note: If a claim appears to be so deficient that it could be rejected for not meeting the requirements of IRC 6402 and the taxpayer fails to perfect the claim before the RSED, the claim may, nevertheless, be disallowed rather than rejected. Thus, by disallowing rather than rejecting the claim, the IRS is treating the claim as one that is sufficient for purposes of IRC 7422 and the taxpayer may bring a refund suit.

25.6.1.10.2.6.2
(05-17-2004)

Forms for Submitting a Claim

- (1) This section describes the forms used for submitting a claim.

25.6.1.10.2.6.2.1
(04-01-2007)

Claim on Original Tax Returns.

- (1) An original income tax return is a claim for refund for the amount of overpayment shown on the return and may provide a line for claiming a credit or refund.

25.6.1.10.2.6.2.2
(09-12-2014)

Prescribed Forms for Amending an Original Tax Return or Abating a Penalty Already Paid

- (1) Income Tax. Individual income tax claims are made on Form 1040X, Amended U.S. Individual Income Tax Return; corporate income tax claims on Form 1120X, Amended U.S. Corporation Income Tax Return; a fiduciary claims an estate's or trust's income tax on Form 1041, U.S. Income Tax Return for Estates and Trusts (by checking a box at the beginning of the form.)
- (2) Estate Tax, Gift Tax, Excise Tax and Certain Penalties and Interest. Form 843, Claim for Refund and Request for Abatement, is the general form for claiming a refund (except in the case of fuel taxes and certain excise taxes for which Form 8849, Claim for Refund of Excise Taxes, is provided). Employment Tax is filed on the X form to which the original return relates (i.e., Form 941-X, Form 944-X and Form 945-X).
- (3) Examination Adjustments Shown on Form 870 or Form 890. A taxpayer's agreement to an overassessment of income, estate, or gift tax determined by the IRS is considered a valid claim for credit or refund of any overpayment of tax attributable to the overassessment. The grounds upon which the overassessment was determined by the IRS shall be considered the basis of the claim. See Rev. Rul. 68-65, 1968-1 C.B. 555 and Form 870, Waiver of Restrictions on Assessment & Collection of Deficiency in Tax & Acceptance of Overassessment, or Form 890, Waiver of Restrictions on Assessment and Collection of Deficiency and Acceptance of Overassessment - Estate, Gift, and Generation - Skipping Transfer Tax.

Note: The execution of Form 870 or Form 890 and the placing of the agreement in the administrative file does constitute the filing of the claim. The signing of Form 870 or Form 890 by the taxpayer constitute the proof to show the timely mailing is timely filing under rule of IRC 7502.

25.6.1.10.2.6.3
(09-29-2015)

Informal Claims

- (1) The requirements for an informal claim are as follows: An informal claim must have a written component apprising the IRS that a refund is sought and describe the legal and factual basis for the refund so that the IRS may investigate the claim.
- (2) Investigation of an informal claim is fact intensive. The investigation may require an extensive analysis of the facts, and assistance from field counsel may be needed. In particular, courts have differed on the degree of detail that is required for a written component to be sufficient.

Note: Informal claims requiring an extensive analysis of the facts relating to the presentation of the claim often arise during the examination cycle of a large taxpayer when a revenue agent is provided with a verbal statement making a claim or written information presented as an informal claim.

Note: The Court of Federal Claims has held that a contemporaneous writing created by IRS personnel from the taxpayer's oral statements may be the written component of the taxpayer's claim. See *New England Elec. System v. United States*, 32 Fed. Cl. 636 (1995). Contact Chief Counsel (Procedure and Administration) concerning the present treatment of such circumstances.

25.6.1.10.2.6.4
(05-17-2004)

Supplemental Claims

(1) Supplementing a Pending Claim Versus Submitting a New Claim:

- a. A supplemental claim cannot require the investigation of facts or legal positions that would not have been disclosed by the investigation of the original claim.
- b. Examples. (i) New Facts. A claim filed after the expiration of the RSED to add additional workers to a timely claim for a tax credit for hiring workers involves new facts and constitutes an untimely new claim, provided the additional individuals were not related to the earlier claim.
- c. (ii) New Legal Position. Where a timely claim asserts that certain income is nontaxable, a claim filed after the expiration of the RSED asserting that income, if taxable, was overstated, involves a new legal position and constitutes an untimely new claim.

(2) Perfecting an Informal Claim after RSED

- a. A taxpayer may perfect an informal claim after the RSED if the IRS has not taken final action on the claim. Once the IRS takes final action on the original claim, there is no longer any claim left to perfect.

Note: For purposes of starting the two-year period provided in IRC 6532(a) for filing suit in a refund court, a final action disallowing a claim does not occur until the notice of claim disallowance is sent. IRM 25.6.1.10.2.5.3 Notification to Taxpayer Upon Disallowance of a Claim, for credit or refund is sent.

- b. Exception Where the IRS' Final Action Was Insufficient: There is a narrow exception to the rule concerning the effect of the IRS' disallowance of a claim. The disallowance will not constitute final action if the IRS did not fully consider all grounds for the refund and the taxpayer asks for "reconsideration" of those grounds. *Bemis Bros. Bag Co. V. United States*, 289 U.S. 28 (1933) (the IRS overlooked two independent grounds for the claim).

Note: Overlooking a ground in the claim for refund is not the same as making an incorrect determination regarding the facts or law of a claim, e.g., the taxpayer claims overpayment interest as part of a refund claim and later discovers that the IRS' interest computation was incorrect. A claim based on the recomputation of underpayment interest is a new claim and not a supplement to the initial claim. The taxpayer must bring any error in the method of calculation to the IRS' attention. See *Mobil Corp. v. United States*, 52 Fed. Cl. 327 (2002).

Note: There is another exception only for cases appealable to the Eleventh Circuit based on *Mutual Assurance, Inc. v. United States*, 56 F.3d 1353 (11th Cir. 1995), nonacq., 1999-41 I.R.B. 495, action on dec., 1999-014 (October 12, 1999). The taxpayer made a computational error when filing the original claim. The IRS did not notice the taxpayer's error when processing the original claim but discovered it upon a subsequent examination. The

Eleventh Circuit found that the original claim provided the IRS with all the information it needed to accurately compute the correct amount of the refund.

25.6.1.10.2.6.5
(05-17-2004)
Protective Claims

- (1) Protective claims are filed to preserve the taxpayer's right to claim a refund when the taxpayer's right to the refund is contingent on future events and may not be determinable until after the statute of limitations expires. See IRM 21.5.3.4.7.3, Protective Claims. A protective claim is based on an expected change in the tax law, other legislation, regulations, or case law.
- (2) A claim should not be viewed as a valid claim merely because the taxpayer labels it as such. See *Nucorp, Inc. v. United States*, 23 Cl. Ct. 234, 235 (1991) (Footnote 3 provides "Nothing can be found in the Code, regulations or case law relative to the efficacy of filing a 'protective claim.' Apparently, plaintiffs used the term 'protective claim' for descriptive purposes only"). A valid protective claim need not state a particular dollar amount or demand an immediate refund; however, the claim must identify and describe the contingencies affecting the claim; must be sufficiently clear and definite to alert the IRS as to the essential nature of the claim; and must identify a specific year or years for which a refund is sought.
- (3) The IRS has discretion in deciding how to process protective claims. In general, it is in the best interests of the IRS and taxpayers to delay action on protective claims until the pending litigation or other contingency is resolved. Once the contingency is resolved, the IRS may obtain additional information necessary to process the claim and then allow or disallow the claim.

25.6.1.10.2.7
(06-16-2023)
Claims for Credit or Refund – General Time Period for Submitting a Claim

- (1) The period for filing a claim for credit or refund has two prongs:
 - First, a date by which a claim must be filed with the IRS, and
 - Second, a limitation on the amount that may be claimed that is determined by "looking back" from the date of the claim to an earlier payment date.
- (2) The following chart will help you in determining general claim rules governing a refund claim:

Caution: These are the general rules. There are many exceptions for which taxpayers have a longer timeframe to file a claim. Do not disallow a claim for failing to meet the general rules until you have considered whether any exceptions may be applicable.

RETURN FILED	CLAIM FILED	MAXIMUM AMOUNT OF REFUND OR CREDIT ALLOWABLE
On or before due date	Within 3 years from due date of return	Tax paid during the period immediately preceding filing of claim equal to 3 years plus any extensions of time for filing. IRC 6511 (b)(2)(A). Advance payment is considered as being made on due date. IRC 6513(a).
On or before due date	More than 3 years from due date of return	Tax paid during the 2 years immediately preceding filing of claim. IRC 6511(b)(2)(B).
On or before due date	None	If refund or credit is allowed within 3 years of when return was filed, amount allowable is the tax paid during the period immediately preceding the date credit or refund is allowed equal to 3 years plus any extensions of time for filing. If refund or credit is allowed more than 3 years from the date the return was filed, the amount allowable is the tax paid within 2 years preceding the date the credit or refund is allowed. IRC 6511(b)(2)(C). IRC 6511(b)(2)(C). Advance payment is considered made on due date. IRC 6513(a).

RETURN FILED	CLAIM FILED	MAXIMUM AMOUNT OF REFUND OR CREDIT ALLOWABLE
After the due date	It is within 3 years from filing of return	Tax paid during the period immediately preceding filing of claim equal 3 years plus any extensions of time for filing can be refunded. IRC 6511(b)(2)(A).
After the due date	It is more than 3 years from filing of the original return	Tax paid during the 2 years immediately preceding filing of claim can be refunded. IRC 6511(b)(2)(B).
After the due date	None	Tax paid during the period immediately preceding filing of the return equal to 3 years plus any extensions of time for filing.
None (e.g., deficiency assessment)	Within 2 years from the date the tax was paid	Tax paid during 2 years immediately preceding filing of claim. IRC 6511(b)(2)(B).
None (e.g., deficiency assessment)	None	Tax paid during the 2 years immediately preceding allowance. IRC 6511(b)(2)(C).

Note: If the taxpayer requests an adjustment that does not create an overpayment, then IRC 6511 does not apply. This is considered a request for abatement of tax still owed.

- (3) Per *Notice 2023-21*, more taxpayers are eligible for credit or refund if they file an amended income tax return for 2019 and 2020. Due to the postponed due dates of July 15, 2020 for 2019 income tax returns and May 17, 2021 for 2020 income tax returns, taxpayers have three years from the date they filed their original return to claim a credit or refund if their original return was filed by the postponed due dates.

- Refund Claims for **TY 2019** (IMF and BMF taxpayers whose returns were due between April 1, 2020, and July 15, 2020): Claims timely filed under the three-year rule (three years from the original return filing) receive the benefit of an increased lookback period for purposes of determining the amount of the refund.

Example: The original return was filed June 10, 2020. The lookback period will include payments/credits deemed paid on April 15, 2020. A claim for refund must be received on or before June 10, 2023.

- Refund Claims for **TY 2020** (IMF taxpayers whose returns were due on May 17, 2021): Claims timely filed under the three-year rule receive the benefit of an increased lookback period for purposes of determining the amount of the refund.

Example: The original return was received May 3, 2021. The lookback period will include payments/credits deemed paid on April 15, 2021. A claim for refund must be received on or before May 3, 2024.

Caution: Due to systemic programming, unless there is a TC 460 extension of time to file on the tax module, the IDRS RSED is incorrect for 2019 returns with an IDRS IRS return received date of July 15, 2020 and before, and for 2020 returns with an IDRS IRS received date of May 17, 2021 and before. **For example:** A 2019 tax module with an IDRS IRS return received date of May 4, 2020 will show the RSED as July 15, 2023 in error. Per the three-year rule, no claim for credit or refund may be allowed for a claim received after May 4, 2023, even though the IDRS RSED shows July 15, 2023. However, the two-year rule may still apply.

25.6.1.10.2.7.1
(10-03-2022)

Filing with the IRS (First Prong)

- (1) A claim for credit or refund described above, must generally be filed by the later of two periods:

- Three years from the filing of the original tax return, or
- Two years from the payment of tax.

Caution: The three-year/two-year periods are the general rules. There are many exceptions for which taxpayers have a longer timeframe to file a claim.

Note: See IRM 25.6.1.6.15, When a Document Is Treated as Filed Under the IRC, for the rules for determining when a return is filed. A taxpayer is not considered to have filed a tax return until the taxpayer files a valid tax return. See IRM 25.6.1.6.14, Criteria for Establishing a Statute of Limitations Period, for information on filing a valid tax return.

25.6.1.10.2.7.1.1
(05-17-2004)

Start of the Filing Period Under the Three-year Rule

- (1) The filing date of the original return generally should have been entered in the taxpayer's account in accordance with processing procedures for tax returns (e.g., IRM 3.11.3, Individual Income Tax Returns). See IRM 25.6.1.6.15, When a Document Is Treated as Filed Under the IRC, for the rules in determining the filing date entered on the taxpayer's account.

25.6.1.10.2.7.1.2
(05-17-2004)

Start of the Filing Period Under the Two-year Rule

- (1) The payment date should generally be entered on the taxpayer's account in accordance with processing procedures under various IRMs. The dating should reflect the application of the rules for timely payments and credits, and when to send payments or credits to Excess Collection File (XSF) and Unidentified Remittance (URF).

25.6.1.10.2.7.1.3
(10-03-2022)

End of the Filing Period

- (1) In general, a claim is filed on the date that it is received at the place designated for filing by the IRS. See IRM 25.6.1.6.15, When a Document Is Treated as Filed Under the IRC, for the rules that may create a different filing date. The timely mailing rule and the Saturday, Sunday, and Legal Holiday (SSLH) rule may make a claim with a stamped received date after the RSED timely. Also, the hand-delivery of a claim to a revenue agent who is examining the taxpayer's returns may constitute the filing of a claim for refund. However, if that claim is on an original return, the return is not considered "filed" with the IRS.

25.6.1.10.2.7.1.4
(04-26-2023)

Examples for the Three-year Period

- (1) A 2013 individual income tax return received on April 18, 2014, but postmarked on April 14, is deemed filed on April 15, 2014. A claim for refund filed on Tuesday, April 18, 2017, is timely.
- (2) A 2005 individual income tax return received on Friday, April 14, 2006, is an early filed return that is treated as filed on April 15, 2006. A claim for refund filed on Thursday, April 16, 2009, is not timely filed. The SSLH rule that applied to some 2005 returns, does not apply because the taxpayer's return was not filed on the next succeeding day (i.e., Monday, April 17, 2006). See Rev. Rul. 2003-41, 2003-1 C.B. 814.
- (3) A claim filed on a delinquent original income tax return that is postmarked on the last day of the three-year period, is deemed to be filed on the postmark date. See *Weisbart v. United States*, 222 F.3d 93 (2d Cir. 2000), acq. 2000-2 C.B. xiii, 2000-09 (Nov. 13, 2000).
- (4) See IRM 25.6.1.10.2.7, Claims for Credit or Refund – General Time Period for Submitting a Claim, for information to identify the 3-year period for refund for tax year 2019 and 2020 per Notice 2023-21.

25.6.1.10.2.7.2
(05-17-2004)

Limitations on the Amount of a Claim

- (1) This section describes procedures regarding the limitations on the amount of a claim.

25.6.1.10.2.7.2.1
(04-26-2023)

Three-year Rule

- (1) The amount to be credited or refunded is limited to the tax paid (which includes tax, penalties, and interest) during the three-year period prior to the filing of the claim, plus the period of any extension of time to file.
- (2) Here are a few examples on the limitations on the amount of a claim regarding the three-year rule.

Example: (a). An original delinquent return claiming a refund is filed three years and one month after the Return Due Date. The return due date is the start date of the refund filing date limitation period. The amount of any refund is limited to payments made within the three-year period immediately preceding the filing of the delinquent return/claim. Withholding credits and estimated tax payments are deemed to be paid on the Return Due Date (without regard to any extension of time to file). Therefore, the withholding credits and estimated tax payments may not be refunded. If no other payment has been made within the 3-year time period described above, no credit or refund should be allowed. See Rev. Rul. 76-511, 1976-2 C.B. 428.

Example: (b). Same as Example (a) except the taxpayer had received an extension of time to file. You must determine the lookback period as it relates to the extension of time to file on the account to see if the withholding credits would be refunded based on the length of the extension period on the account.

Example: (c). A 2008 individual income tax return is filed on April 15, 2009. A claim for refund filed on Tuesday, April 17, 2012, is treated as timely filed under the Saturday, Sunday and Legal Holiday (SSLH) rule. The claim is treated as if it is filed on the last day otherwise prescribed for filing, which is April 15, 2012; otherwise, the SSLH rule would give no benefit. See Rev. Rul. 66-118, 1966-1 C.B. 290.

(3) See IRM 25.6.1.10.2.7, Claims for Credit or Refund – General Time Period for Submitting a Claim, for information to identify the 3-year period for refund for tax year 2019 and 2020 per Notice 2023-21.

25.6.1.10.2.7.2.2
(10-02-2023)
Two-year Rule

(1) If the claim for credit or refund is not filed within the three-year period for filing a claim, the amount is limited to the portion of tax paid (the payment of tax could be for tax, penalty, or interest) within the two-year period immediately preceding the filing of the claim.

(2) Below are two examples of the two-year-rule regarding claims for credit or refund.

Example: For tax year 2015, the taxpayer filed a timely tax return. AUR timely assessed the taxpayer \$3,000.00 before the ASER and RSED expired on April 15, 2019. The taxpayer made a subsequent payment on June 01, 2020 that overpaid the account by \$200.00 and created a freeze on the module. A refund can be allowed if a taxpayer claim for refund is received on or before June 01, 2022, or if no claim was filed, a refund can be allowed by the IRS if initiated by June 01, 2022. No refund can be allowed after 2 years from the payment date, even if the transcript received date is before the 2-year period has expired.

Example: For tax year 2000, Taxpayer files a tax return and pays \$5,500 of individual income tax on April 15, 2001. On March 1, 2004, Taxpayer pays \$1,500 as a result of examination adjustments increasing rental income. The Assessment Statute Expiration Date (ASER) was not extended and expires on April 15, 2004. On May 1, 2004, Taxpayer files a refund claim for \$2,000 to dispute the examination adjustment and to decrease rental income below the amount shown on the tax return. Taxpayer may receive only a \$1,500 refund (which is the amount of your tax decrease) under the two-year rule. You must not leave a tax balance on the taxpayer's account when inputting this refund action in order to prevent any additional penalties or interest from posting to the taxpayer's account.

(3) For the example above, the ADJ54 adjustment would be input as follows:

- Input a tax decrease for the amount of the refundable payment(s).
- Input the adjusted gross income (AGI) and taxable income (TXI) to equal the amount shown on the claim for refund.
- Input the claim received date or timely post mark date in the RFSCDT field and use override code S.

- Use a Hold Code (HC) 4 to hold the refund and notice and issue a manual refund to the taxpayer.
- Send Letter 106C, Claim Partially Disallowed to the taxpayer.
- Input a note on your source document or adjustment document explaining the partial tax decrease is due to the expired statute.
- Input a history item on IDRS (for example: H, \$500barred) or comments on AMS indicating the barred amount of the tax decrease.

(4) For the example below, the ADJ54 adjustment would be input as follows:

- Input a tax decrease for the amount claimed.
- Correct the adjusted gross income (AGI) and taxable income (TXI) as shown on the claim for refund.
- Input the claim receive date or timely post mark date in the RFSCDT field and use override code S.
- Use Hold Code (HC) 1 and issue a manual refund to the taxpayer.

Example: For tax year 2000, Taxpayer pays \$5,500 of individual income tax on 4/15/2001. On 3/1/2004, Taxpayer pays \$1,500 as a result of examination adjustments increasing rental income. On 4/15/2004, Taxpayer files a refund claim for \$5,000 based on increased deductions for rental activities, which the IRS allows. The ASER is not extended and passes on 4/15/2004. On 3/1/2006, Taxpayer files a refund claim of \$1,000 reflecting an increase in charitable deductions. Taxpayer may receive a \$1,000 refund (which is the amount of your tax decrease). Note that there is no ordering rule that would treat the \$5,000 refund as first being made from the \$1,500 payment rather than the \$5,500 paid with the return. Also, the subject matter of the \$1,000 claim does not have to relate to the subject matter of the \$1,500 payment; the look-back rule is based only on dollar amounts. You must not leave a tax balance on the taxpayer's account when inputting this refund action in order to prevent any additional penalties or interest from posting to the taxpayer's account.

(5) If a claim for credit or refund is disallowed in full, see IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for the account adjustment procedures.

25.6.1.10.2.7.3
(04-01-2007)

Extension of Time by Agreement

- (1) The period of limitations for claiming a credit or refund may be extended by agreement only by the execution of a consent to extend the period of limitations on assessment (e.g., the IRS and the taxpayer sign a Form 872, Consent to Extend the Time to Assess Tax) on or before the ASER.
- (2) The period for claiming a credit or refund is extended until 6 months after the expiration of the consent. The limitation on the amount that may be claimed (the lookback rule) is applied by allowing the recovery of any amount paid after the execution of the consent (and before the filing of the claim or the making of the credit or refund), as well as the amount that could be claimed, looking back two years or three years as stated above, from the date of the execution of the consent. See IRC 6511(c).
- (3) The Service may execute the consent even though it has completed its examination and has no plans to make an assessment. The requirements for executing the consent are in *IRM 25.6.22, Statute of Limitations - Extension of Assessment Statute of Limitations by Consent*. The consent does not, however, shorten any special period of limitations on refund.

- (4) Restricted consents: If the consent is restricted to certain items, the claim is similarly restricted for credit or refund. See *IRM 25.6.22.8.12*, Basic Restrictive Statement (08-26-2011) at (2), which states that the basic restrictive statement should include the following: “The provisions of IRC 6511(c) of the Internal Revenue Code are limited to any refund or credit resulting from an adjustment for which the period for assessment is extended under this agreement.”

25.6.1.10.2.8
(05-17-2004)

Claims for Credit or Refund - Special Items of Income, Deduction, Loss or Credit

- (1) This section describes the procedures regarding a claim for credit or refund - special item of income, deduction, loss or credit.

25.6.1.10.2.8.1
(04-01-2007)

Net Operating Loss (NOL) Carryback or Capital Loss Carryback

- (1) A claim for credit or refund based on the carryback of an NOL under IRC 172 or a Capital Loss under IRC 1212 may be filed within the three-year period from the due date of the return (for the taxable year of the NOL or Capital Loss which results in such carryback) plus the period granted for any extension of time to file for the year in which the NOL or Capital Loss is incurred. See IRC 6511(d)(2).

Note: The three-year period runs from the extended return due date regardless of when the return is actually filed. The three year period may be extended through a consent to extend the period of limitations on assessment. See IRC 6511(c).

Note: For purposes of IRC 6511(d)(2), the year of the NOL is the year in which the NOL is incurred, and not the carryback year.

- (2) Limitation. The overpayment must be attributable to the carryback.
- (3) The special period provided in IRC 6511(d) is an additional period, rather than a substitute period, for the general period provided in IRC 6511(a) for the carryback year. See Rev. Rul. 65-281, 1965-2 C.B. 444.
- (4) “Quick Refunds” of a Carryback. An application for a tentative carryback adjustment under IRC 6411 made on Form 1045, Application for Tentative Refund, or Form 1139, Corporation Application for Tentative Refund, is not a claim for credit or refund for purposes of filing a claim within the period of limitations.

25.6.1.10.2.8.2
(05-17-2004)

Business Credit Carryback

- (1) A claim for credit or refund based on the carryback of the Business Credit (IRC 39) may be filed within the three year period from the due date of the return plus the period granted for any extension of time to file for the year of the unused Business Credit, which results in the carryback. See IRC 6511(d)(4).

Note: The three year period runs from the extended return due date regardless of when the return is actually filed. The three year period may be extended through a consent to extend the period of limitations on assessment. See IRC 6511(c). *IRM 25.6.1.10.2.7.3*, Extension of Time by Agreement, regarding consents.

- (2) Limitation. The overpayment must be attributable to the carryback.

25.6.1.10.2.8.3
(05-17-2004)

**Bad Debts and
Worthless Securities**

- (3) Effect of Certain Carrybacks from a Subsequent Year. Any portion of the business credit carryback attributable to a net operating loss carryback, capital loss carryback, or other credit carryback from a subsequent taxable year may be filed within the three year period from the due date of the return plus the period granted for any extension of time to file for that subsequent year.

- (1) A claim for refund or credit based on a bad debt deduction under IRC 166 or IRC 832(c) or a worthless security loss under IRC 165(g) may be filed within seven years from the due date of the return for the year with respect to which the claim is made (determined without regard to any extension of time to file). See IRC 6511(d)(1).
- (2) If the deductibility of the bad debt or worthless security loss affects a Net Operating Loss (NOL) carryback, the period is the later of:
 - a. Seven years from the due date of the return for the year in which the NOL arose (determined without regard to any extension of time to file), or
 - b. IRM 25.6.1.10.2.8.1, Net Operating Loss (NOL) Carryback or Capital Loss Carryback, the period for which the NOL arose.
- (3) Limitation. The overpayment must be attributable to the deductibility of the bad debt or worthless security loss.

25.6.1.10.2.8.4
(05-17-2004)

Foreign Tax Credit

- (1) A claim for credit or refund based on tax paid or accrued to any foreign country or a possession of the United States for which a credit is allowed either under IRC 901 or by a treaty may be filed within ten years of the due date of the return (determined without regard to any extension of time to file) for the year in which the foreign taxes were actually paid or accrued and not the carryover year to which the taxes are carried and claimed as a credit. See IRC 6511(d)(3).
- (2) Limitation. The overpayment must be attributable to the allowance of the foreign tax credit.
- (3) Change of Election. A taxpayer may deduct the foreign taxes under IRC 164 or elect to credit the taxes against U.S. tax liability under IRC 901. The election can be made or changed at any time on or before the RSED under IRC 6511(d)(3) for the year the foreign taxes are paid or accrued (including extensions of the RSED due to the execution of a consent to extend the ASER for that year).

25.6.1.10.2.9
(05-17-2004)

**Claims for Credit or
Refund – Taxpayers in
Special Situations**

- (1) This section describes the procedures regarding claims for credit or refund from taxpayers that meets the special situations described in IRC 6511(h).

25.6.1.10.2.9.1
(02-03-2023)

Financial Disability

- (1) IRC 6511(h) provides that the general period of limitations on claims for credit or refund are suspended during the period that an individual is “financially disabled.”

Note: A period for filing a claim for credit or refund extended by any consent to extend the period of limitations on assessment will also be suspended if the individual is financially disabled.

- (2) Financially Disabled: Financially disabled means being unable to manage financial affairs.
 - a. Cause of Disability: The inability must be due to a medically determinable mental or physical impairment.
 - b. Required Effect of Disability: The impairment must be expected to either result in death, have already lasted for a continuous period of not less than 12 months, or must be expected to last for a continuous period of not less than 12 months.
- (3) No Suspension While Financial Affairs Managed by Certain Persons: The period of financial disability does not include any period in which the taxpayer's spouse or any other person is authorized to act on behalf of the taxpayer in financial matters (e.g., a guardian).
- (4) Procedural Requirements Regarding Impairment: Proof of the medically-determined impairment must be submitted with the taxpayer's claim for credit or refund of tax.
 - a. A written statement from the person signing the claim for credit or refund that no person, including the taxpayer's spouse, was authorized to act on behalf of the taxpayer during the period the taxpayer was prevented from managing his/her financial affairs.
 - b. A written statement from a medical physician, must name and describe the mental or physical impairment, give a medical opinion that the impairment prevented the taxpayer from managing their financial affairs, give a medical opinion that the impairment has had, or is expected to have, one of the effects described in (2)(b), above, state, to the best of the physician's knowledge, the period during which the taxpayer was prevented from managing their financial affairs, and include a signed certification that to the best of the physician's knowledge and belief, the above representations are true, correct, and complete.

Note: Stauffer v. Internal Revenue Service, 285 F.Supp.3d 474 (D. Mass. 2017), the court ruled that a statement provided by a psychologist can be used in determining financial disability.
- (5) Joint Returns: Claims for credit or refund for a period in which a joint return was filed cannot be denied solely because one of the spouses on the return was not financially disabled. Such claims should be considered as they relate to the financially disabled spouse.
- (6) Length of Mental Impairment for Purposes of (2)(b), above: An individual with a mental impairment who consults with a psychiatrist automatically has proof that the impairment continued for the entire period of consultation. If a mental impairment renders a person incapable of caring for himself or herself for part of a period but not for other parts, a physician must, as required above, identify the period during which the taxpayer was prevented from managing their financial affairs. In order for the exception to apply, the physician must determine that the person was continuously impaired for a period described in (2)(b), above. The impairment may vary between a severe and a moderate impairment during a period described in (2)(b), above, but it may not vary between severely impaired and not impaired.

Example: Taxpayer filed a timely return for tax year 2000. Taxpayer was entitled to claim a refund for 2000 but failed to submit it before the RSED on 4/15/

2004. On May 1, 2003, Taxpayer was diagnosed with Alzheimer's disease by their physician and by November of 2003, Taxpayer's condition was so severe that they could not travel alone. On November 12, 2003, Taxpayer's spouse authorized a relative to act for Taxpayer and on September 15, 2004, the relative filed a claim for refund on behalf of Taxpayer for tax year 2000. Along with the claim, taxpayer's physician stated that to the best of the physician's knowledge, Taxpayer had become permanently unable to manage financial affairs by March 31, 2003.

Taxpayer qualifies for the financial disability exception for the 2000 tax year. The period of limitations for filing a claim for refund for tax year 2000 was suspended from March 31, 2003 through November 11, 2003 (225 days). Thus, the 225 days are added to April 15, 2004, the normal RSED, and the RSED for Taxpayer is November 26, 2004. The refund claim was timely because it was filed on or before November 26, 2004.

Example: Taxpayer filed a timely return for tax year 2000. Taxpayer was entitled to claim a refund for 2000 but failed to submit it before the RSED on 4/15/2004. On December 1, 2005, Taxpayer was diagnosed with Alzheimer's disease by their physician. The physician believes that the effects of the disease were evident as early as 2003, but that the disease was intermittent until recently. On April 1, 2006, Taxpayer's spouse authorized a relative to act for Taxpayer for tax year 2000.

While the disease impaired Taxpayer intermittently during the period of limitations for filing a claim for refund for the 2000 tax year to the extent that during those intermittent periods they could not manage their financial affairs, they did not become impaired for a continuous period described in (2)(b), above, until late in 2005 after the RSED had passed. Accordingly, Taxpayer does not qualify for the financial disability exception for the 2000 tax year and the refund claim is not timely.

25.6.1.10.2.9.2
(10-03-2022)
**Federally Declared
Disaster Area or
Significant Fire**

- (1) In general, the IRS may postpone a deadline for filing a claim for credit or refund for a period of up to one year for taxpayers (individuals and businesses) who the IRS determines are affected by a federally declared disaster or significant fire. See IRC 7508A.
- (2) The length of postponement period will be prescribed in a Notice (or other guidance including an IRS News Release) issued by the IRS regarding a particular disaster.
- (3) Treas. Reg. 301.7508A-1(d)(1) defines an "affected taxpayer" as any of the following:
 1. Any individual whose principal residence, or any business entity or sole proprietorship whose principal place of business, is located in the covered disaster area
 2. Any individual who is a relief worker affiliated with a recognized government or philanthropic organization and who is assisting in the covered disaster area
 3. Any individual whose principal residence, or any business entity or sole proprietorship whose principal place of business, is not located in the covered disaster area, but whose records necessary to meet a deadline are maintained in the covered disaster area

4. Any estate or trust that has tax records necessary to meet a deadline in a covered disaster area
5. Any spouse of an affected taxpayer, solely with regard to a joint return of the husband and wife; or
6. Any individual visiting the covered disaster area who was killed or injured as a result of the disaster

In addition, the IRS may determine that other persons are affected taxpayers. Therefore, taxpayers located outside of the covered disaster area may qualify for relief. The “affected taxpayers” will be prescribed in a Notice (or other guidance including an IRS News Release) regarding a particular disaster.

- (4) IRC 7508A does not extend due dates. It postpones them. This difference in terminology matters when talking about a claim for refund. See IRC 6511(b)(2)(A), which uses the word “extension” but not “postponement.”

25.6.1.10.2.9.3
(04-01-2006)
**Disaster Area
Recognized by Local
IRS Officials**

- (1) Local IRS officials may use their delegated authority to provide extensions of time to file (under IRC 6081) and to pay (under IRC 6161) to provide relief for a local disaster whose magnitude does not warrant a federal declaration of disaster. The officials, however, do not have the authority to provide an extension of time to file a claim for credit or refund; an extension may be obtained by entering an agreement to extend the period of limitations on assessment, which automatically extends the period for filing a claim. IRM 25.6.1.10.2.7.3, Extension of Time by Agreement, which extends time for assessments and refund if timely made.

25.6.1.10.2.9.4
(05-17-2004)
**Terroristic or Military
Action**

- (1) In General. The IRS may postpone a deadline for filing a claim for credit or refund for a period of up to one year for an individual that the IRS determines is affected by a terroristic or military action. See IRC 7508A.
- (2) IRM 25.6.1.10.2.9.2, Federally Declared Disaster Area or Significant Fire, for length of postponement.
- (3) IRM 25.6.1.10.2.9.2, Federally Declared Disaster Area or Significant Fire, for affected taxpayers.
- (4) List of Terroristic or Military Actions.
 - a. The April 19, 1995, attack on the Alfred P. Murrah Federal Building (Oklahoma City attack).
 - b. The September 11, 2001, attacks on the World Trade Center, the Pentagon, and United Airlines Flight 93 in Pennsylvania.
 - c. Terrorist attacks involving anthrax occurring after September 10, 2001, and before January 1, 2002.

25.6.1.10.2.9.5
(10-01-2018)
**Claims for Refund and
Identity Theft**

- (1) The period of limitations for submitting a claim for credit or refund is not suspended due to identity theft.
- (2) This situation could arise where a taxpayer has paid an adjustment resulting from a mismatch between a Form 1099 listing the taxpayer as a payee and the taxpayer later suspects the Form 1099 involved identity theft. If the taxpayer contacts the IRS and claims that identity theft may have led the taxpayer to owe and to pay tax on income the taxpayer did not receive, the IRS employee must follow the step below in resolving the claim for credit or refund:

- a. Refer to IRM 25.23.4.4, Taxpayer Inquiries Involving Identity Theft (IDT), which provides guidance to employees regarding how a taxpayer may establish identity theft, and
 - b. Inform the taxpayer that the period of limitations on seeking a refund is running from the date of the payment.
- (3) If the taxpayer claims a credit or refund, refer to ID Theft IRM for processing the claim such as IRM 21.2.4.3.19, Transcripts with Identity Theft (IDT) Involvement. This IRM section deals with issues or problems when a taxpayer indicates or states that their identity was stolen.

25.6.1.10.2.9.6
(10-03-2022)
Combat Zone

- (1) This section provides guidance for identifying and resolving cases for taxpayers who are or have served in the following:
- a. In an area designated as a combat zone,
 - b. In a contingency operation designated by the Department of Defense,
 - c. In a qualified hazardous duty area as defined by Congress, or
 - d. In direct support of military operations in a combat zone certified by the Department of Defense.
- (2) The descriptions of a combat zone or other military service areas are as follows:
- a. A Combat Zone is an area designated in an Executive Order by the President of the United States. IRC 7508 cross-references IRC 112 (exclusion from gross income for combat pay) for this definition.
 - b. Contingency Operation. The rules in IRC 7508 apply to a contingency operation designated by the Department of Defense for an individual deployed outside the United States away from the individual's permanent duty station while participating in the operation.
 - c. Qualified Hazardous Duty Area. Congress has extended some of the same tax relief provided for those in a combat zone to those in a qualified hazardous duty area. Congress has also extended the relief to persons performing qualifying service outside such area. See Notice 99-30, Tax Relief for Those Affected by Operation Allied Force, 1999-1 C.B. 1135, for an example of qualified hazardous duty area.
 - d. Area Certified by the Department of Defense. The Department of Defense may certify an area as being in direct support of military operations in a combat zone and a person serving in such an area who receives hostile fire/imminent danger pay under 37 U.S.C. 310 (a) (2) is treated as serving in a combat zone pursuant to Treas. Reg. 1.112-1(e).

25.6.1.10.2.9.6.1
(10-01-2012)
Combat Zone Research

- (1) To handle Combat Zone cases, you may need to refer to the following:
- See IRM 5.19.10.6.3, Combat Zone Freeze Code in evaluating the -C Freeze accounts
 - IRC 7508
 - Pub 3, Armed Forces Tax Guide

25.6.1.10.2.9.6.2
(10-03-2022)

Deadlines Postponed

- (1) IRC 7508(a) postpones the deadlines for certain acts performed by taxpayers and the IRS. The acts covered by IRC 7508 include filing any return for income, estate, gift, employment, or excise tax; paying any income, estate, gift, employment, or excise tax; filing a claim for credit or refund of any tax; assessing or collecting a tax; bringing suit with respect to any claim for credit or refund. Also, see Rev. Proc. 2018-58, 2018-50 IRB 990, which expands the list provided in the statute.

Note: Penalties and interest. If the actual filing is before the postponed due date and it is a balance due return, compute penalty and underpayment of interest from the postponed due date or actual filing date.

- (2) The deadlines for acts that are postponed for taxpayers serving in a particular operation are described in a notice issued by the IRS for that operation (e.g., Notice 2003-21, 2003-1 C.B. 817 provides that all of the acts listed in Rev. Proc. 2002-71 are applicable for those taxpayers who served in Operation Iraqi Freedom.)

25.6.1.10.2.9.6.3
(11-01-2004)

Individuals Covered

- (1) The postponement primarily applies to individuals who served in the Armed Forces in a combat zone or qualified hazardous duty area (and to persons performing qualifying services outside such area) or who participated in a contingency operation.

Note: “-C” Freezes. Martinsburg Computing Center (MCC) extracts for MRS/TRS Transcripts and Taxpayer Information File (TIF) tax modules to identify accounts where military and civilian personnel are/were stationed in a Combat Zone. The freeze code “-C” (“-D” for Individual Retirement Account File (IRAF)) is also displayed.

- (2) The postponement also applies to those serving in support of the Armed Forces in a combat zone. For example, those serving in support include merchant marines serving aboard vessels under the operational control of the Department of Defense, Red Cross personnel, accredited correspondents and civilian personnel acting under the direction of the U.S. Armed Forces in support of those forces.
- (3) Hospitalization. The postponement applies after the last day of any “continuous qualified hospitalization” for an injury from service in the combat zone or qualified hazardous duty area (and to persons performing qualifying service outside such area) or contingency operation. The period of postponement cannot be more than 5 years for hospitalization in the United States.
- (4) Application to Spouse. The relief also applies to the spouse of the individual; however, the period of postponement for hospitalization in the United States does not apply to a spouse.

25.6.1.10.2.9.6.4
(02-01-2019)

Computation

- (1) You must add the 180-day period to any combat zone computation. A deadline may be postponed 180 days after the last day of service in the combat zone (or hazardous duty area) or participating in a contingency operation or hospitalization from such service or participation.
- (2) Additional time for service or hospitalization during a filing period. In addition to the 180-days mentioned in IRC 7508(a) itself, a deadline that includes a filing

period is postponed by the number of days that were left in any period for taking action when the taxpayer entered the combat zone or the contingency operation.

Example: If the taxpayer entered the combat zone or was hospitalized in December preceding the filing season, and remained there into January, the entire 105-day period from January 1 to April 15 for filing an individual income tax return (106-days in a leap year) will be added to the last day of service in the combat zone (along with the 180 day period) to determine the extended deadline for filing the tax return.

- (3) A taxpayer who timely files a tax year 2017 income tax return generally has until April 15, 2021, to file an amended tax return. If such a taxpayer served in a combat zone from November 1, 2020, through April 1, 2021, 166 days are attributable to the unexpired time to file an amended tax return at the time the taxpayer began serving in a combat zone. The 166 days will be added to the last day of service in the combat zone (along with the 180 day period) to determine the extended deadline for filing the amended tax return. The taxpayer will have until March 13, 2022 to file an amended tax return. However, March 13, 2022 is a Sunday. The Saturday, Sunday Legal Holiday Rule will apply in this situation. Therefore, the claim for refund will be considered timely if received on Monday March 14, 2022.

25.6.1.10.2.9.6.5
(11-01-2004)
**Re-Entry into the
Combat Zone**

- (1) Individuals re-enter the combat zone for a second time. These are called "in & out". Treat these as beginning on the earliest entry date and the latest departure date because they were in and out within short time frames. The system does not recognize when a new period has started and ended. You must calculate separately, the interim period, between the combat zone periods for purposes of the statutory periods for assessment, collection, and refunds, and for penalty and interest computation.
- (2) In order to determine whether it is necessary to establish separate combat zone periods, you must first decide the action required on the account. If it is the requirement to file a return, a new period must be determined when there are more than 285 days (286 in a leap year) between the prior exit date and the subsequent entry date. For other actions not related to filing, separate periods must be calculated when there has been more than 180 days between the prior exit date and the subsequent entry date. All TC 500s (entry and departure) post to Tax Year 90 module but they are retained in the ENTITY.

25.6.1.10.2.9.6.6
(11-01-2004)
**Combat Zone
Procedures**

- (1) STAT, AM, AM-X transcripts, amended returns, correspondence etc., may have adjustment action if applicable. IRS will not initiate assessments/offsets with the exception of child support during the period a taxpayer is in a combat zone, and for at least 180 calendar days thereafter. If action is taken on a taxpayer's account and it results in a balance due status, only the first notice will be issued; all further notices will be suppressed and collection activity suspended.
- (2) In cases where a Combat Departure Date (CDD) has not been entered on an account, and the taxpayer has filed a refund return, issue a manual refund, if an account is frozen from refunding.

25.6.1.10.2.9.6.7
(10-03-2022)

**Current Combat Zones
and Qualified Hazardous
Duty Areas**

- (1) Recent combat zone and qualified hazardous duty areas are:
- a. Executive Order 13239 designated Afghanistan and the airspace above as a combat zone. (Operation Enduring Freedom) September 19, 2001 is the date of commencement of combatant activities. Members of the U.S. Armed Forces serving in Afghanistan or those serving in direct support are entitled to the suspension of time provisions provided by IRC 7508. Members of the U.S. Armed Forces in Pakistan, , and Jordan qualify as being in direct support as of September 21, 2001. Members of the U.S. Armed Forces in Syria qualify as being in direct support as of January 1, 2004. Members of the U.S. Armed Forces in Yemen qualify as being in direct support as of April 10, 2002. Members of the U.S. Armed Forces in Djibouti qualify as being in direct support as of July 1, 2002.
 - b. Executive Order 13119 designated the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, Adriatic Sea, and the Ionian Sea north of the 39th parallel including the airspace above these areas. (Operation Allied Force).
 - c. Public Law 104–117 established Bosnia, Herzegovina, Croatia, and Macedonia as qualified hazardous duty areas, effective November 1995.
 - d. Executive Order 12744 designated the Arabian Peninsula areas: Persian Gulf, the Red Sea, the Gulf of Oman, the part of the Arabian Sea that is north of 10 degrees north latitude and west of 68 degrees east longitude, the Gulf of Aden and the total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates and the airspace above all such locations. (Operation Desert Storm) Military personnel serving in support of such allied forces are eligible for all combat zone related tax benefits.

Note: See Publication 3 for additional information and qualified hazardous duty areas that may qualify for similar relief.

25.6.1.10.2.10
(05-17-2004)

**Claims for Credit or
Refund - Special Types
of Taxpayer Status**

- (1) This describes the procedures for processing claims for credit or refund on special types of taxpayer status.

25.6.1.10.2.10.1
(10-03-2022)

Partnerships

- (1) Refund claims that relate to items reported on a partnership return may require special consideration. If the partnership is not subject to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), apply normal statute of limitations to the return of a partner. If, however, the partnership is subject to TEFRA or BBA provisions, refer the case to Examination for assistance. IRC 6511(g) and IRC 7422(h) provide that taxpayers can claim refunds attributable to partnership items only in accordance with the TEFRA procedures (IRC 6227, IRC 6228 and IRC 6230(c)).

25.6.1.10.2.10.2
(05-17-2004)

Joint Returns

- (1) Joint liability, but separate taxpayers. Each spouse has a separate interest in the jointly reported income and a separate interest in any overpayment. Rev. Rul. 74-611, 1974-2 C.B. 399. Each spouse's share of an overpayment claimed on a joint return is determined under Rev. Rul. 80-7, 1980-1 C.B. 296, and only that share may be credited to one spouse's unpaid separate tax liability. In a community property state each spouse is considered to own one-half of the total wages and the income from community property. Rev. Rul. 85-70, 1985-1 C.B. 361.

- (2) Agreements extending period of limitations for assessment. Both spouses must consent to an extension of the period of limitations on assessment; however, if one spouse executes a consent for a year in which a joint return was filed, the consent will be effective for that spouse.
- (3) Changing from separate to joint status and the date the joint return is considered filed. If the conditions set by IRC 6013(b)(1) for changing from separate to joint status are satisfied, a joint return may be filed within three years from the due date (without extensions) for filing returns for such tax year. For purposes of filing a claim for credit or refund, the joint return is deemed filed on the last day prescribed for filing the return for that taxpayer (determined without regard to any extension of time granted to either spouse).

25.6.1.10.2.11
(05-17-2004)

Exceptions to the Period of Limitations

- (1) This section describes the procedures for processing claims for credit or refund regarding exceptions to the period of limitations.

25.6.1.10.2.11.1
(05-17-2004)

Retroactive Law and Congressionally-Provided Waiver of the Period of Limitations for Filing Claims for Credit or Refund

- (1) A change in the tax laws which is made retroactive to earlier tax years does not automatically permit a claim for a refund for such a year when the claim is barred by the period of limitations. Congress must expressly provide a waiver of the period of limitations for the retroactive statute. See *United States v. Zacks*, 375 U.S. 59 (1963).
- (2) General Procedures for Claims to Take Account of Waiver.
 - a. Input TC 29X with appropriate tax amount.
 - b. Input applicable notice/hold codes.
 - c. Input the received date (postmark date, if timely mailed) of the taxpayer's claim/amended return in the "RFSCDT" field.
 - d. Input Override Code "S" in the "OVERRIDE CD" field.
 - e. Issue a manual refund (apply any offsets if applicable) for the requested amount.
 - f. Monitor case until tax adjustments have posted and account is in zero balance.

25.6.1.10.2.11.1.1
(05-17-2004)

Estate Tax Special Use Valuation for Property Used as a Farm for Farming Purposes or in a Trade or Business Other Than Farming

- (1) On June 7, 2001, the President signed into law the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001. IRC 581 of the Act provides for an extension of the normal RSED.
- (2) A claim for credit or refund of any overpayment of tax resulting from the application of IRC 2032(c)(7)(E) is timely if filed before one year after the date of the enactment of EGTRRA. Thus, a claim is timely if filed on or before June 6, 2002.

25.6.1.10.2.11.1.2
(04-01-2006)

Exclusion of Gain on Sale of Principal Residence for Military

- (1) A taxpayer on qualified official extended duty as a member of the U.S. Uniformed Services or the Foreign Service or as an employee of the intelligence community may elect to suspend for up to 10 years of such duty time the running of the 5-year ownership-and-use period before the sale of a residence. See IRC 121(d)(9), which was enacted by the Military Family Tax Relief Act of 2003 (MFTRA of 2003) and made effective as if included in the revision of IRC 121 by the Taxpayer Relief Act of 1997 (which applies to sales made after May 6, 1997).

Note: Taxpayer should write "Military Relief Act" in the top margin of the 1040X.

- (2) IRC 101(b)(2) of the MFTRA of 2003 Pub. L. No. 108–121 (enacted on 11/11/2003) provides a waiver of limitations for claims for credit or refund filed by November 10, 2004, that are otherwise barred by operation of any law or rule of law on or before that date.
- (3) Processing. Upon receipt of amended "Military Relief Act" Claims (i.e., "BARRED" years) the Statute function will place the stamp "No Statute Issue," in the area of the upper left margin with the date and your employee number. After clearing the claim, immediately forward (i.e., hand-carry) it to the Adjustment function via transmittal sheet, listing Name Control and TIN. Do not input these returns through normal processing. The Account Management/Adjustment Function will process these amended returns indicating a tax decrease where the RSED is imminent/expired.

25.6.1.10.2.11.2
(10-01-2020)
**Statutory Mitigation
Provisions**

- (1) In general, IRC 1311–1314 authorize correction of errors in years otherwise barred by the statute of limitations, if several requirements are satisfied. These mitigation provisions apply only in situations that contain a qualified determination under IRC 1313(a) (e.g., a closing agreement under IRC 7121, a Tax Court decision, or other final decision by a court of competent jurisdiction), that are consistent with the seven specific circumstances of adjustment described in IRC 1312 (e.g., double inclusion of an item of gross income, double allowance of a deduction), and that are consistent with one of the conditions necessary for adjustment described in IRC 1311(b) (e.g., maintenance of an inconsistent position, a correction was not barred when the erroneous action was taken). A claim for refund based on the mitigation provisions must be filed within 1 year of the determination providing the basis for the claim.
- (2) Special Rule for Employment Tax and Worker Misclassifications. IRC 6521 provides a special mitigation rule with respect to the tax on self-employment income (SECA) and the tax under the Federal Insurance Contributions Act (FICA). It authorizes an offsetting adjustment if:
 - a. An amount is erroneously treated as self-employment income instead of wages and the correction of the error would require an assessment of FICA tax and a credit or refund of SECA tax, or
 - b. An amount is erroneously treated as wages instead of self-employment income and the correction of the error would require an assessment of SECA tax and a credit or refund of FICA tax, and
 - c. The period of limitations for one of the taxes to be corrected is open, but the correction of the other tax is prevented by law or a rule of law (other than IRC 7122 relating to compromises).

25.6.1.10.2.12
(10-01-2021)
**Claims Against the
Government Processed
by the IRS under Title 28
(6 years)**

- (1) The claims listed in this section are not governed by the provisions in the Internal Revenue Code for obtaining a tax refund. A claimant may obtain administrative consideration of a claim during the period the claimant may file suit in a District Court or in the Court of Federal Claims.
- (2) Length of Period. Unless otherwise provided, a taxpayer must file a suit for recovery of a non-tax claim within a six-year period. See 28 USC Section 2401 for suits in the district courts and 28 USC Section 2501 for suits in the Court of Federal Claims.

Note: IRC 6532(a), which provides a two-year period for bringing refund suits, is an example of a statute providing otherwise.

- (3) Starting Point of the Period for Filing Suit. The starting point depends on the nature of the claim. The starting date is based on the common law rule for when the period for the cause of action begins, i.e., when all the events which fix the government's alleged liability have occurred and the taxpayer was or should have been aware of their existence. See *General Instruments Corp. v. United States*, 33 Fed.Cl. 4, 7-8 (1995).

25.6.1.10.2.12.1
(10-01-2007)

**Claim for Overpayment
Interest under IRC 6611**

- (1) Overpayment interest accrues from the date of overpayment of the tax to a date not more than 30 days prior to the date of the refund under IRC 6611. Generally, the interest is automatically computed and credited or paid when a tax claim is allowed.
- (2) Submission of an Administrative Claim. A claim is not required before filing suit. An administrative claim may be allowed and paid upon request at any time before the period for filing suit at (3), below, expires. See Rev. Rul. 57-242, 1957-1 C.B. 452.

Note: If a taxpayer files suit without bringing an administrative claim, a court may dismiss the suit using its discretion to refuse to hear a suit where the taxpayer failed to exhaust administrative remedies.

- (3) Length of the Period for Filing Suit. The six-year period under 28 USC Sections 2401 and 2501 applies to the filing of a suit. See Rev. Rul. 56-506, 1956-2 C.B. 959.
- (4) Starting Point of the Period for Filing Suit. A cause of action for overpayment interest begins to run when a claim for credit or refund is allowed. The date of the allowance of the refund is the date the Commissioner or the delegate signs the schedule on which the overpayment is listed as provided under IRC 6407. See Rev. Rul. 57-242.

Note: An administrative claim submitted on Form 843 does not stop the running of the six-year period. The only manner in which a taxpayer can fully protect the taxpayer's rights is by filing suit before the expiration of the six-year period. See Rev. Rul. 57-242.

25.6.1.10.2.12.2
(09-12-2014)

**Net Rate Interest Netting
Under IRC 6621(d)**

- (1) A claim for interest netting under IRC 6621(d) is treated the same as a claim for overpayment interest under IRC 6611. Also see Rev. Proc. 2000-26, 2000-1 C.B. 125.

25.6.1.10.2.12.3
(10-05-2016)

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

- (1) This section describes procedures for processing claims filed on Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts. A taxpayer must report the income from a long-term contract subject to IRC 460(a) using the percentage of completion method of accounting. In the year that a taxpayer completes a long-term contract, the taxpayer compares the actual costs with the estimated costs, and the actual revenue with the estimated revenue for each prior year of the contract (the **look-back method**.)
- a. If the taxpayer understated income in earlier years, the taxpayer is required to pay look-back interest. Any look-back interest owed is a

payment of tax under IRC 460(b)(1). See also Treas. Reg. 1.460-6(f)(2) and (3). However, if the taxpayer initially overstated the amount of the look-back interest owed, the taxpayer may file a claim to recover the overpayment of tax. See Treas. Reg. 1.460-6(f)(3).

- b. Alternatively, if the taxpayer overstated income in earlier years the taxpayer may file a claim to receive look-back interest. Such claim is considered a general, non-tax claim against the government. See paragraphs (2)-(4) below for additional considerations.

- (2) Submission of an Administrative Claim. A claim is not required before filing suit. An administrative claim may be allowed and paid upon request at any time before the period for filing suit at (3), below, expires.

Note: If a taxpayer files suit without bringing an administrative claim, a court may dismiss the suit using its discretion to refuse to hear a suit where the taxpayer failed to exhaust administrative remedies.

- (3) Length of the Period for Filing Suit. The six-year period under 28 USC 2401 and 2501 applies to the filing of a suit. See Treas. Reg. 1.460-6(f)(3).

Note: Paragraph (2) and (3) apply only with respect to look-back interest owed to the taxpayer - not to recovery of look-back interest paid by the taxpayer earlier.

- (4) Starting Point of the Period for Filing Suit. In general, an action for overpayment interest begins to run on the earlier of the return due date (not including extensions) for the filing year or the date when the taxpayer both files the return and pays the tax for that year. See Treas. Reg. 1.460-6(c)(1)(i) and (c)(4)(i). However, the IRS may consider other dates, depending on the facts. IRM 25.6.1.10.2.12, Claims Against the Government Processed by the IRS under Title 28 (6 years).

Note: An administrative claim submitted on Form 8697 does not stop the running of the six-year period. The only manner in which a taxpayer can fully protect the taxpayer's rights is by filing suit before the expiration of the six-year period.

25.6.1.10.2.12.4
(05-17-2004)

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

- (1) A taxpayer may claim a depreciation deduction under the income forecast method under IRC 167 for certain property. A look-back method may provide a taxpayer with interest for overestimating income which is treated similar to lookback interest. IRM 25.6.1.10.2.12.3, Claim on Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts, for processing claims for interest on Form 8697.

25.6.1.10.2.12.5
(10-14-2008)

**Other Claims (Open
Period)**

- (1) In general, a taxpayer may file suit for the recovery of tax, penalty or any sum collected by the IRS. IRC 7422 requires that a claim for such refund be filed before filing suit. Items that may be covered by the "any sum" language of IRC 7422 are not covered by the two- or three-year period in IRC 6511. No period has been prescribed by the IRS for submitting an administrative claim for "any sum" item at this time.

25.6.1.10.2.12.6
(10-01-2021)

**Claim on Form 8038-R,
Request for Recovery of
Overpayment Under
Arbitrage Rebate
Provisions**

- (1) Final Regulations published on November 13, 2014 at Treas. Reg. 1.148-3(i) provide guidance on the recovery of overpayments of arbitrage rebate on tax-exempt bonds and other tax-advantaged bonds. Treas. Reg. 1.148-3(i)(3)(i) provides that an issuer must request a refund of an overpayment claim no later than the date that is two years after the final computation date for the issue to which the overpayment relates. The overpayment claim must be made using Form 8038-R, **Request for Recovery of Overpayments Under Arbitrage Rebate Provisions**. "Revenue Procedure 2017-50, 2017-37 I.R.B. 234 (9/11/2017) extends the deadline for filing claims for recovery of such overpayments to two years after: (1) the date that is 60 days after the final computation date of the issue to which the payment relates; or (2) with respect to the portion of the overpayment paid more than 60 days after the final computation date, the date that the payment was made to the United States."
- (2) Treas. Reg. 1.148-3(i)(3)(ii) provides that the Commissioner may request additional information to support an overpayment claim. The issuer must file the additional information by the date specified in the Commissioner's request; this date may be extended by the Commissioner if unusual circumstances warrant. The issuer is given at least 21 calendar days to respond to a request for additional information.
- (3) Treas. Reg. 1.148-3(i)(3)(iii) provides that an overpayment claim denied because the Commissioner asserts that the claim was filed after the filing deadline or that additional information was not submitted within the time specified in the request for information may be appealed to the Office of Appeals. If the Office of Appeals makes a determination in favor of the issuer, the Office of Appeals must return the undeveloped case to the Commissioner for further consideration of the substance of the claim.
- (4) Treas. Reg. 1.148-3(i)(3)(i) applies to overpayment claims for an issue of bonds for which the final computation date is after June 24, 2008. For this purpose, issues for which the actual final computation date is on or before June 24, 2008, are deemed to have a final computation date of July 1, 2008. Treas. Reg. 1.148-3(i)(3)(ii) and (iii) apply to claims for which the final computation date is after September 16, 2013.
- (5) Rev. Proc. 2008-2(Vol.1) C.B. 137 (July 21, 2008) provides additional procedures to be followed to the extent not inconsistent with the final regulations described above. The Preamble to the final regulations provides that this revenue procedure will be updated for consistency purposes. Rev. Proc. 2017-50, modifies Rev. Proc. 2008-37 to provide guidance regarding the time for filing claims for recovery of overpayments, as noted in paragraph (1) above.

25.6.1.10.2.12.7
(05-10-2013)

**Deposit Made Under IRC
6603**

- (1) IRC 6603(c) provides that the IRS will return to the taxpayer any amount of a deposit that the taxpayer request in writing be returned unless the amount has previously been used to pay tax or the IRS determines that collection of tax is in jeopardy. IRC 6603(c) was added because of the American Jobs Creation Act of 2004, Pub. L. No. 108-357, enacted on October 22, 2004. Rev. Proc. 2005-18, 2005-13 IRB 798 provides guidance for recovering a deposit made pursuant to IRC 6603.
- (2) An administrative claim requesting the return of a deposit may be filed at any time. No period has been prescribed by the IRS for the filing of the request for return of a deposit at this time.

- (3) A request to recover a deposit which the IRS has used to pay tax is a claim for refund of an overpayment of tax by the taxpayer. When the IRC 6603 deposit is used to pay tax, it is converted into a payment of tax on the date the payment of tax is paid and is no longer considered a deposit payment made by the taxpayer. The tax payment date is used to start the 2 years refund period for filing a claim for refund. See Rev. Proc. 2005-18, 2005-1 C.B. 798 at Section 5.

Note: If the taxpayer requests the return of a deposit under IRC 6603 and the IRS contends the payment is a tax payment, the Government will raise the period of limitations as a defense to the taxpayer's action if the request was not timely applying the rules for refund.

25.6.1.10.2.12.8

(08-24-2012)

**Claim for IRC 7519
Payment Made in
Connection with an IRC
444 Election**

- (1) Required Payments. Under IRC 444, a partnership or an S corporation may elect a taxable year other than its required taxable year, but the entity must make any payments required by IRC 7519. For an applicable election year beginning after 1987, the required payment is due and payable without assessment or notice, on or before May 15 of the calendar year following the calendar year in which the applicable election year begins. See Treas. Reg. 1.7519-2T(a)(4)(ii). In general, the entity must both file a Form 8752, Required Payment or Refund under IRC 7519, showing the required payment (even if the amount of such payment is zero), and pay the full amount of the required payment as reported for each year in which the entity's IRC 444 election is in effect. See IRC 7519(e)(2)(B) and Treas. Reg. 1.7519-2T(a).
- (2) Required Payment is a Deposit. A required payment submitted with Form 8752 generally is treated as a deposit. A claim for refund submitted on that form is a request for a return of an over deposit and is not a claim for refund of tax. IRM 21.7.4.4.7, Form 8752, Required Payment or Refund Under IRC 7519.
- (3) A partnership or S corporation may file an administrative claim at any time. The IRS has not prescribed a period for filing a claim for refund of an overdeposit at this time. Treas. Reg. 1.7519-2T(a)(6) states that a partnership or S corporation should file a claim for refund, but it only provides the earliest date on which the entity may file a claim for refund.
- (4) IRC 6603(c) and the procedures in Rev. Proc. 2005-18, are not applicable because the required payment is not a voluntary remittance. See IRC 7519(f)(1) regarding assessment and collection of a required payment as if it were a tax.

25.6.1.11

(10-01-2001)

Statute Transcripts

- (1) This section provides guidance in identifying and resolving statute transcripts where the Assessment Statute Expiration Date (ASED) is imminent/expired or the Refund Statute Expiration Date (RSED) has expired.
- (2) A Statute transcript is an internally generated correspondence by the Computer Services function in IRS campuses.

25.6.1.11.1

(04-04-2016)

**Statute Transcript
Research**

- (1) To resolve statute transcripts, you may need to refer to the following Internal Revenue Manual (IRM) and Internal Revenue Codes (IRC) where an IRM link or code section is found in the specific transcript type procedures.
- IRM 3.12.21, Credit & Account Transfers
 - IRM 3.17.79, Accounting Refund Transactions

- IRM 2.3, IDRS Terminal Responses
- IRM 21.2.4, Master File Accounts Maintenance
- IRM 21.4.5, Erroneous Refunds
- IRM 21.5.1, General Adjustments
- IRC 6501, Limitations on Assessment/Collection
- IRC 6502, Collection After Assessment
- IRC 6503, Suspension for Assessment and Collection
- IRC 6511, Limitations On Credit/Refund
- IRM 21.2.4.3.30.2, Transcripts with Individual Taxpayer Identification Numbers (ITIN)

25.6.1.11.1.1
(07-29-2008)

**IMF/BMF Accounts
Maintenance/Statute
Expiration Reports**

- (1) The IMF/BMF Accounts Maintenance/Statute Expiration Transmittal and Analysis Data Reports are produced to inform management on the number of accounts on the master files meeting pre-determined extraction criteria. The counts "Statute Selected Count" and "Current Expired ASSED Count" columns indicate the number of cases that are statute related.

25.6.1.11.1.2
(07-29-2008)

**Case Control Activity
(CCA)**

- (1) The Case Control Activity (CCA) is designed for personnel to assign, close, and update cases on IDRS. All statute transcript cases are identified on IDRS with Category Codes STEX, ST-nn (number of transcript), X—nn, BARD, RSED, and ERAB. Cases can be systemically or manually controlled.
- (2) The Accounts Management System (AMS) electronically deliver Statute transcripts on a weekly or monthly basis replacing the printed paper forms. The data is extracted and sorted by a computer program and cases are loaded into the AMS system as inventory items. The AMS system will automatically assign inventory cases to employees based on their skill codes and the number of cases in inventory. The Statute manager, lead or clerk may also manually assign transcript inventory to employees in their unit from the unassigned queue.
- (3) When a case is in the unassigned queue on AMS, a generic control base is established on IDRS. When the AMS case is assigned to a tax examiner in Statute, the generic control base established on IDRS assigns the case to the same tax examiner in Statute.
- (4) In addition, AMS will allow you to do the following from the Inventory Management file:
 - Suspend a case for additional information
 - Reactivate a case when the suspension period is complete or a reply is received from the taxpayer
 - Send case for Technical Assistant to (Manager, Lead or OJI)
 - Reactivate Technical Assistance case
 - Print a case for reroute
 - Cancel reroute actions
 - Input a credit transfer
 - Write a letter
 - Leave a history of action taken on a case
 - Review and reject a Rerouted case
 - Reactivate a reject Rerouted case
 - Switch to Summary Print of a rerouted case as paper
 - Monitor a case for closing posting action
 - Allow managerial review and PAS review of a case

- Close a case in AMS and IDRS at the same time

25.6.1.11.1.3
(10-01-2001)
Overage Listing

- (1) The overage listing is a computer-generated list of cases assigned to individual employees who have met an established age. All statute transcripts become overage at 99 days.

25.6.1.11.1.4
(10-01-2001)
Statute Transcript Procedures

- (1) The following subsections provide procedures for handling statute transcripts.
- (2) Refer to Document 6209, IRS Processing Codes and Information, for Master File freeze codes.

25.6.1.11.1.4.1
(10-01-2009)
Diagnostic (DIAG) Transcripts

- (1) DIAG Transcripts are similar to the AM/STAT transcripts and are issued to identify systemic programming or computer operations problems. In addition, they may disclose operational problems in other functional areas.
- (2) You must analyze each statute transcript to determine:
 - a. The ASER.
 - b. The RSED.
 - c. What action caused the module to be frozen.
 - d. The action to take to clear the module of **all** freeze conditions.
- (3) Due to the adverse impact on the Accounts Receivable, the IRS must strive to minimize the volume of unresolved **Large Dollar Debit and Credit Modules** in # and over must be **expeditiously** resolved.
- (4) The Statute function “**does not**” work ST-24 (Math Error Protest) transcripts. These transcripts are generated to the Accounts Management/ Adjustment function. The procedures for resolving these types of cases are found in IRM 21.5.4.5.5, Math Error Unsubstantiated Protest Processing.
- (5) The Statute function will work only DIAG transcripts for tax periods which are within 90 days of expiration or expired. Use general statute procedures to resolve these transcripts.

25.6.1.11.1.4.2
(03-17-2023)
Resolving STAT Transcripts

- (1) You must analyze each statute transcript to determine:
 - a. The ASER.
 - b. The RSED.
 - c. What action caused the module to be frozen.
 - d. The action to take to clear the module of **all** freeze conditions.
- (2) Document case actions as an AMS narrative.
- (3) Generally, Transaction Codes (TC) 388 generate twice per calendar year in January and July (cycle 01 and 24). TC 389 reversals generate when there is a subsequent account activity. When working statute transcripts that contain a TC 388 & TC 389, refer to IRM 21.2.4.3.2.1, Modules Containing TC 388 & TC 389.
- (4) Due to the adverse impact on the Accounts Receivable, the IRS must strive to minimize the volume of unresolved **Large Dollar Debit and Credit Modules** in #

- (5) The Statute function “**does not**” work ST-24 (Math Error Protest) transcripts. These transcripts are generated to the Accounts Management/ Adjustment function. The procedures for resolving these types of cases is found in IRM 21.5.4.5.5, Math Error Unsubstantiated Protest Processing.

25.6.1.11.1.4.2.1
(10-01-2001)

**AM-X (Statute Expired)
Transcripts**

- (1) AM-X transcripts are generated on credit balance tax modules and the ASED has expired.
- (2) Use general statute procedures to resolve these transcripts.

25.6.1.11.1.4.2.2
(04-01-2007)

**ST-02 (Erroneous Credit
Hold)**

- (1) A ST-02 transcript is generated when the module net balance is a credit exceeding \$1.00, but is not composed entirely of refundable cash credits.
- (2) Resolve the case by reversing the TC 606 on Doc Code 24 with TC 672 and TC 670 for the write-off date and amount. This action will generate a TC 607, which will release the freeze.

25.6.1.11.1.4.2.3
(08-11-2023)

**ST-03 (Amended Return,
No Original)**

- (1) If an amended return is posted to a master file module which does not contain an original return, then process as follows:

If	And	Then
The limitation period for assessment HAS NOT expired	It is the original return but was coded in error	Clear the return and re-input it as the original if the statute is not imminent.
The limitation period for assessment HAS NOT expired	The amended return is determined to be the original return and was timely filed causing the statute to be imminent (Received date is within 60 days of ASED)	Create a TC 150 by manually assessing tax and, if applicable, penalty and interest. Input a TC 560 with blocking series 990-999 to correct the ASED.

- (2) Input TC 290 for zero after the assessment posts. This will result in a refund or the issuance of a bill.

If	And	Then
The original return cannot be located		Contact the taxpayer for copies of the signed original with all schedules and attachments and copies of canceled checks if the return was a balance due.
The copies of the signed original cannot be secured from the taxpayer	The amended return was received with remittance and the statute is imminent	Create a TC 150 by manually assessing the credit balance as tax. Assess applicable penalties and interest.
All efforts to secure the original return are exhausted	You cannot determine the amount of assessment	Process as a dummy return with zero liability complete with name, address, SSN or EIN and tax period. Use the same document locator number (DLN) on the dummy return as on TC 977 to release the "E" Freeze. Caution: For BMF Form 941 tax return with Form 944 filing requirement, the input of a TC 971 cc 002 would be needed to release the freeze.

- (3) If the TC 977 is posted to the account, but the account shows the taxpayer filed a joint return and the amended return information has already been added to the joint tax return account, input TC 971 Action Code 002 with a cross reference to the joint tax account. You do not need to input a TC 971 Action Code 017 on the joint tax return, as the amended return information has already been added to the joint tax account.
- (4) If the account shows TPP markers TC 971 AC 121 or 124 and AMS notes verify that the taxpayer was authenticated, and the valid return is on MFT 32 or GUF VOID DELETED (not posted to MFT 30 or MFT 32), take the following actions based on the timeframe specified:

- If the ASED is 120 days or greater of the assignment date, close your control within AMS and open a new control base to RIVO IDRS number 1487355555 using IDRS CC ACTON. Use activity code "TPAUTH". This activity code must be used to confirm the taxpayer was previously authenticated and prompt RIVO to take reversal actions.
- If the ASED is more than 90 days but less than 120 days, close your control within AMS and open a new control base to RIVO using IDRS CC ACTON and assign as:
C#,ASEDMMDDYY,A,MISC (MMDDYY should be the ASED per TRDBV)
1485066666,*
- if the ASED is 90 days or less, close your control within AMS and open a new control base to RIVO. In addition, you will need to send an email

#

Expedited Statute Case-MFT 32 Reversal. In the body of the email, include the social security number, tax period and the ASED of the case. Using IDRS CC ACTON, assign as:

C#,PROMT2STAT,A,MISC
1487755555,*

- If the ASED has expired, close your control within AMS and open a new control base to RIVO. Use IDRS CC ACTON and assign as:
C#,BARD2RIVO,BARD
1485066666,*

Note: If the case was sent to RIVO but doesn't meet the criteria, RIVO will reject the case using activity code "RJCTMMDDYY" (MMDDYY will be the ASED) and category code MISC.

If AMS does **NOT** contain notes indicating the taxpayer was authenticated and the return was moved to MFT 32 or GUF VOID DELETED, **DO NOT** forward the case to RIVO.

25.6.1.11.1.4.2.4
(10-02-2023)

ST-04 (Duplicate Return)

- (1) A ST-04 is caused by a duplicate return (TC 976/ TC 977) posting to a module which already contains an original return (TC 150). If the TC 976/ TC 977 document contains no change to tax, exemptions, filing status, adjustment to gross income or taxable income, the statute employee should input a TC 29X for zero with the appropriate blocking series for your case to release the -A Freeze Transcript. If the account is in Status 26, please refer to IRM 21.3.3.4.9.2(4), Campus Collection Function Correspondence/Inquiry/Notice.
- (2) Consider the case resolved if:
 - An adjustment previously posted and released the freeze, or
 - An adjustment is pending.
- (3) To resolve a ST-04 Transcript, you should research CC TRDBV to determine if the duplicate return (TC976/TC 977) is a true dupe. If the duplicate return is a true dupe, you should input a TC 290 for zero with the appropriate blocking series to release the -A freeze. If research proves the duplicate return is not a true dupe, request a copy of the TC 976/TC 977 return document from Files. If the TC 976/TC 977 posting was created by the input of a TC 971 Action Code 10, there is no return on that DLN. An amended return was received, but it was routed to Accounts Management/ Adjustment. You should search for the document on CII prior to requesting a newly signed copy of the return

document from the taxpayer if the correspondence time frame will allow a response (usually 45 days) to be received before the Assessment Statute Expiration Date passes.

Note: Due to the continued impact of the Coronavirus, and employees having difficulties receiving document requests housed in Kansas City when submitting a document request, also send a letter to the taxpayer requesting the missing information until further notice.

- (4) If research shows a document or amended return was received indicating a tax decrease is required, forward the amended return to Accounts Management/Adjustments to resolve the -A freeze condition. If document or amended return is a physical document, the Statute employee will stamp the document **No Statute Issue**, add an AMS history stating, **No tax increase assessment statute issue**, or similar verbiage, then close their AMS control as a routed case. If it is an electronic document, add an AMS history stating, **No tax increase assessment statute issue**, or similar verbiage, then close their AMS control as a routed case. Use local guidelines for forwarding the case to Accounts Management/Adjustments to resolve the -A freeze. Statute employees will resolve the freeze condition only if research shows a tax increase is needed to resolve the freeze condition and the ASER is expired or about to expire.
- (5) If research shows the case was closed on CII by an employee without releasing the freeze condition and the case was not routed to another area, prepare Form 3210, Document Transmittal and forward a printed copy of the CII case showing the IDRS number or TXMODA print showing the IDRS number of the employee to the responsible team or department of the employee stating to resolve the -A freeze.
- (6) If the transcript generates with an unreversed TC 420/424, or research shows the case was closed on CII and routed to Exam or Document Matching for audit reconsideration, see IRM 21.5.3.4.7(6), Processing Claims and Amended Returns With Examination Involvement, for resolution.

Reminder: Do not reopen a CII case unless immediate action can be taken. See IRM 21.5.1.5.1(19), CII General Guidelines.

- (7) If your case does not involve an Examination or Document Matching audit reconsideration, close your control base on IDRS and AMS to Accounts Management/Adjustment as stated in paragraph (4) above. You can send a print copy of the transcript if you do not have the amended return to Accounts Management/Adjustment for resolution.
- (8) If research shows a tax increase is needed and the ASER is imminent, input the tax increase.
- (9) If your research of the transcript shows Identity (ID) Theft indicated on the taxpayer's account and the case is controlled by an ID Theft employee, you may close your control base in AMS and IDRS as "no action". Input a history item in AMS indicating the IDRS number of the ID Theft employee who has the open control. ID Theft case work is considered out of scope for statute employees. If your research of the taxpayer's account indicates ID Theft and the case is not controlled to an ID Theft employee, see IRM 21.2.4.3.19, Transcripts with

Identity Theft (IDT) Involvement, to find out what action you will need to take in forwarding the case to be worked by an ID Theft employee.

- (10) If unable to secure the amended return, and
 - a. A payment was submitted, assess tax in the amount of the payment.
 - b. No payment was submitted, but the account is in credit balance, and you are unable to determine where the credit belongs, apply the credit to the Excess Collection File (XSF). IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF), for information before transferring any credit or payment. Input TC 290 for zero amount to release the freeze.
 - c. No payment was submitted and module is in zero balance, input TC 290 to release freeze.
 - d. Earned Income Credit (EIC) is on the module, follow the procedures in IRM 21.5.2.4.23.10, Moving Refunds, before taking actions in (a), (b), and (c) above.
- (11) If the taxpayer's account contains a -Z Freeze, see IRM 21.2.4.3.18(6), Return Integrity & Verification Operations (RIVO) and Criminal Investigation (CI), Transcript Issues, for information on opening or closing your control base.
- (12) If the TC 150 was created by a Substitute for Return (SFR) or Automated Substitute for Return (ASFR) and the original return subsequently posts as a duplicate filing condition, see IRM 21.5.3-1, Claim Processing with Examination Involvement, before assessing additional tax.
- (13) If research reveals that the TC 976/977 return was filed by a different taxpayer or intended for a different tax year, reprocess the return or re-input the return to the correct taxpayer's account or tax year. Bear in mind that you may have to manually assess the return and correct the ASER with TC 560 Blocking Series 990-999.

25.6.1.11.1.4.2.5
(08-11-2023)

ST-05 (Examination/Data Processing (DP)) Tax Hold Codes

- (1) A ST-05 is caused by unreleased hold codes (1, 2, or 4) on Examination/DP actions (TC 29X/30X) and a tax module credit balance exists. On a BMF account, it may be caused when Condition Code "N" (Joint Committee Case is sent to Examination) posts to a Form 1120 module.
- (2) Release the -K freeze if research determines the hold code was used in error and all liabilities are posted and satisfied.
- (3) If a liability exists or will be established on another module, initiate credit transfer. If the RSED has passed, apply the credit to the XSF using Form 8758, input a TC 290 for zero, and send a disallowance letter (105C). See IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for sending the disallowance letter. See IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF), information before transferring any credit or payment.
- (4) If the ST-05 was caused by SFR, route the case back to the SFR tax examiner for resolution.
- (5) If the ST-05 transcript contains an unresolved -L freeze on the account module, you must route the transcript case to Examination for resolution.

- (6) If the ST-05 transcript was caused by Examination adjustment TC 30X and the disposal codes used were other than 07, 11 or 12, you must forward your transcript case to Examination for resolution.
- (7) If the ST-05 transcript was caused by an area inputting a TC 29X (such as CAWR/FUTA); then, you must route the transcript case back to that area for resolution.
- (8) If the ST-05 transcript contains an F- freeze on the account module, you must route the transcript case to Examination Frivolous Return Program for resolution.
- (9) Request the document that caused the freeze on an as needed basis.
- (10) If the ST-05 transcript was caused by Return Integrity & Verification Operation (RIVO), see IRM 21.2.4.3.18, Return Integrity & Verification Operation (RIVO) and Criminal Investigation (CI), Transcript Issues, for routing the case to RIVO.
- (11) If the ST-05 transcript was caused by Return Integrity & Verification Operation backing out the correct taxpayer's account in error, close your control base within AMS and open a new control base to RIVO Statute according to the timeframes stated below:
 - If the ASED is 120 days or greater of the assignment date, close your control base within AMS and open a new control base to RIVO IDRS number 1487355555 using IDRS CC ACTON. Use activity code "TPAUTH". This activity code must be used to confirm the taxpayer was previously authenticated and prompt RIVO to take reversal actions.
 - If the ASED is more than 90 days but less than 120 days, close your control base within AMS and open a new control base to RIVO using IDRS CC ACTON and assign as: C#,ASEDMMDDYY,A,MISC (MMDDYY should be the ASED per TRDBV)
1485066666,*
 - If the ASED is 90 days or less, close your control base within AMS and open a new control base to RIVO. In addition, you will need to send an Expedited Statute Case--MFT 32 Reversal. In the body of the email, include the social security number, tax period and the ASED of the case. Using IDRS CC ACTON, assign as:
C#, PROMT2STAT,A,MISC
1487755555,*
 - If the ASED has expired, close your control base within AMS and open a new control base to RIVO using IDRS CC ACTON, and assign as:
C#,BARD2RIVO,A,BARD
1485066666,*

Note: If the case was sent to RIVO but doesn't meet the criteria, RIVO will reject the case using activity code "RJCTMMDDYY" (MMDDYY will be the ASED) and category code MISC.

- (12) If the ST-05 transcript was caused by Return Integrity & Verification Operation backing out the incorrect taxpayer's account information as required when someone else has used the taxpayer's information to erroneously file a tax return and the account contains a TC 610 payment, the ASED for the account is based on three years from the date of that payment. If there is enough time to receive a response before the ASED expires, contact the correct taxpayer to

request they file a tax return. If the ASED is about to expire, you will need to manually assess the tax based on the ASED for TC 610 payment date. If the ASED has expired, assign the case to RIVO as stated in paragraph (11).

- (13) If the ST-05 transcript was caused by TOP offset reversal fraud case category DMFC, see IRM 21.2.4.3.36.1(4), AM05 Resolution, for more information.

25.6.1.11.1.4.2.6
(02-03-2023)

ST-08 (Manual Refund)

- (1) ST-08 transcripts are generated when one or more of the following conditions are present:
 - TC 150 posted with Condition Code "O" and no TC 840,
 - TC 150 with Condition Code "O" and the account is in zero balance, or
 - TC 150 and 840 posted but return is not coded with Condition Code "O" and module balance is equal or less than TC 840 amount with no TC 29X/30X posted to Master File.
- (2) If freeze was created by TC 840 and the return was not "O" coded, and the net module is debit:
 - Check for unpostable tax decrease; if found, forward to the Accounts Management/Adjustment function
 - If no unpostable is present, release the freeze with TC 290 for zero and Priority Code 8.
- (3) If both a TC 846 and 840 are posted to the same module, and one appears to be in error and it is a rebate error, refer to IRM 21.4.5, Erroneous Refunds.
- (4) If both a TC 846 and 840 are posted to the same module, and it is a non-rebate error, refer to IRM 21.4.5, Erroneous Refunds, for resolution.
- (5) If freeze was created by TC 150 code "O" and a TC 840 or TC 846 was not generated, you can release the freeze with the input of a TC 290 for zero and Priority Code 8. If the taxpayer needs to receive the refund within two weeks or the entity information has changed, prepare a manual refund. You must compute interest and check for any outstanding debit balances prior to releasing the freeze.
- (6) If a TC 150 is "O" coded and the module is in zero balance, input a TC 290 for zero with Priority Code 8 to release the freeze.
- (7) If a TC 840 posts with blocking series 6XX which indicates that the Refund Inquiry unit is waiting notification to post a TC 841 credit, close your case to refund inquiry.
- (8) If the freeze is due to a prior TRNS46 Transcript case with Computer Condition Code (CCC) L or W, or TC 540 is on any tax module and there is a module in credit status, see IRM 21.2.4.3.20, Processing TRNS46 Cases, for processing information for this transcript type. In addition, the programming that generates a TRNS46 transcript will prevent the posting of TC 388 which systemically moves the credit from the tax module to the retention register after 51 months of no activity and occurs in January or July each year.
- (9) If the manual refund freeze is due to a prior TRNS46 Transcript case with J-/-X Freeze and neither taxpayer is deceased, input TC 290 for zero, with priority code 8 and the account RSED date in the Refund Statute Control Date filed along with override code S. If one of the taxpayers on the joint return account

is deceased, you do not need to request Form 1310. You will just need to issue a manual refund in the name of the surviving spouse.

Caution: TC 290 for zero priority code 8 will not release the refund and -X freeze if TC 540 is on any module. A manual refund is required. See IRM 21.2.4.3.20, Processing TRNS46 Cases, for more information.

25.6.1.11.1.4.2.7
(10-02-2023)
**ST-09 (Additional
Liability Pending)**

- (1) A ST-09 transcript is generated when a payment posts (with TC 570) and the tax module is in credit balance.
- (2) Request the return or TC 570 document if needed. In addition, research Remittance Transaction Research System for copy of check. If the document shows the payment was posted correctly or the account shows similar payment amounts, you may release the payment for refund or offset by inputting a TC 571. If a payment is correctly posted to the taxpayer's account and the payment is for more than the balance that remains on the account prior to the payment posting, you can release the payment for refund or offset by inputting a TC 29X for zero or by inputting a TC 571 on the account. If the internal research action stated in the beginning of this paragraph does not provide a resolution for your case, you must initiate correspondence to the taxpayer for clarification of the payment prior to the ASSED passing. This will allow time for you to receive a response from the taxpayer and make an additional tax assessment of tax to resolve the payment issue prior to the ASSED expiration date.

If	Then
The taxpayer submits the requested information such as an amended return or request a transfer of the payment	Take necessary action to resolve the freeze.
The taxpayer does not submit the requested information, such as an amended tax return, or submits the amended tax return after the ASSED has expired without a condition that will extend the ASSED	You must refund the taxpayer's payment. Do not send the payment to the Excess Collection File.

Reminder: Do not input a manual assessment of tax based on the TC 670 payment amount if you do not have a signed tax return or document present showing the amount of the additional tax assessment.

- (3) If the TC 570 freeze was applied as a result of a credit transfer, request the document and review the reason for the transfer.
- (4) If the freeze condition on the transcript was set because of a Scrambled Social Security Number (SSN) (Scrambled Indicator "01" is present), move the credit to the Excess Collection File. No additional research or taxpayer contact is necessary. See IRM 21.2.4.3.40.1(9), Computer Condition Code (CCC) 3 or U-Coded Returns, for Scrambled SSN cases with an indicator other than 01.

- (5) If the freeze condition on the transcript was set because of a Scheme Detection Center (SDC) Z freeze condition, you must follow the procedures stated in IRM 21.2.4.3.18(6), Return Integrity & Verification Operation (RIVO) and Criminal Investigation (CI), Transcript Issues, for routing and closing your transcript case in AMS.
- (6) If the transcript freeze is indicated by CP36F with TC 971 Action Code 151 on the taxpayer's account, see IRM 21.2.4.3.40.2(8), AMRH09 Resolution, for more information.
- (7) If the account involves an IRSN or ITIN account issue, see IRM 21.2.4.3.30, Transcripts with Internal Revenue Service Numbers (IRSN) and Individual Taxpayer Identification Number (ITIN). For IRSNs, see IRM 21.2.4.3.30.1, Transcripts with Internal Revenue Service Numbers (IRSN). For ITINs, see IRM 21.2.4.3.30.2, Transcripts with Individual Taxpayer Identification Numbers (ITIN).
- (8) If the payment posted on the taxpayer's account shows that the first two digits of the Document Location Number (DLN) begins with 71, 50, 53 or 20 and the Blocking Series is 800-899, the payment is considered an Offshore Voluntary Disclosure Payment (OVDP). The first two digit of the DLN will be 81 if processed by Austin Submission Processing per IRM 3.8.47.15(5), Voluntary Disclosure Practice. You must only take following actions:
 - Do not contact the taxpayer as stated above, assess any tax or release the credit payment
 - Close your IDRS and AMS control base as "no action"
 - Input AMS history item as "OVDI or OVDP".
- (9) If the payment posted on the taxpayer's MFT 30 account is for the Shared Responsibility Payment (SRP), the statute employee will input the payment of tax as a penalty assessment on MFT 35 account module with a TC 240 penalty assessment along with Penalty Reference Number (PRN) 692. If you are inputting a manual assessment, you only need to input a PRN 692 for the amount of the payment to be assessed and TC 290 for zero. You do not need to manually assess interest. Interest will be assessed if needed automatically when the assessment posts. The individual SRP Assessment Statute Expiration Date (ASED) is three years from the date the original Form 1040 is filed; however, the individual SRP carries a separate and distinct ASED and does not inherit the same ASED associated with the income tax return on which the individual SRP is reported. For example, if the Form 1040's ASED is extended by consent, is suspended, or is extended under an alternative statute provision, such as the unlimited fraud ASED, generally the individual SRP statute will not automatically also be extended. You will need to transfer the payment posted on MFT 30 account to the MFT 35 account. See IRM 21.6.4.4.20, Individual Shared Responsibility Provision, for more information including how to create an account on MFT 35 when you have an amended tax return.
- (10) Follow the instruction in the table below when working Return Integrity & Verification Operation (RIVO) cases. See IRM 21.2.4.3.18, Return Integrity & Verification Operation (RIVO) and Criminal Investigation (CI), Transcript Issues, for more information.

IF	And	Then
<p>Any of the following markers are present: TC 971 AC 134 with no subsequent TC 972 AC 134 or TC 571</p> <p>OR</p> <p>Any TC 971 AC 199 (MISC fields beginning with AMWEX60033) with no subsequent TC 972 AC 199 or TC 571</p> <p>OR</p> <p>TC 971 AC 128 or TC 971 AC 140 with no subsequent TC 972 AC 128 or AC 140 or TC 571</p> <p>OR</p> <p>TC 971 AC 122 with no subsequent TC 972 AC 122 or TC 571</p>	<p>May contain -R freeze code generated by a RIVO marker or a P- freeze code generated from IDRS number beginning with 148xxxxxxx</p>	<p>If the credit module balance is more than \$499 and there is no other RIVO control open, close your control base within AMS and open a new control to RIVO number 1487599988. If another RIVO control is open, close your control base.</p> <p>If the credit module balance is \$499 or less, conduct research and release the credit.</p> <p>See <i>Exhibit 25.25.5-2</i>, Transaction Code (TC) 971 Action Code (AC) 199 (MISC) Field Literals, for other RIVO related MISC literals.</p>

IF	And	Then
<p>The account contains a TC 971 AC 121, AC 124 or AC 129 that has been reversed by a TC 972 AC 121, AC 124 or AC 129</p> <p>Note: In some cases, it may not have been reversed</p>	<p>No other unresolved RIVO markers are present (Refer to If Column above)</p>	<p>If no other return is found and the posted return is the valid return, release the refund. If the posted return is not the good taxpayer's return and a good tax return is identified with AMS notes verifying the taxpayer was authenticated and their valid return is found on MFT 32 or it was GUF VOID DELETED (not posted to MFT 30 or MFT 32), if no other RIVO controls are open, close your control base within AMS and open a new control according to the timeframe listed below. If another RIVO control is open, close your control base.</p> <ul style="list-style-type: none"> • If the ASED is 120 days or greater of the assignment date, close your control base within AMS and open a new control base to RIVO IDRS number 1487355555 using IDRS CC ACTON. Use activity code "TPAUTH". This activity code must be used to confirm the taxpayer was previously authenticated and prompt RIVO to take reversal actions. • If the ASED is more than 90 days but less than 120 days, close your control base within AMS and open a new control base to RIVO using IDRS CC ACTON and assign as: C#,ASEDMMDDYY,A,MISC (MMDDYY should be the ASED per TRDBV) 1485066666,*

IF	And	Then
		<ul style="list-style-type: none"> If the ASED is 90 days or less, close your control base within AMS and open a new control base to RIVO. In addition, you will need to send an email to subject line Expedited Statute Case--MFT 32 Reversal. In the body of the email, include the social security number, tax period and the ASED of the case. Using IDRS CC ACTON, assign as: C#,PROMT2STAT,A,MISC 1487755555,* If the ASED has expired, close your control base within AMS and open a new control base to RIVO. Use IDRS CC ACTON and assign as: C#,BARD2RIVO,A,BARD 1485066666,*
The TC 150 has posted with RIVO indicators	A TC 610 payment or TC 670 payment has posted to the account module	Send Letter 112C to request a tax return. If you receive a tax return assess the tax as shown on the return. If no reply, assess the TC 610 payment as an additional tax. Do not assess the TC 670 payment as additional tax. Instead, send the payment to Excess Collection File. If the ASED is expired for the TC 610 payment, close your control base within AMS and open a new control base to RIVO using IDRS CC ACTON and assign as: C#,BARD2RIVO,A,BARD 1485066666,*

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Note: If the case was sent to RIVO but doesn't meet the criteria, RIVO will reject the case using activity code "RJCTMMDDYY" (MMDDYY will be the ASED) and category code MISC.

- (11) The Protecting Americans from Tax Hikes (PATH) Act of 2015 was enacted to prevent refunds on deactivated ITIN returns beginning after the date of enactment.

Note: Expired/Deactivated/Inactive ITINs will show IDRS CC INOLES ITIN STATUS I or CC ENMOD ITIN-STATUS-CD>2. See IRM 21.2.4.3.30.2.1, Expired/Deactivated ITINs for AMRH, for more information.

- (12) For 2015 and prior tax year accounts filed prior to the enactment of the Path Act, a -R Freeze was set on the taxpayer's account in error.
 - For 2015 and prior tax periods, release the -R freeze via input of a TC 571.
 - For all other freeze conditions on the account, work per normal freeze code procedures.
- (13) If the freeze condition is the result of a TC 670 with DPC 64, see IRM 25.6.1.9.5.9, IRC 965 Statute Considerations. If there is an open control to the IRC 965 Specialized Team, coordinate as necessary. If there is no open control, obtain the related amended return and contact the IRC 965 Specialized Team.

25.6.1.11.1.4.2.8
(10-02-2023)

**ST-10 (Refund
Cancellation, Deletion or
Repayment)**

- (1) A ST-10 is caused by a returned refund, cancelled refund or deleted refund.
- (2) Request the original posting document to determine the required adjustment.
- (3) Contact the Output Review function to verify why a refund was deleted (TC 842). Upon contacting Output Review, if it is determined that they should work the case, close your transcript to them.
- (4) Contact the Erroneous Refund unit if a TC 720 has posted. Upon contacting the Erroneous Refund unit, if it is determined that they should work the case, close your transcript to them.
- (5) If a TC 720 has posted, the amount may be less than the TC 846 refund amount, it is considered an External/Bank Lead issue. See IRM 21.2.4.3.18(5), Return Integrity & Verification Operation (RIVO) and Criminal Investigation (CI), Transcript Issues for more information on working this transcript.
- (6) Contact the taxpayer if unable to determine why the refund was returned. Send Letter 407C requesting disposition of the credit. Suspend the case for 120 days. If no reply is received after 120 days, transfer the credit to the Unidentified Remittance File (URF) or Excess Collections file (XSF) and close the case **NOREPLY**.
- (7) If the taxpayer response indicates or you can determine through research, that the credit belongs on another account, transfer the credit to the correct account.
- (8) If the refund was returned because the taxpayer is deceased and you have secured the proper document timely, you must issue a manual refund to the name stated on the document received.
- (9) If the refund was cancelled or intercepted and CI or Return Integrity and Verification Operation (RIVO) is the reason why the refund was not sent, see IRM 21.2.4.3.18, Return Integrity and Verification Operation (RIVO) and Criminal Investigation (CI), Transcript Issues, for more information.
- (10) If you are unable to identify the correct recipient with the proper authority to receive the refund, transfer the credit to the XSF. IRM 25.6.1.7.3, Excess Col-

lection File (XSF) And Unidentified Remittance (URF) information before transferring any credit or payment.

25.6.1.11.1.4.2.9
(06-24-2022)

**ST-11 (Advance
Payment)**

- (1) A ST-11 is generated by a posted TC 640 and the account is in a credit balance. A ST-11, Civil Penalty transcript is generated on MFT 55/13 by a posted TC 640 credit and a TC 240 civil penalty assessment containing a credit balance. IRM 25.6.1.9.13, Civil Penalties, for more information. All advance payments will post as a TC 640. Advance payments will contain Blocking Series 900-999, Tax Class 0-8, and Doc Code 17. Advance payments are generally intended for anticipated or pending tax increase. For deposits made after October 22, 2004, pursuant to IRC 6603, a taxpayer may make a payment as a cash deposit with the IRS that may be used to pay tax which has not been assessed at the time of the deposit. In general, the start date for interest on overpayment of tax is the date of the overpayment. For the purpose of overpayment interest, an advance payment is treated as a deposit, under IRC 6603, and can accrue interest to the extent the deposit is attributable to a disputable tax. See Rev. Proc. 2005-18, for more information. For deposits made on or before October 22, 2004, see Rev. Proc. 84-58, for additional guidance. Also, see IRM 20.2.4.8.2.1, Identification and Rate of interest for 6603 Deposit, for more information on the rate of interest paid on 6603 deposits.

Note: After an assessment is made and the funds are applied as a payment against the assessed liability, the normal rules regarding interest on overpayments would apply. See IRM 3.17.79, Accounting Refund Transactions and Rev. Proc. 2005-18.

IF	AND	THEN
The transcript indicates that a TC 300 posted with the 23C date earlier than the TC 640 date	The payment resulted in a credit balance status and the account has an open AIMS and it is determined that additional liability is to be posted	Contact Examination.
The transcript indicates that a TC 300 posted with the 23C date earlier than the TC 640 date	The payment resulted in a credit balance and an outstanding liability exists in another module for the same taxpayer	Input credit transfer of the excess amount following instructions in IRM 3.12.21, Credit and Account Transfers.
The transcript indicates that a TC 300 posted with the 23C date earlier than the TC 640 date	The TC 640 was used in error	Reverse the TC 640 and post correct transaction code.

IF	THEN
The transcript has a TC 150 without a subsequent TC 300	Examine the information in the tax module to determine whether posting errors or computer input timing problems have created incorrect freeze conditions. Prepare input documents necessary to correct any identified errors.
The transcript has a TC 150 without a subsequent TC 300	If necessary, request the document which caused the payment to post to the master file. Examine the document for any leads to incorrect processing. Correct any errors.

- (2) If it is determined that the TC 640 payment posted on the taxpayer's account shows that the first two digits of the Document Location Number (DLN) begins with 71, 50, 53 or 20 and the Blocking Series is 800- 899, the payment is considered an Offshore Voluntary Disclosure Payment (VDP). Also, the first two digits of the DLN will be 81 if processed by Austin Submission Processing per IRM 3.8.47.15(5), Voluntary Disclosure Practice at the Austin Submission Processing Center. You must only take the following action:

- Do not contact the taxpayer as stated above, assess any tax or release the credit payment.
- Close your IDRS and AMS control base as "no action".

- Input AMS history item as “OVDI or VDP”.
- (3) If it is determined that the TC 640 is valid, but a TC 300 never posted to the tax module, use CC AMDISA to determine if the Examination function has an open control. If so, you must determine the ASSED provided on AMDISA. If the statute of limitation period for making an assessment will not expire within 30 days, route the transcript and a copy of the AMDISA print to the Examination Office via Form 3210, Document Transmittal. You must notify Examination that no action has been taken by the Statute function and you must expedite these cases as STATUTE IMMINENT with the number of days before expiration.

IF	THEN
The statute period will expire in less than 30 days	Coordinate the resolution with the Examination Office with open control on AMDISA (Make sure that EXAM has every opportunity to make the assessment before Statute assesses it).
Unable to coordinate the outstanding issue with EXAM	Make the proper assessment. Route a complete Exam Referral Slip indicating the amount and date of assessment, along with a copy of the transcript as well as a print of AMDISA.

IF	THEN
The case is not controlled by Examination or Appeals on AMDISA or there is no TC 420/424 and the account contains a valid TC 640	Make the proper assessment.
Unable to determine if an assessment is in order	Transfer credit to XSF. IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF) information before transferring any credit or payment.

- (4) If there is a TC 421 on the tax module or the return was re-filed but Examination did not input the adjustment TC 300-0 to reverse and release the respective TC 640, request the Exam documents to determine resolution. Check TXMOD for a history item. Examination may be in the process of making a manual assessment. Always check for a possible Non Master File (NMF) assessment. If assessment is required but never executed, assess tax with TC 290 and applicable penalty and interest. If the Examination document states that Exam determined “no change”, release credit for refund.

IF	THEN
There is no record of the return ever being assigned or charged to Examination/Appeals	Follow the instructions provided below since we cannot make an assessment without back-up documentation.

IF	AND	THEN
The ASED has not passed	You cannot resolve the freeze using instruction above	Transfer the credit to XSF. IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF) information before transferring any credit or payment.
The ASED has passed	The payment was/ appears to have been received on a defined tax liability before the ASED passed	Transfer the credit to the XSF. Report credit as a barred credit assessment. See information above.
The ASED has passed	The payment was received after the ASED	Do not transfer the credit to the XSF. Input TC 29X for zero and send the taxpayer 2765 C Letter stating the payment will be returned if no other debts are owed.
There is no record on AIMS	The advance payment(s) were received within the last 18 months	Treat the transcript as classified waste.
There is no record on AIMS	The advance payment(s) has a received date of more than 18 months and all research fails to reveal the reason for the payment	Compute the ASED and follow the instruction in (7) below for making an assessment.

- (5) The receipt of an advance payment stops the running of interest on the anticipated or pending liability. Also, the IRS will notify the taxpayer regarding the facts relating to an advance payment with a certified Letter 0316C, Taxpayer Made Tax Payment in Advance. This letter gives the taxpayer the opportunity to request a refund of the advance payment if the conditions are not satisfactory. The second page of the 0316C Letter can be used for this request.

- (6) If the tax module contains a “-Z” or “Z-” freeze, you must refer the transcript to CI for resolution.
- (7) If the ASED is within 90 days, prepare Form 2859 Request for Quick or Prompt Assessment (PMA). See IRM 25.6.1.9.14, Protective Manual Assessments (PMA). Indicate in red across the top of Form 2859 “PMA”. Send a letter to the taxpayer asking for reason for the advance payment. Request copies of any correspondence, notices, etc., that the taxpayer may have received from the IRS relating to the advance payment. In addition, ask the taxpayer to forward his/her reply within 30 days from the date of our inquiry.
 - a. Upon receipt of the reply, take the appropriate action based on the taxpayer’s reply. If the taxpayer is requesting a refund, and there is no record of an open Examination, CI, or any other control, you must notify Accounting to abate the assessment (PMA) if one has been made already and release the refund. If the payment is valid, you must notify Accounting to make the assessment as prepared on Form 2859.
 - b. If the above instructions fail to resolve the issue, and the ASED has passed, apply the advance payment to XSF. IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF), information before transferring any credit or payment. Because the identity of an advance payment is lost when transferred from one account to another, clearly annotate on the Form 8758, the DLN of the TC 640 and mark “ADVANCE PAYMENT”. Include a complete and current IDRS transcript of the module containing the advance payment.
 - c. You must make every effort to ensure that these cases are resolved before the statute of limitation expires.

25.6.1.11.1.4.2.10
(08-11-2023)

ST-12 (Credit No Return)

- (1) ST-12 transcripts generate for IMF/BMF tax modules where a TC 610 has posted or more than one TC 610 payment in the tax module with no TC 150. If more than one TC 610 payment is posted in the module, the transcript will generate based on the last posted TC 610 payment or the return due date, whichever is later. The ASED is based on the last TC 610 payment date or the return due date, whichever is later. Also, the transcript will generate based on the TC 460 date with the TC 610 payment. The credit balance is over \$1.00 unless one of the following conditions exist:
 - TC 976, or
 - Unreversed TC 570.

Exception: A ST-12 Civil Penalty transcript for IMF/BMF MFT 55/13 will generate where there is a credit balance posted with no TC 240 civil penalty assessment. IRM 25.6.1.9.13, Civil Penalties.

There is no dollar tolerance amount on ST-12 (Credit No Return) generated transcripts. A tax assessment must be input unless the procedures stated below states not to input a tax assessment.

- (2) Request the return using the TC 610 DLN without the 400 Julian date. Research all related TINs to determine if the return was processed under another TIN. If the return was processed under another TIN, transfer the credit (TC 610) to that TIN.

Note: If the TC 610 is a payment voucher (Doc Code 70 or 76), you will not be able to use the DLN to request the return; contact the taxpayer and request

a signed copy of the return. See IRM 21.5.1.5.4, Viewing or Requesting Documents on CII Cases, before requesting the return from the taxpayer.

- (3) Research the Service Center Control File (SCCF) to determine the status of the return.

If	Then
The SCCF indicates that the block of returns has not been processed	Request the entire block of returns from Files.
You are unable to obtain the returns	Request a photocopy of the RPS Form 813 from Files.

- (4) Close the case if research shows:
- A TC 150 posted in a later cycle,
 - All credits have been transferred to another module,
 - A TC 59X was input subsequent to the issuance of the transcript and the credit was not resolved, or
 - The return correctly posted to another tax module.
- (5) Initiate correspondence with the taxpayer if the instructions above did not produce a tax return.
- If taxpayer's reply indicates that the return will have to be reconstructed from records, hold the case open in suspense status. Confirm receipt of taxpayer's letter and advise the taxpayer to provide it within 30 days.
 - If a return is received, verify that no pending or posted return exists in the system before input.
 - If a return is received and today's date is more than 60 days before the ASSED expires, send to SP for normal processing. If today's date is less than 60 days before the ASSED expires, prepare Form 2859 to manually assess tax as stated in paragraph (12) below. Accounting will reject the manual assessment back to you if the ASSED expiration date is over 60 days.
- (6) If the taxpayer's account contains a TC 610 payment along with a TC 460 (extension of time to file), change the TC 610 payment to a TC 670 payment using the same transaction date as shown on the original TC 610 payment. Send a 112C letter to the taxpayer requesting a return and close your case. No further action is required on this account.

Exception: If there are reversed or unreversed TPP markers (TC 971 AC 121 or 124) with or without an open UPC 126-0, or the return is on MFT 32 or GUF VOID DELETED, see (7) below.

- (7) For TPP related accounts, conduct research to determine if the TPP issue remains unresolved, or if the return was treated as an Identity theft return due to non-response. If the account contains the following criteria, see the instructions in (12) below to complete the assessment:
- Command Code (CC) TRDBV & UPTIN show the return is still an open Unpostable 126-0

- CC TRDBV or TXMODA shows the original ELF/MEF filed return or paper return was moved to MFT 32 (TC 976 posted) or the return was GUF VOID DELETED (return is not posted on MFT 30 or MFT 32) and CC ENMOD/IMFOLE shows identity theft marker TC 971 AC 506 MISC>WI PRP DDB
- (8) If the account shows TPP markers TC 971 AC 121 or 124 on the account and AMS notes verify that the taxpayer was authenticated, and their valid return is on MFT 32 or GUF VOID DELETED (not posted to MFT 30 or MFT 32), take the following actions based on the timeframe specified below:
- If the ASED is 120 days or greater of the assignment date, close your control base within AMS and open a new control base to RIVO IDRS number 1487355555 using IDRS Command Code (CC) ACTON. Use activity code "TPAUTH". This activity code must be used to confirm the taxpayer was previously authenticated and prompt RIVO to take reversal actions.
 - If the ASED is more than 90 days but less than 120 days, close your control base within AMS and open a new control base to RIVO using IDRS CC ACTON and assign as:
C#,ASEDMMDDYY,A,MISC (MMDDYY should be the ASED per TRDBV)
1485066666,*
 - If the ASED is 90 days or less, close your control base within AMS and open a new control base to RIVO. In addition, you will need to send an

Expedited Statute Case--MFT 32 Reversal. In the body of the email, include the social security number, tax period and the ASED of the case. Using IDRS CC ACTON, assign as:
C#,PROMT2STAT,A,MISC
1487755555,*
 - If the ASED has expired, close your control base within AMS and open a new control base to RIVO using IDRS CC ACTON and assign as:
C#,BARD2RIVO,A,BARD
1485066666,*

Note: If the case was sent to RIVO but doesn't meet the criteria, RIVO will reject the case using activity code "RJCTMMDDYY" (MMDDYY will be the ASED) and category code MISC.

If AMS does not contain notes indicating the taxpayer was authenticated and the return was moved to MFT 32 or GUF VOID DELETED, **do not** forward the case to RIVO; follow criteria in (12) below.

- (9) If it is determined from your research of MEF and CC TRDBV that the original ELF filed return or paper return was rejected or GUF VOID DELETED (with no TPP markers posted), do not manually assess the account. Request a newly signed copy of the return from the taxpayer. In addition, change the TC 610 payment to a TC 670 payment using the date of the TC 610 payment and close your case.

Note: If a newly signed copy of the return is received, treat as an original delinquent return and clear the return for processing by Submission Processing.

- (10) If it is determined from research that the original ELF or paper filed BMF return Form 944 or Form 941 was rejected, do not process. Instead, you need to make an assessment of tax that is based on the ELF filed or paper filed rejected return or payment posted on the account, whichever is greater. You do not need to send a request to the taxpayer to get the taxpayer to file the correct tax form. Before making an assessment on MFT 01 or MFT 14, review the Form 944 cache data on page 2 of CC BMFOLE. If there is a "1" below the tax year in the Form 944 cache for the tax year, make any assessment for that year on MFT 14 with a calendar year tax period ending date. If there is a blank field under the tax year in question, make any assessment for that year on the appropriate quarter(s) under MFT 01. You must transfer any payment as needed to each quarter tax account. If the rejected tax returns are available for review (either Form 941 or Form 944), the assessment made should be either the total of the tax reported on the rejected tax return(s) or the total of the tax payments posted on the account, whichever is greater.
- (11) If it is determined from your research that the taxpayer has a Form 1065 filing requirement, but files a Form 1120, **U.S. Corporation Income Tax Return**, the filing of the Form 1120 is not considered to be a valid tax return for the taxpayer (Assessment Statute Expiration Date (ASED) does not start). The filing of the Form 1120 does not provide enough information for us to make an assessment for the Form 1065. On this type of tax return filing, take the following actions:
- Change the TC 610 payment to a TC 670 payment with the same date as the original TC 610 payment.
 - Send a letter to the taxpayer requesting that they file the correct tax return (Form 1065) and close your control bases.

If the taxpayer has a Form 1120 filing requirement, but files Form 1065, U.S. Return of Partnership Income, the taxpayer is considered to have filed a valid tax return, which starts the ASED period. It has been determined by chief counsel that the taxpayer has provided enough information so that the tax can be assessed for the Form 1120 filing requirement. Input a manual assessment of tax as stated in paragraph (10).

- (12) If unable to secure a copy of the return after all possible action has been taken and a TC 610 is posted on the account regardless of the document code, or if a TC 610 is posted on the account containing an open UNP 126-0 or the return is on MFT 32 or GUF VOID DELETED (taxpayer has not authenticated confirming they filed the UNP 126-0, MFT 32 or GUF VOID DELETED return), take the following action(s):
- Check CC IRPTRL and determine if there is any Federal Withholding Tax (FWT) available. Add all FWT from IRPTRL documents and input that amount as a TC 800 on Form 2859.
 - Prepare a Form 2859, Request for Quick or Prompt Assessment, to assess tax. Use a TC 150 for zero amount and TC 290 equal to all credits in the module for BMF; and for IMF, enter TC 150 for zero amount and TC 290 equal to all credits in the module including TC 800 from FWT shown on IRPTRL.
 - Complete Parts A and B and lines 3a, 3b, 4a, 18, 19, 23 and 24 of Form 2859. If the received date of the TC 610 is later than the Return Due Date (RDD), include TC 340, 270 and 160 for zero amounts. If a Form 940 is being assessed for the payments only without the original tax return, you will need to input .01 cent as the taxable wage amount on line

22. You should not input the taxable wage amount as a percentage of the TC 610 payment or other payments posted on the taxpayer's account. In the "Remarks" section, include the following statements:

Credit module balance total \$ (Enter on line 23)

"Do Not Bill The Taxpayer"

"TC 610 posted Return Lost in IRS Campus"

"Agreed Assessment-Other"

- d. Attach the transcript and any other documents to Form 2859 for lead/manager review. The reviewer/lead/manager must remove the documentation prior to routing to Accounting. Close the IDRS Control Base using Activity Code "Form 2859 tax assessment dollar amount." Route the case to Accounting.

Note: If an original return is secured by a Revenue Officer or Revenue Agent or the account is in Status 26, the transcript and any other documents must be attached to Form 2859 when routing to Accounting.

- (13) The taxpayer's account on IDRS must be monitored to ensure the correct posting of tax and the correct Assessment Statute Expiration Date (ASED) is entered. If the tax is not posted correctly per Form 2859, resend the documents to Accounting for correction. If the ASED is not posted correctly, input the correct ASED via Command Code REQ77 with TC 560. Close your control base when the taxpayer's account is corrected.
 - (14) If the taxpayer sends in a return after the TC 610 payment is assessed with a note stating that they did not file a previous return, input adjustment to reflect the taxpayer's return and update the ASED with TC 560 on REQ77 with DLN Code 70, based on the received date of the return. If taxpayer sends in a return without a note stating that they previously filed and the ASED has not passed based on the TC 610 payment date assessment, input the adjustment to reflect the tax on the taxpayer's return. You should treat this return as an amended return. Do not adjust the ASED on this type of case. If the ASED has passed, do not input tax increase on the taxpayer's account. This is considered a missed assessment. Also, if you allow the ASED to pass without assessing the TC 610 payment and it should have been assessed, report as a barred case on Form 9355. You are required to transfer the payment to XSF. IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF) information before transferring any credit or payment.
 - (15) If a BMF transcript generates on MFT 43, check to see if the account contains a TC 971 Action Code 782. If so, this is an Employer Shared Responsibility Payment (ESRP). You will need to forward this case to Ogden BMF Exam/AUR for resolution. If the account does not contain the information stated above see IRM 21.2.4.3.3.1.2, **Employer Shared Responsibility Payment (ESRP) MFT 43 Module Processing**, for more information on resolving this issue.
- 25.6.1.11.1.4.2.11
(10-01-2001)
ST-14 (Barred Refund)
- (1) A ST-14 is caused by a return posting to Master File (MF) more than 3 years after the RDD or extended RDD.
 - (2) The transcript is a follow-up to the STEX transcript.
 - (3) IRM 25.6.1.11.1.4.2.19, STEX Transcripts, for resolution.

25.6.1.11.1.4.2.12
(04-05-2006)

**ST-16 (Excess Estimated
Tax (ES) Credits)**

- (1) A ST-16 is caused when a TC 150 posts and ES credits claimed are less than ES credits available in the module.
- (2) See IRM 21.2.4.3.50, Excess ES Credit (16 J-) and IRM 21.6.7, Adjusting Individual Tax Account for resolution.

25.6.1.11.1.4.2.13
(04-01-2007)

**ST-20 (Subsequent
Payment)**

- (1) A ST-20 (BMF only) is caused when a tax module contains a TC 150, an unreversed TC 670 which creates a credit balance, and there is an interest ("-I") or FTP penalty ("G-") computation restriction present in the module.
- (2) Take the following actions to resolve the case:
 - a. Request the return, payment and/or adjustment documents.
 - b. Analyze the transcript to determine date of interest and/or FTP penalty computation.
 - c. Analyze transcripts to determine module balance as of restriction date.
 - d. Compute the interest and/or FTP penalty from the 23C date to the date of payment(s). If timely payments were received, no additional interest or penalty will be charged.

IF	THEN
Payments are received timely	No interest or penalty will be charged. Input a TC 290 for zero to release the freeze.
Additional penalty and/or interest is due	Input adjustment action to assess additional amount due.
The available credit is less than total additional penalty/interest due	Input total additional amount due.
The available credit is less than the recomputed penalty/interest amount	Input the penalty/interest assessment ONLY in the amount of the available credit.
The available credit is more than total penalty/interest	Input total penalty/interest.

- (3) A BMF FTP penalty restriction is indicated by a TC 270, 271 without reason code 62, or a "G-" freeze on the module.

IF	THEN
The penalty should not be assessed	Input TC 271 with reason code 62 following instruction in IRM 20.1.1.5.1, Master File Penalty Reason Codes.
Reasonable cause does not apply	Assess FTP penalty if applicable.

Note: Do not input TC 272 unless it can be determined from source documents that the TC 270 or 271 restriction was input erroneously. Improper use of TC 272 can result in incorrect FTP penalty computations.

IF	THEN
No additional penalty/interest is due	Input a TC 290 for zero to release the freeze.
The credit was intended for another module or account	Initiate credit transfer.

25.6.1.11.1.4.2.14
(04-01-2007)

**ST-21 (Account
Reactivation Freeze)**

- (1) A ST-21 is caused by the input of TC 370 with Doc Code 52. The TC 370 establishes a module and includes all transactions which were formerly posted to the respective master file and recorded on the retention register. Upon the posting of TC 370, the credit is frozen from refund/offset out, as well as Tax Delinquent Account (TDA) issuance.
- (2) Close your case if subsequent action has resulted in the freeze release or a pending action will release the freeze.

If	And	Then
The module is in a debit/credit balance	There is no open control	Request the source document file (TC 370 DLN) to determine why the module was reinstated and coordinate properly.
It cannot be determined who reinstated the module and why the module was reinstated	The module is in credit status	Transfer the credits to the XSF or URF file as applicable. IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF), information before transferring any credit or payment.
The module is in debit status	The CSED has not expired	Input TC 290-0 to release the freeze.

25.6.1.11.1.4.2.15
(04-03-2020)

**ST-22 (Original-No
Amended Return)**

- (1) A ST-22 is caused by a return processed through the Remittance Processing System (RPS) and posts to a tax module that reflects multiple TC 610s or a TC 610 with a DLN which does not match the TC 150 DLN.
- (2) If IDRS reflects a pending adjustment or the freeze was released by an adjustment action, close your case. No further action is required.
- (3) Request research documents, returns, TC 610 documents, etc., as appropriate.
- (4) Analyze documents to determine correct posting.

IF	THEN
Multiple TC 610 belongs on another module	Transfer the credit.
The return belongs on another module or account	Make the necessary adjustment to correct the accounts.
You are unable to determine the correct disposition of the credit(s)	Request the block of returns corresponding with the multiple TC 610s.

- (5) If you research Command Code TRDBV and it shows the tax return was rejected, change the TC 610 payment to TC 670 payment. Then, you should correspond with the taxpayer requesting a newly signed tax return. If a tax return is received from the taxpayer in response to your request, input the tax assessment based on the submitted tax return prior to the ASER. If the taxpayer's account show Return Integrity & Verification Operation (RIVO) criteria present, see the information found in IRM 21.2.4.3.18, Return Integrity and Verification Operation (RIVO) and Criminal Investigation (CI), Transcript Issues, for routing your case to RIVO and assign the control base to RIVO number 1487500000.
- (6) If, after all research is completed and files are searched, it cannot be determined if the TC 610 is posted correctly and no return with a corresponding DLN can be located, transfer the credit(s) to XSF. See IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF), information before transferring any credit or payment.
- (1) A ST-26 is caused by a module that includes TC 610, a credit balance, and certain Collection closing codes. The Statute function will work the cases as follows:

25.6.1.11.1.4.2.16
(09-09-2011)
**ST-26 (TC 59X/Credit
Balance)**

IF	AND	THEN
cc 14	Credit was present when the module was in either Tax Delinquent Investigation (TDI) or notice status when TC 590 cc14 was input	Route to CSCO.
cc 17 and 18		Process according to instructions for Credit Balance Module TC 59X (26-H) Transcripts in IRM 21.2.4.3.61. Do not transfer to Compliance Services Collection Operation (CSCO).
cc 20 and 21	After ensuring the filing requirements are correct	Follow 12-Y Transcript Procedures in IRM 21.2.4.3.44, Credit No Return (12-Y), to resolve the credit.

25.6.1.11.1.4.2.17
(06-16-2023)

Resolving RSED-STAT Transcripts

- (1) An RSED-STAT is caused by the following:
 - a. An IMF/BMF Adjustment (TC 29X/30X) posts to MF.
 - b. The received date of claim/amended return Refund Statute Control Date (RFSCDT) is more than 3 years after RDD or 2 years after the payment of tax, whichever is later.
 - c. The tax module is in credit status.
- (2) Statute employees must review all transcripts within 10 workdays. Returns/documents should be requested on an as needed basis.
- (3) The Statute manager must review the listing each day for “open” RSED condi-
 transcript assigned to an employee who has not updated/closed the control by the 10th day; the case must be brought to the attention of that employee or reassigned to an employee who is in duty status that day.
- (4) Review the transcript for type of tax period. Compute the RSED based on 1 above or any documented exceptions that may extend the RSED as stated in IRM 25.6.1.10, Claims Abatements, and Refunds.
- (5) If a determination is made that the credit(s) have expired, the expired credits must be applied to the XSF to resolve the transcript freeze issue. This is a barred case if the ASSED has expired and the decrease in tax was input due to a redetermination of the tax liability above the tolerance level without proper documentation. You must complete a Form 9355, Barred Statute Report. You must send the taxpayer a 105C disallowance letter, and input a TC 290-0 with

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Blocking Series 98 or 99 to refile the case. See IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for the disallowance letter requirements.

- (6) If a determination is made that the credit(s) have not fully expired, you must determine the partial credit amount that can be refunded and send the remaining non-refundable credit to XSF. You must send the taxpayer a 106C partial disallowance letter.
- (7) If a determination is made that the refund claim is timely and all of the overpayment credit is fully refundable, input TC 290–0 with PC 4. If a manual refund is needed to release the refund properly, see IRM 21.4.4.3, Why Would a Manual Refund Be Needed, for more information on issuing a manual refund.
- (8) On carryover of a Net Operating Loss (NOL) or a Net Capital Loss, request technical assistance or forward the case to Examination on all carryback or carryforward claims.
- (9) If an Examination -L Freeze is on the account, contact or refer the case to Exam based on the AMDISA. Do not refund the overpayment or apply as a credit to another account.
- (10) If a determination is made that the credit is due to an Exam SFR Reconsideration or audit reconsideration change, refer the case to Exam to be worked by them per procedures stated in IRM 4.13.5.4.6, Statute of Limitation and IRM 4.13.3.13, Statute of Limitations. The Exam employee is responsible for resolving the freeze conditions per procedures stated in the IRM sections above.
- (11) If a determination is made that the credit is due to an ASFR Reconsideration change, refer the case to ASFR to be worked by them per procedures stated in IRM 5.18.1.9.2.3.16.1, Refund Statute Expiration Date (RSED).

Caution: IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF), information before transferring any credit or payment.

25.6.1.11.1.4.2.18
(10-01-2001)
**ST-29 (RSED–STAT
Follow-Up)**

- (1) A ST-29 is a Follow-up to the RSED-STAT.
- (2) See the instructions above for processing RSED-STAT Transcripts Refer for resolution.

25.6.1.11.1.4.2.19
(11-15-2021)
STEX Transcripts

- (1) A STEX transcript is generated because:
 - a. An original delinquent return is received more than three years after the RDD or extended RDD.
 - b. IRM 25.6.1.10.2.9.6, Combat Zone, when a return is filed by a Combat Zone taxpayer who is entitled to a suspension of filing requirements and return is coded appropriately for the various Combat Zone areas.
 - c. Pre-paid/non pre-paid credits are being claimed for overpayment.
- (2) You must review the transcript and determine the:
 - Tax period and type of tax,
 - Due date of the return, and
 - RSED.

Caution: Postmark dates do apply for timeliness of Return Received Dates for refunds or offsets of pre-paid credits on Original Delinquent Filed Returns. IRM 25.6.1.8.5, Processing Original Delinquent Returns Claiming an Overpayment.

Caution: Per *Notice 2020-23*, the return due date for tax year 2019 Form 1040 was postponed to July 15, 2020, and per *IR 2021-67/Notice 2021-21*, the return due date for tax year 2020 Form 1040 was postponed to May 17, 2021. In addition, the date to file a claim for refund with an original or amended return was also postponed to July 15, 2020 for the 2016 tax year, and May 17, 2021 for the 2017 tax year. However, the IDRS RSED was not updated to reflect the postponed due dates and credits were frozen or systemically applied to Excess Collections (XSF). If a return was timely received by the postponed due date, refund the overpayment as appropriate. If the credit needs to be restored prior to a refund, see IRM 25.6.1.7.3.3, Transferring Credits from the XSF. If an additional adjustment is required, see IRM 21.5.3.4.3(2), Tax Decrease and Statute Consideration.

Note: If the overpayment is being restored per Notice 2020-23 or IR 2021-67/Notice 2021, the employee must include, 2016/2017 Refund Issue, in the Remarks section of Form 8765.

- (3) You must pull the original delinquent return to check the postmark date if the IRS received date is within 7 days of the Refund Statute Expiration Date. If the return is postmarked by the RSED or the envelope is not attached to the return, you must allow the overpayment to refund to the taxpayer. Also, you must correct the ASER to the original IRS received date stamped on the timely filed tax return or timely postmark date found on the envelope attached to the return by using Command Code REQ77 with DLN Code 990 through 999.
- (4) Do the following if any credits are determined not to be available for refund or offset:
 - a. Transfer the credits to XSF, and
 - b. Send a disallowance letter to the taxpayer. See IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for the disallowance letter requirements. See IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF) information before transferring any credit or payment.
 - c. Input a TC 290 for zero using Blocking Series 98/99.
- (5) Check transcripts for transaction codes of non-prepaid credits. The amount allowable for refund or offset of non pre-paid credits are limited to tax paid within the later of 3 years from the time the return was filed or two years from the time the tax was paid (see IRC 6511(a)). If the return is filed within 3 years of non pre-paid credits, release the freeze with TC 820 and 700 for zero. You do not need to manually compute credit interest. Credit interest is generated automatically with the refund.
- (6) If you have both prepaid credits and non-prepaid credits on the account and only non-prepaid credits are refundable, you must send the prepaid credits to XSF first before you refund the non-prepaid credits as stated in the previous

paragraph. In addition, input a TC 29X for zero amount with posting delay code of 1, and use Blocking Series 00 or 18 to associate document with original return. This will allow the taxpayer's refund to go out without unposting. Then, send the taxpayer a 106C partial disallowance letter with appeal rights.

- (7) On the 2008 tax year STEx transcript, not timely filed, that generate with the First Time Homebuyer Credit (FTHBC), you will have to input two adjustments on IDRS at the same time. The credit is shown on the taxpayer's account as a TC 766 with Credit Reference 258. The first adjustment is stated in paragraph (4) above. The second adjustment is to reverse the FTHBC in full or in part. See IRM 21.6.4.4.18.5.1, Original Returns Claiming the First-Time Homebuyer Credit Filed After the RSED Expired, for more information on inputting the second adjustment.
- (8) If a STEx Transcript is generated and contains ASFR 6020(b) issue, route the transcript per the information stated in IRM 5.18.2.2.1, Criteria for Automated 6020(b) Processing.
- (9) If a STEx transcript is generated and the TC 150 is a SFR return for zero amount but the module is in credit balance, treat the transcript as "classified waste."
 - a. If an AM14–O transcript (follow-up to the STEx transcript six months later) generates and research indicates the TC 150 for zero amount is a SFR tax module and SFR has not input a TC 290 for the tax, refer the AM14–O transcript to SFR in CSCO. A case is not considered closed in SFR until the TC 29X is input.
 - b. It is the SFR employee responsibility to apply any non-refundable credits to XSF **and** to notify the taxpayer that the refund is being disallowed due to the return being filed after the later of 3 years from the time the return was filed or two years from the time the tax was paid (see IRC 6511(a)).
- (10) If a Return Integrity & Verification Operation (RIVO) criteria indicator is found on this transcript, you should ignore the RIVO marker and process your transcript per normal IRM procedures. The RIVO criteria marker was input on the taxpayer's account in error. Do not assign your case to RIVO.

25.6.1.11.1.4.2.20

(02-03-2023)

STEx-XSF (Credits Systemically Applied To XSF)

- (1) A STEx-XSF transcript is caused by:
 - An original delinquent return posted to a tax module more than three years after the return due date or extended due date.
 - Credits posted to the account are withholding and/or earned income credit.
 - The entire credit balance is comprised of non-refundable withholding and/or earned income credit.

- (2) You must review the transcript and determine the:

- Tax period and type of tax,
- Due date of the return, and
- RSED.

Caution: Postmark dates do apply for timeliness of Return Received Dates for refunds or offsets of pre-paid credits on Original Delinquent Filed Returns. IRM 25.6.1.8.5, Processing Original Delinquent Returns Claiming An Overpayment.

Caution: Per *Notice 2020-23*, the return due date for tax year 2019 Form 1040 was postponed to July 15, 2020, and per *IR 2021-67/Notice 2021-21*, the return due date for tax year 2020 Form 1040 was postponed to May 17, 2021. In addition, the date to file a claim for refund with an original or amended return was also postponed to July 15, 2020 for the 2016 tax year, and May 17, 2021 for the 2017 tax year. However, the IDRS RSED was not updated to reflect the postponed due dates and credits were frozen or systemically applied to Excess Collections (XSF). If a return was timely received by the postponed due date, refund the overpayment as appropriate. If the credit needs to be restored prior to a refund, see IRM 25.6.1.7.3.3, Transferring Credits from the XSF. If an additional adjustment is required, see IRM 21.5.3.4.3(2), Tax Decrease and Statute Consideration.

Note: If the overpayment is being restored per *Notice 2020-23* or *IR 2021-67/Notice 2021-21*, the employee must include, 2016/2017 Refund Issue, in the Remarks section of Form 8765.

- (3) You must pull the return to check the postmark date if the IRS received date on the account is within 7 days of the Refund Statute Expiration Date. If the tax return is timely received per the postmark date or the envelope is not attached to the return, then you must bring the money back from the Excess Collection File (if already sent) and issue a refund to the taxpayer. You must also correct the ASER by inputting of a TC 560 with DLN Code 990 thru 999 via REQ77. If the tax return is not timely received, you must continue to resolve per the procedures in paragraph 4 below.
- (4) Check the transcript tax module to ensure all non-refundable credits have been systemically applied to XSF. Systemic reversal of the credit usually occurs within 4 weeks after the date the transcript generated.

Note: Due to timing uncertainties between systemic application of credits to XSF and generation of the transcript, the credit may not have been reversed at the time of generation of the transcript.

- a. If the credits have not been applied to XSF within four weeks from the time the transcript was generated, or there is no AP or PN TC 820, then transfer the credits to XSF. IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF) information before transferring any credit or payment.
 - b. Send disallowance letter (105C) to the taxpayer. See IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, for the disallowance letter requirements.
 - c. Input TC 290 for zero to refile case.
- (5) If a refundable tax credit adjustment post to the taxpayer's account before the non-refundable withholding credit and/or earned income credit are systemically transferred to XSF, a TC 820 will not systemically post to the account to transfer any of the credits. You must manually send the withholding credit and /or earned income tax credit to XSF first before you refund the refundable tax credit amount. After the credit transfer action is taken, input a TC 29X for zero amount with posting delay code of 1, priority code 4 and use Blocking Series

00 or 18 to associate document with the original return. This will allow the taxpayer's refund to go out without unposting. Then, send the taxpayer a 106C partial disallowance letter with appeal rights.

- (6) If a Return Integrity & Verification Operation (RIVO) criteria indicator is found on this transcript, you should ignore the RIVO marker and process your transcript per normal IRM procedures. The RIVO criteria marker was input on the taxpayer's account in error. Do not assign your case to RIVO.

25.6.1.12
(11-19-2019)

**Collection Statute
Expiration Date (CSED)**

- (1) This chapter provides guidance in determining the CSED and extension of the CSED.
- (2) The CSED is the expiration of the time period established by law to collect taxes. The CSED is normally ten years from the date of the Summary Record of Assessment (Form 23C, RACS 006) of:
- Transaction Code (TC) 150, Tax Assessed
 - TC 160, Manually Computed Delinquency Penalty
 - TC 166, Delinquency Penalty
 - TC 170, Estimated Tax Penalty
 - TC 176, Estimated Tax Penalty
 - TC 180, Deposit Penalty
 - TC 186, FTD Penalty
 - TC 234, Daily Delinquency Penalty (if it is the only CSED in the module)
 - TC 238, Daily Delinquency Penalty
 - TC 240, Miscellaneous Penalty (all except for Reference Codes 697 and 699)
 - TC 246, 8752 or 1065 Penalty
 - TC 290, Additional Tax Assessment
 - TC 294, Additional Tax Assessment with Interest Computation Date
 - TC 298, Additional Tax Assessment with Interest Computation Date
 - TC 300, Additional Tax or Deficiency Assessment by Examination or Collection
 - TC 304, Additional Tax or Deficiency Assessment by Examination or Collection
 - TC 308, Additional Tax or Deficiency Assessment by Examination with Interest Computation Date
 - TC 320, Fraud Penalty
 - TC 350, Negligence Penalty
 - TC 340, Restricted Interest (Doc Code 47 and 51 only), as it relates to the additional tax being assessed
- (3) If the CSED expired prior to November 5, 1990, the CSED was 6 years. If the CSED had not expired as of 11/5/1990, it was extended to 10 years from the date of each assessment.
- (4) Each additional assessment of tax carries its own CSED of 10 years.

Example: If the taxpayer filed an original return early and the TC 150 assessment for the 2003 tax year post to the account on April 15, 2004; then, the CSED would be April 15, 2014. If the taxpayer files an amended tax return on June 26, 2006 to increase tax and the tax is posted on July 26, 2006, CSED for that additional assessment would be July 26, 2016.

- (5) The reversal of any refundable credit (i.e., Earned Income Credit) carries the CSED of the TC 29X or TC 30X adjustment.
- (6) The IRS and the taxpayer may agree to extend the collection period in only two situations:
 - a. Where the extension is agreed to at the same time as an installment agreement is entered into between the taxpayer and the IRS, or
 - b. Where the extension is agreed to prior to a release of levy under IRC 6343 which occurs after the expiration of the ten-year collection period.

Note: Prior to the IRS Restructuring and Reform Act of 1998 (RRA of 1998), the IRS and the taxpayer had been allowed to agree to extend the collection period in any situation; under the RRA of 1998 such extensions generally expired by December 31, 2002.

25.6.1.12.1
(10-01-2013)
CSED Research

- (1) To determine the CSED and extension of the CSED, you may need to refer to the following Internal Revenue Manual Sections and/or Internal Revenue Codes Sections including:
 - IRM 5.1.19, Collection Statute Expiration
 - IRM 5.19.17.1.3, OIC
 - IRM 5.9, Bankruptcy and Other Insolvencies
 - IRM 5.14, Installment Agreement
 - IRM 5.19.1, Balance Due
 - IRM 5.16.1, Currently Not Collectible
 - IRM 25.6, Statute Of Limitations
 - IRM 25.6.1.6.18, List of Legal Holidays
 - IRC 6502, Collection After Statute
 - IRC 6503, Suspension of Running of Limitation

25.6.1.12.2
(01-01-2003)
CSED Procedures

- (1) The following subsections provide procedures for handling the CSED and extension of the CSED.

25.6.1.12.2.1
(02-03-2023)
**Conditions Postponing
Collection or
Suspending the 10 Year
Collection Period**

- (1) The period for collection may be postponed or the running of the collection period may be suspended by the events listed below. A TC 550 is input to extend the CSED in accordance with the event causing postponement or suspension.
 - **Military Postponement.** This event is indicated by a TC 500. IRC 7508 postpones the time for collection, by the Secretary, by levy or otherwise, of the amount of any liability in respect of any tax assessed against an individual serving in a combat zone or certain other areas of military service. IRM 25.6.1.10.2.9.6.7, Current Combat Zones and Qualified Hazardous Duty Areas, for a description of combat zones and other areas of military service.

Note: A taxpayer may have requested and obtained relief from collection under the Soldiers' & Sailors' Civil Relief Act of December 19, 2003 (the "SSCRA"), 50 U.S.C. 3901-4043 Appendix 573. This event is indicated by a TC 500. The SSCRA applies to a person in the military. The SSCRA defers collection of current or back income taxes (for up to six months after termination of military service) if such person's ability to pay is materially

impaired by reason of military service. Rev. Proc. 57-25, 1957-2 C.B. 1092, prescribes the policy and procedure for the deferment of the collection under the SSCRA. See also, Pub 3, Armed Forces' Tax Guide. The period of limitations for collection of the deferred taxes is suspended for 180 days plus the number of days that were left for the service member to take the action with the IRS when they entered a combat zone, began performing qualifying service outside the combat zone, or began serving in a contingency operation. This event is indicated by a TC 500.

- Taxpayer Assistance Order. If the taxpayer applies in writing to the Taxpayer Advocate Service (TAS) for assistance, the statute is suspended from the date of the written application until the date of the National Taxpayer Advocate's decision with respect to the application or for any period that the TAO states that the statute is suspended. See IRC 7811(d). However, pursuant to a November 10, 2003, Commissioner's Memorandum, the IRS has not implemented the provisions of IRC 7811(d) due to programing deficiencies.
- Collection Due Process Cases (CDP). This event is indicated by a TC 520 closing code (cc) 76 or cc 77. The period for collection is extended for the period that the CDP hearing, and any appeals therein, are pending. See IRC 6330(e)(1). In no case will the period for collection expire before the 90th day after the day on which there is a final determination in the hearing. See IRC 6330(e)(2). If there are fewer than 90 days left in any limitations period after the suspension ends, the remaining limitations period will be 90 days. This means that if less than 90 days remain on the limitations period after the suspension ends, the difference between the number of remaining days and 90 days will be added to the limitations period. There is no automatic 90-day addition to the period.
- District Court Litigation. This event is indicated by a TC 520. The period is effectively extended by the Government timely filing a suit in United States District Court to reduce an assessment to the judgment. The period on collection by levy likewise is extended by the government's obtaining a judgment against the taxpayer. See IRC 6502(a). While all or substantially all of the taxpayer's assets are in the control or custody of a court, and for six months thereafter, the collection statute similarly is extended. See IRC 6503(b).
- Bankruptcy. This event is indicated by a TC 520. While the IRS is prohibited from collection by reason of the taxpayer's bankruptcy case, i.e., while the automatic stay is in effect, the collection period is suspended for the period of time the automatic stay is in effect, plus six months. See IRC 6503(h)(2). The Revenue Officer should seek advice of local Area Counsel if such issues arise. (Of course, a taxpayer in bankruptcy may have their tax liabilities discharged, which would make the statute of limitations issue irrelevant.)
- Summons Enforcement. This event is indicated by a TC 520. For most summonses, if a taxpayer files suit to quash the summons, then the statute of limitations on collection will be suspended until the proceeding is finally resolved. See IRC 7609(e)(1).
- Third-party summons. If the summons has not been resolved within six months and the cause of the lack of resolution is other than the taxpayer filing a suit to quash the summons, then the statute of limitations will be suspended beginning on the date which is six months after the service of the summons and ending on the date of the final resolu-

tion of such response (the typical case here is when a third party—not the taxpayer—either ignores the summons or files a suit to quash). See IRC 7609(e)(2). Assistance should be sought from local Area Counsel in cases involving extensions of the CSED due to summons enforcement.

- **Offer-In-Compromise.** This event is indicated by a TC 480. The collection statute is automatically suspended (1) for the time an offer-in-compromise is pending, and (2) for 30 days after the rejection of an offer plus any time during which a timely appeal is pending. See IRC 6331(k)(3)(B) referencing IRC 6331(i)(5).
- **Installment Payment Agreement.** This event is indicated by a TC 971. The collection statute is automatically suspended (1) for the time an offer for an installment agreement is pending, (2) for 30 days after the rejection of an installment agreement plus any time during which a timely appeal is pending, and (3) for 30 days after the termination of an installment agreement plus any time during which a timely appeal is pending. See IRC 6331(k)(3)(B) referencing IRC 6331(i)(5).
- **Innocent Spouse.** This event is indicated by TC 971 Action Code 065. The statute of limitations on collection of assessments for taxpayers who requested relief under IRC 6015(b), (c) or (f) is suspended during the pendency of the taxpayer's claim for the time that the IRS is prohibited from engaging in certain collection activity plus 60 days. See IRC 6015(e)(2). IRC 6015(b) or (c): The IRS is prohibited from engaging in certain collection activity with respect to the year for which a claim is made for relief under IRC 6015(b) or (c) from the date the claim is filed until: (1) a waiver (Form 870-IS) is filed; (2) the expiration of the 90-day period for petitioning the Tax court; or (3) if a petition is filed, the date that the decision becomes final. See Treas. Reg. 1.6015-7(c)(1). IRC 6015(f): The IRS is prohibited from pursuing certain collection activities against taxpayers who request relief under IRC 6015(f) in the same manner as discussed above for cases under IRC 6015(b) or (c), and the collection statute is suspended accordingly, only with respect to liability for taxes arising or remaining unpaid on or after December 20, 2006.

Note: For IRC 6015(f), only claims that remained unpaid as of December 20, 2006, the statute of limitations on collection will be suspended beginning December 20, 2006, and not on the date the claim was originally filed with the IRS. For IRC 6015(f), only on claims that were full paid before December 20, 2006, the collection statute is not suspended. Refer to Form 8857, Request for Innocent Spouse Relief, to determine the type of relief the taxpayer elected. The Form 8857 governs the type of relief that the taxpayer requested, regardless of the relief for which the taxpayer is actually eligible. For example, if a taxpayer elected relief under IRC 6015(b) and (c) but actually is only eligible for relief under IRC 6015(f) because there is no deficiency, then the collection statute will be suspended as described above in the discussion under IRC 6015(b) or (c).

Note: If the taxpayer is living abroad and have a IRC 6503(c) suspension, see IRM 5.1.19.3.7, Taxpayer Living Outside the U.S., for more information on this subject.

- (2) IRM 25.6.1.12.1, CSED Research, reference sections, refer to Document 6209, and IRS Processing Codes and Information, (Section 8 Part 1) for more infor-

mation on Transaction Codes, Closing Codes and Definer Codes associated with TC 550.

25.6.1.12.2.2
(10-01-2021)

**Assess Failure to Pay
Penalty and Interest
(P&I)**

- (1) Interest may be assessed and collected as long as the underlying tax can be collected per IRC 6601(g). The IRS is not required to make a separate assessment of interest on an assessed tax liability in order to collect that interest. The IRS allows interest to accrue unassessed because the computer systems do not have the capacity to continually assess all interest accruals.
- (2) Penalties generally may be collected within ten years from the date of assessment of the penalty.

Note: The IRS is not required to make a separate assessment of the accruals on the IRC 6651(a)(2) and 6651(a)(3) additions to tax to collect the accruals. See *United States v. Krasnow*, 548 F. Supp. 686 (S.D.N.Y. 1982) (involving collection action to collect accruals for the addition to tax under IRC 6651(a)(3)). The additions could not be given full effect if the IRS was required to assess the addition within three years from the filing of the tax return because the addition can accrue over a fifty-month period, which is longer than three years.

- (3) Determine if the CSED will expire within six months;
 - a. If the CSED is more than 60 days and the module is in a credit balance, assess the failure to pay penalty and interest on IDRS.
 - b. If the CSED is less than 60 days and the module is in a credit balance, use the manual assessment processing procedures (Form 2859).
 - c. If the CSED is more than 60 days and the module is in a debit balance or the action taken results in a debit balance, assess using the manual assessment procedures **and** notify the Compliance Service Collection Operation (CSCO) using Form 1725 with all pertinent information.
- (4) Forward all cases that require P&I assessments to CSCO if the CSED is more than six months **and** the module is in a debit balance.
- (5) Do not assess P&I if Federal tax entities are coded "F".

25.6.1.13
(04-03-2020)

**Barred
Assessments/Barred
Statute Cases**

- (1) This section provides guidance in:
 - Identifying barred statute cases
 - Preparing barred statute reports
 - Controlling and monitoring barred statute cases
- (2) When a legal tax assessment is not made timely within the prescribed period for assessment (Assessment Statute Expiration Date) (ASED), it is considered a "Barred Assessment." Barred Assessments lead to a loss of revenue to the IRS, even though any credits on the "barred" module may be placed in the Excess Collection Fund.
- (3) A Barred Statute Report must be prepared if the legal assessment cannot be made before the ASED expires on a tax increase received prior to the ASED passing. The Statute function will complete the Form 9355, Barred Statute Report for anyone within the W&I organization.

- (4) The statute employee should not be charged with a barred assessment related to an opened Return Integrity & Verification Operation (RIVO) or ID Theft case containing a payment needing assessment, unless an RIVO or ID Theft employee has forwarded to the statute employee a request stating the tax increase amount within 90 days of the ASSED and the statute employee failed to input the tax increase prior to the ASSED expiring. The statute employee can be charged with a barred assessment if the previous RIVO or ID Theft tax return showing a tax amount has been sent to Submission Processing(SP) for processing as an original tax return and SP has sent the original tax return to statute for clearance (due to imminent statute) and the statute employee stamped the tax return cleared for processing without assessing tax on the original delinquent return before the ASSED expired. On this type of case, the taxpayer's account does not have a previous TC 150 assessment, but the original tax return was received timely. This information does not apply to amended tax return with RIVO or ID Theft for which the tax assessment amount is unknown and the amended return was sent to statute by the RIVO or ID Theft employee.

25.6.1.13.1
(02-03-2023)
**Barred Assessment
Reports**

- (1) To process barred statute reports, refer to the following:
- Form 9355, Barred Statute Report (used by all functions except W&I Campus Examination)
 - Form 3999, and Form 3999-T, Statute Expiration Report, is used by Campus W&I Examination Functions area. For Small Business Self-Employed (SBSE), see IRM 25.6.1.13.2.8.1, Procedures for the Submission of SB/SE Statute Expiration Reports. For Large Business and International (LB&I) personnel see, IRM 25.6.1.13.2.9.1, Procedures for the Submission of LB&I Statute Expiration Reports.
 - Integrated Data Retrieval System (IDRS)
 - Master File (MF)

25.6.1.13.2
(04-03-2006)
**Barred Assessment
Procedures for Wage
and Investment
Campuses**

- (1) The following subsections provide procedures for preparing and monitoring barred statute cases.

25.6.1.13.2.1
(01-31-2020)
**Barred Statute Report
(Form 9355/3999)**

- (1) The Barred Statute Report, Form 9355 or Form 3999, will be prepared and assembled by the organizational activity responsible for the loss of the assessment or the function /organization responsible for the lack of appropriate action, that allowed the tax assessment period to expire without a valid tax assessment being made.
- (2) The area responsible for the barred assessment will prepare the Form 9355 or Form 3999, as appropriate, for their function, and forward to Accounts Management (AM) Statute Function.
- (3) If a barred assessment is discovered by a W&I campus employee, but it is determined that the responsible employee is assigned to another Business Operating Division (BOD), the Statute function will prepare a memorandum and forward it to the appropriate BOD Headquarter Office for routing to the responsible area. The responsible BOD will prepare the Statute Report. The AM Statute Function will:

- a. Send a memorandum with the case file to appropriate BOD (LB&I, SBSE, TEGE) or appropriate Campus Director within 30 calendar days from date of discovery, including the date of discovery and amount of loss in the memorandum
 - b. Close the case on the Statute Control System Log.
 - c. Close the IDRS control base to responsible organization assignment number.
- (4) If a barred assessment is discovered by a W&I campus employee, but it is determined that the responsible employee is another W&I employee assigned to another W&I campus, the discovered campus Statute function will do the following:
 - a. Send a memorandum with the case file to the appropriate Campus Director within 30 calendar days of discovery, including the date of discovery and amount of loss in the memorandum.
 - b. Close the case off of the sending Campus Statute Control System Log.
 - c. Re-control the case to the generic number of the Statute function at the campus in which you are sending the case to.
 - d. The receiving campus will report the barred case on their Quarterly Barred Statute Report, which is sent to the Headquarter Statute Analyst.
- (5) If a barred assessment is discovered by a W&I campus employee and the barred case was assigned or unassigned in another campus inventory prior to the ASER expiring regardless of how long it has been since the timely return was filed, the discovering campus employee will send a memorandum as stated in paragraph (4) above to the other Campus Director. If the responsible employee or department in the other campus cannot be determine, the local AM statute team will work the barred and report it out as AM Department and close the barred case as normal.
- (6) If a barred assessment is discovered by a W&I campus employee, but it is determined that the responsible employee is a IDTVA W&I employee located in another campus, the discovered campus will do the following:
 - a. Send a case file (including the original tax return) to the other campus statute team where the IDTVA employee is located within 30 calendar days of discovery.
 - b. Close the case off of the sending Campus Statute Control System Log.
 - c. Re-control the case to the generic number of the Statute function at the campus in which you are sending the case to.
 - d. The receiving campus will forward to the local IDTVA management per normal procedures and report the barred case on their Quarterly Barred Statute Report, which is sent to the Headquarter Statute Analyst.
- (7) The Barred Statute Report serves varied and useful purposes as it:
 - a. Is used for monitoring purposes.
 - b. Identifies the total number of cases with barred assessments for the year.
 - c. Identifies total tax, penalty and interest lost on barred assessments.
 - d. Provides documentation as to disposition of credits and unassessed tax, penalty and/or interest for further research and application.
- (8) When a barred from assessment case is identified, and it can be determined that a "STAT, AM-X, or DIAG" transcript did not generate to the Accounts Management System (AMS) due to a systemic problem (this includes barred cases

caused by incorrect programming of the IAT tool designed for the rejecting of Form 944/Form 941 tax return), then identify the cause for the barred assessment on Form 9355, item 11 as a "Procedural Deficiency," (Item 10, responsible area, should reflect "N/A"). This is considered a programming system error. The Statute Manager or P&A Analyst must contact the headquarter analyst for the statute program prior to reporting the programming system error on the quarterly barred statute report. The headquarter analyst for the statute program will investigate the programming problem to prevent future occurrence of the system error. Do not use Systemic, Unknown or Other as the responsible department name for the system error. For programming system barred case, you must use "N/A" as the responsible department.

25.6.1.13.2.2
(05-04-2015)
**Managerial
Responsibilities for
Barred Statute Cases**

- (1) All W & I Campus Directors must ensure that employees are trained to properly identify potentially barred assessments and actions necessary to protect the statute. Failure to protect an assessment statute can result in disciplinary action against the responsible employee.
- (2) The time frame for processing a category "BARD" case must be processed within 99 calendar days of the case establishment date as stated in IRM 3.30.123.5.8(4), Statutes.
- (3) IRM 25.6.1.6.5, Chart of Expedited Statute Processing, to help identify statute imminent and/or expired barred statute cases.

25.6.1.13.2.3
(05-04-2015)
**Routing of Barred Cases
within AM Campuses**

- (1) The functional area that identifies a barred or potential barred assessment must expeditiously route the return or case to the local Campus AM Statute function for research and final determination.
- (2) When it is determined a tax period for assessment has expired, the Statute function will control the case and update IDRS using category "BARD". The category BARD cases must be processed within 99 calendar days of the case establishment date as stated in IRM 3.30.123.5.8(4), Statutes.
- (3) Assign the case a control number.
- (4) The Statute function will stamp "No Statute Issue" on any case determined **not** to be barred and return it to the initiator or process it according to existing instructions.

25.6.1.13.2.4
(10-01-2010)
**Identifying Barred
Statute Cases**

- (1) The following are examples of cases that require a Barred Statute Report in Wage and Investment operations (IRM 25.6.1.13.2.8 for statute expiration reporting requirements for SB/SE Examination-related operations in the field and at the campuses and IRM 25.6.1.13.2.9 for statute expiration reporting requirements for LB&I operations):

- a. interest (or combination) and the ASSED has passed.
- b. An original return posts to the wrong account. A second return (the correct return for this account) posted to MF account as a duplicate. After the ASSED, the incorrect return was not reprocessed to the correct tax module timely after the account was backed out.
- c. Original Return posted as an amended return (no transaction code (TC) 150 on the module) and it was not discovered until after the ASSED had passed.

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- d. Original Return filed timely but failed to pass the validity checks on MF for more than 3 years.
- e. TC 610 posted on an account without TC 150 and the return is located (unprocessed) more than 3 years after the TC 610 received date.
- f. Taxpayer no longer qualifies for Sub-S status and tax not assessed prior to ASED passing.
- g. TC 610 posted on an account without a TC 150 and the payment was not assessed as tax prior to the ASED passing (3 years of the last TC 610 payment posting date or return due date, whichever is later).

(2) The following are examples of cases that require a barred statute report when
(or combination) and the ASED has passed:

- a. An amended return posts to MF reporting an increase to the tax liability, but the increase was never assessed.
- b. Additional assessments identified by unapplied/unassessed Advance Payments on proposed Examination or Automated Underreporter (AUR) deficiencies.
- c. Increases to tax, penalty or interest liability on paper Form 8485, Assessment Adjustment Case Record, (which never posted to MF) or (Non Master File (NMF).
- d. Barred assessments resulting from Unpostable Code (UPC) 150/350/750 or any other UPC including barred Exam and Appeals assessments.
- e. Amended returns which have barred additional assessments with offset-
- f. Correspondence indicating there should be an adjustment to increase tax on a taxpayer's account but was never assessed.
- g. Form 3870 incorrectly requesting an abatement and the tax decrease processed but the error was not discovered until after the ASED.
- h. Amended income tax returns discovered after the 60-day administrative processing extension reflecting an increase to tax.
- i. Amended return showed both an increase to tax and an overpayment and it was treated as a claim. The claim for refund was allowed but the tax was not assessed.
- j. Trust Fund Recovery Penalty assessment was requested but not completed within the prescribed statute period against all partners.

Examination Operation because the ASED has passed requires the preparation of Form 9355 Barred Statute Report.

(4) The following are EXEMPT from having a barred report prepared:

- a. The case was barred when received by the IRS.
- b. There was insufficient time to secure the original return and there is no way to determine a liability that could be assessed.

25.6.1.13.2.5
(01-31-2020)
**Identifying the
Responsible Area**

- (1) The responsible area is identified as the area that first had the case, when the case was within 90 days of the ASED and either took no action to protect the statute or allowed the statute to expire. In addition, the responsible area is the one that had the case last outside of the 90 days period and took an incorrect processing action, and it is determined that the statute of limitation on assessment of the tax is now expired. This may occur when a freeze condition was

not closed correctly and the incorrect case processing action was not discovered until after the ASER had expired regardless of how long the original incorrect action had been input.

Note: This does not relieve the area that may receive a case within the 90-day period of any responsibility for protecting the statute. All areas must have the best possible statute control system to protect the statute. All functional areas must perform search activities at regular intervals to ensure all statute imminent cases are identified.

- (2) The area taking the first processing action or routing action will be responsible for completing the Barred Statute Report. Exhibit 25.6.1-3., Form 9355 Barred Statute Report, for information on completing this report.
- (3) A processing action is described as an action directly related to the barred assessment. An action which caused the loss of the assessment, or the absence of an appropriate action which could have precluded the period from expiring.
- (4) A routing action is used to identify the area who first routed a case to an area other than the Statute function when the expiration period is less than 90 days.

25.6.1.13.2.6
(10-02-2023)

**Routing and Controlling
Form 9355**

- (1) This section provides uniform and consistent procedures for all AM Statute functions for controlling, preparing, and routing documents on barred assessments. The AM Statute function must establish and maintain a "Statute Control System" to track barred assessment cases.
- (2) Due to the COVID-19 Pandemic, procedures for preparing Form 9355 Barred Statute Report for all barred statute cases with an IRS received date of March 1, 2020 thru December 31, 2020, is as follows:
 - Cases identified as barred will not need to be routed to other AM Statute areas or other BODs,
 - **Exception:** Barred cases identified meeting ID Theft criteria will continue to be routed to IDTVA per normal IRM procedures.
 - Cases identified as Barred will be assigned as CBARD as the responsible Department for the barred and reported as normal on the quarterly barred statute report,
 - Cases identified as CBARD will not be investigated,
 - Cases identified as CBARD will be assigned a control number as normal,
 - Barred Cases will not need to be shared with employees,
 - Barred Cases will need to have the signature of the Statute Manager only (you do not need other management or Campus Director's signature),
 - Removed the 99 days processing time frame for resolving CBARD cases,
 - Barred Cases will be reported as CBARD on the Barred Statute Report sent to the HQ Analyst,
 - Closing actions record keeping for the barred case will remain unchanged.
- (3) When it is determined that a tax period for assessment has expired, the Statute function will control the case and update IDRS using category "BARD".

The category BARD cases must be processed within 99 calendar days of the case establishment date as stated in IRM 3.30.123.5.8(4), Statutes.

- (4) Assign the case a control number.
- (5) The Statute Function will:
 - a. Prepare original and two copies of Form 9355.
 - b. Enter the control number in the upper left block of Form 9355 (below the title "Barred Statute Report.")
 - c. Complete items 1 through 9.
 - d. Enter in item 10 the area (function) responsible for the barred case.
 - e. Prepare in chronological order, (attach to Form 9355) the sequence of events that resulted in the barred case.
 - f. Prepare a transmittal and route the case file to the area responsible for the barred assessment. This includes an Identity Theft taxpayer's (ID) account. Procedures for handling an ID Theft barred statute case are shown in the table below:

Procedures for handling an ID Theft barred statute case
<ul style="list-style-type: none"> • On an ID Theft barred, the local statute team will forward all original documents, including tax return, memo, sequence of events and Form 9355 with the statute control number to the local Identity Theft Victim Assistance (IDTVA) manager. • the local IDTVA manager will ensure the correction of the good taxpayer's account for any refund based on the timely filing of the return. After the taxpayer's account is corrected, the IDTVA manager will sign the Form 9355 and ensure all other required signatures are on the form. • The local IDTVA manager will send a secure email with the signed Form 9355 and all associated barred documents to the IDTVA Headquarter (HQ) P&A analyst for review of the barred statute case documents. • After the HQ IDTVA P&A analyst has completed the review of the barred documents, the barred assessment documents will be sent to the IDTVA director for electronic signature; then they will forward to the original IDTVA manager. • The local IDTVA manager will print the Form 9355 with electronic signatures and forward the original tax return and other documents back to the local statute team to take actions to close out the barred cases. • A copy of the barred tax return will be retained by the local IDTVA manager after the Form 9355 is signed by all parties. <p>Note: This procedure does not prevent an ID Theft employee from correcting the taxpayer's account prior to sending a barred statute case to the local statute team. The ID Theft employee would just need to make sure that the taxpayer refund is only for the amount in which they are entitled to receive.</p>

- g. Include the control number on the accompanying transmittal.

Note: The control number will remain the same regardless of who prepares the report. The Statute function will maintain an open control on IDRS until the

signed copy of report is returned from the appropriate Director's office (local management may decide which Director's signature is required on Barred Statute Reports within W & I Campuses).

- (6) Local procedures must be established to ensure that statute controls are updated to expeditiously reflect the location of the case each time it is moved to a different area.
- (7) The Statute function will follow-up to ensure that Form 9355 is completed and signed by the appropriate Campus Director within 60 calendar days from the date the case is released by the Statute function.
- (8) After the appropriate Campus Director has approved and signed Form 9355, the Statute function will close the IDRS control and the control used to track barred cases.
- (9) The Responsible area/function will, upon receipt of Form 9355:
 - a. Check the appropriate box in item 11.
 - b. Give a description of what caused the barred statute case.
 - c. Sign and date items 12 and 13.
 - d. Complete item 14.
 - e. Complete items 15 through 20.
 - f. The appropriate Director will complete items 21 and 22.

25.6.1.13.2.7
(04-03-2006)

**Functional
Responsibilities for
Processing and
Clearance of Form 9355
Reports and Potential
Statute Cases**

- (1) The following outlines AM Statute function responsibilities for processing Form 9355 reports and clearing potential statute cases.

25.6.1.13.2.7.1
(05-04-2015)

**Statute Function
Responsibility**

- (1) **The Statute Function will:**
 - a. Review all cases identified as potential statute cases.
 - b. Determine if the statute for the tax period is imminent or barred.
 - c. Stamp "No Statute Issue" on cases which are determined not to be barred and return to initiator.
 - d. If the Statute is barred, record all discovered barred assessments on the Statute Control System.
 - e. Develop a written chronological sequence of events that led to the barred statute case (attach to Form 9355).
 - f. Prepare and route the "Barred Statute Transmittal" through management, on cases determined to be barred to the responsible area.
 - g. The category BARD cases must be processed within 99 calendar days of the case establishment date as stated in IRM 3.30.123.5.8(4), **Statutes**.
 - h. Place a copy of the barred statute case in a locked cabinet (keep for 2 years) after the case is received and signed by the Director. After the two-year suspense period is up, destroy the copy.
- (2) The Statute Control System will be updated and the approved Form 9355 will be distributed as follows:

- Original to the responsible Campus Director.
- Copy to retain in Statute.
- Copy to Examination Field Director, Compliance (if statute case originated in Exam).

25.6.1.13.2.7.2
(05-04-2015)

**Responsibilities of W&I
Examination Operations
at Campuses**

(1) **Examination Operation will:**

- a. Prepare a Barred Statute Report (Form 3999), when the Accounts Management (AM) Statute function discovered a barred case and a Form 3999 is being requested.
- b. Prepare a chronology of events that lists actions on barred Exam cases discovered by the Statute function. Attach to Form 3999.
- c. Obtain a control log number from the appropriate AM Statute function and Enter the Control Number on Form 3999.
- d. Forward cases through management channels to the Compliance Campus Director for signature.
- e. The category BARD cases must be processed within 99 calendar days of the case establishment date as stated in IRM 3.30.123.5.8(4), Statutes.
- f. Forward completed cases to the AM Statute function at the appropriate campus through the appropriate AM Operations Manager. The AM Statute Team will close the case on the Statute Control System Log after approval of the Campus Compliance Director and count the case on their barred statute report.

25.6.1.13.2.7.3
(04-03-2006)

**Barred Assessment
Account Closing Actions**

(1) The AM Campus Statute function will close out Form 9355 as follows:

- a. Move any non-refundable credit(s) on the module to the Excess Collection File (XSF).
- b. Prepare and clear a "DUMMY" return with zero tax using the received date of the barred return. Send the return to Submission Processing for normal processing after all credits have been moved to XSF.
- c. Refile the original document with TC 290-00 using blocking series 300-309. Photocopy entire case for the two-year suspense file.

(2) On original delinquent returns with refundable credits, place non-refundable credits in excess collection. Allow refundable credits to refund before closing the case.

25.6.1.13.2.8
(10-13-2011)

**Statute Expiration
Reporting
Responsibilities and
Procedures for SB/SE
Area Office Involved
Directly with or
Providing Support for
Tax Return
Examinations**

- (1) This subsection contains procedures for the submission of Statute Expiration Reports, Forms 3999, or Form 3999-T, Barred Statute Report, to the appropriate SB/SE Director of Examination or Specialty Programs which are involved, either directly or through support activities (including Specialty Program support activities conducted at campuses), with the examination of tax returns. The procedures do not apply to activities (including trust fund recovery penalty investigation activities) conducted by SB/SE Collection nor do these procedures apply to return examination activities conducted by LB&I, TEGE or W&I, as these organizational components have separate statute expiration reporting procedures.

25.6.1.13.2.8.1
(02-03-2023)

**Procedures for the
Submission of SB/SE
Statute Expiration
Reports**

- (1) Statute expiration reports are required on all tax periods/returns (except for those shown in (3) below) under examination and/or controlled on AIMS upon which the normal three-year period for assessment or the assessment period which has been extended by consent expires while the return is in an AIMS status below 80 or is being examined but is not controlled on AIMS. The procedures in this subsection control when a statute expiration report is required to be submitted by SB/SE managers/employees notwithstanding any provision contained in other sections of the IRM.
- (2) Statute expiration reports are also required to be submitted for penalty cases controlled on ERCS upon which time has been charged and the applicable penalty cannot be assessed because the period of time for assessment has expired.
- (3) A statute expiration report is not required, although the period for assessment expired while the return was in an AIMS status of less than 80 or is being examined but not controlled on AIMS, for the following returns:
 - a. Any return involving a net overassessment if a claim has been or can be filed or a credit or refund allowed after timely waiver and within six months after the extended assessment period. See IRC 6511(c)(2).
 - b. Any return for which the assessment can be made because of a statutory exception, including the tolling exceptions, to the normal three-year period for assessment or the assessment period which has been extended by consent.
 - c. Any return that is a non-taxable, Investor Level Statute Control (ILSC) pass-through entity, which is associated with an examined, taxable return.
 - d. Any partner return where a Form 3999-T, Statute Expiration Report (for TEFRA key cases), was written for the TEFRA partnership return. A copy of the Form 3999-T should be attached to the partner return.
 - e. Any return where the date of approval to establish the return on AIMS or date of automatic establishment on AIMS (systemically generated establishment of returns) **and** the date the examination commences is after the date the assessment statute expired.
- (4) The Form 3999, Statute Expiration Report, is used to report expired statutes on all cases other than TEFRA partnerships. TEFRA partnerships require the preparation of a Form 3999-T.
- (5) When an SB/SE employee discovers a potentially expired assessment statute, the employee should consult with the manager immediately to determine the assessment statute of limitations has in fact expired and on what date it expired (considering all relevant IRC provisions that impact the calculation of the date by which any tax liabilities must be assessed). Advice of Area Counsel and/or Technical Services staff should be sought by the manager if there are any doubts as to whether or not the assessment statute has expired.
- (6) The preliminary report is to be prepared and submitted within 3 business days of the date of discovery of the expired statute (including securing Counsel or Technical Services' advice on whether or not the statute has expired). The preliminary Form 3999/Form 3999-T is prepared by the manager of the person who discovers the potentially expired statute. This requirement is not to be construed or in any manner should it be read to imply that the preparer of the preliminary report is the person responsible for the expired statute. Exhibit 25.6.1-4., SB/SE Statute Expiration Reporting Timetable, for additional information.

- (7) The final report is to be prepared and submitted to the next-level manager no later than 13 business days from discovery of the expired assessment statute. The final report is prepared by the immediate manager of the party responsible for the statute expiration and is to be forwarded through channels to the applicable Director, Examination or Specialty Programs. If there is no responsible party, because prescribed procedures were followed in controlling and protecting the assessment statute of limitations, then the final statute expiration report is prepared by the manager of the unit to which the return was assigned on AIMS or which was examining the tax period in question when the assessment statute expired, irrespective of whether or not the tax period was controlled on AIMS. When one function discovers the statute expiration, but another function was responsible for the expiration, the discovering function should prepare a preliminary Form 3999 stating the facts. The preliminary Form 3999 should be routed by the local executive (Exam Area Director, or Director, Specialty Tax) to the local executive of the responsible function. The responsible function will take necessary action to complete the final Form 3999 within prescribed timeframes. Exhibit 25.6.1-4., SB/SE Statute Expiration Reporting Timetable, for further information on the timetable for submission of statute expiration reports by SB/SE field and campus examination-related activities/organizations, including Specialty Programs and the field and campus organizations which support the examination process.
- (8) Copies of all the attachments referenced in the Form 3999 or Form 3999-T or referenced in other attachments to the forms must be included as part of the statute expiration report forwarded to the applicable SB/SE Director, Examination or Specialty Programs.
- (9) The relevant SB/SE executives reporting directly to the Director Examination have authority to approve these statute expiration reports for ultimate submission, for information, to the appropriate Director, Examination. In the case of Specialty Programs, the relevant Program Manager has authority to approve the statute expiration Report for submission to the Director, Specialty Programs.
- (10) The relevant executive or Program Manager who approves the statute expiration report is to ensure that other organizational components who in some way contributed to the statute expiration receive copies of the report. The fact that copies of the report were provided to other organizational components and to which organizational components copies of the report were provided is to be included in the block (Blocks 15 or 13) of the respective Form 3999 or Form 3999-T pertaining to "Corrective Action taken or Recommended to Prevent Recurrence of Statute Expiration."
- (11) If the corrective action includes a proposal for disciplinary action, only reference the consideration of proposed discipline in Block 12 of the Form 3999. For example, state disciplinary action considered, see attached Form 11396, Recommendation for Disciplinary/Adverse Action, (or attached memo).
- (12) Management is to review completed reports to identify trends and causes of expired statutes with an objective of correcting any identified systemic weaknesses in statute control procedures.

25.6.1.13.2.8.2
(09-12-2014)

**Taxpayer Notification of
Assessment Statute
Expiration and
Acceptance of Voluntary
Payments on Expired
Statute returns When
Taxpayer Has Been
Contacted for Return
Examination**

- (1) See IRM 4.2.1.14 Taxpayer Notification of Assessment Statute Expiration and Acceptance of Voluntary Payments on Expired Statute Returns When Taxpayer Was Contacted for Examination, for procedures for notifying taxpayers of assessment statute expiration after taxpayer contact has been made and either a deficiency can or cannot be determined.

25.6.1.13.2.8.3
(12-07-2012)

**Closing Cases Involving
Expired Statute Returns**

- (1) Place copy of Form 3999/Form 3999-T, in the case file as well as a copy of any notice to the taxpayer concerning assessment statute expiration. The copy of the Form 3999/Form 3999-T placed in case file should not contain disciplinary-related information. See IRM 4.2.1.14.3, Guidelines for Cases with Expired Statutes Where the Taxpayer Makes a Voluntary Payment, for preparation of Form 3244-A, Payment Posting Voucher and flagging of the case file via Form 3198, Special Handling Notice for Examination Case Processing, if a voluntary payment is received after the assessment statute expires. The case file should also be flagged with a Form 3198, with the notation: "Payments/Credits are to be Transferred to Excess Collection File," whenever payments or credits need to be transferred to Excess Collections File as a result of the barred assessment. Centralized Case Processing will prepare the Form 8758, Excess Collection File Addition, for transferring payments to the Excess Collection File.
- (2) IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF), if payments of tax are made or credits are available prior to assessment statute expiration but the assessment is barred, and IRM 3.17.220 Excess Collection File, for procedures for transferring the payment amounts/credits to the Excess Collection File. IRM 25.6.1.10.2.5.6.1, Claim for an Amount Paid before ASSED for Tax Determined By the ASSED, and Rev. Rul. 85-67, 1985-1 C.B. 364, for payments made before the ASSED passes.
- (3) IRM 25.6.1.10.2.5.6.2, Claim for an Amount Paid After the ASSED or Paid For Tax Determined After the ASSED", if payments of tax are made after the assessment statute expires, then the payment amounts must be refunded to the taxpayer. The taxpayer does not have to file a claim for refund in order to receive a refund of the payment made with the late filed amended return for additional tax assessment.
- (4) Use AIMS Disposal Code 12 with an entry of \$1 in item 35 of the Form 5344, Examination Closing Record, if the AIMS closing is an examined return closing (return examination started and either a tax deficiency can be determined or determination made that no tax changes are warranted or adjustments to tax cannot be determined). For surveyed returns, use the applicable disposal code specified in *IRM 4.4.21*, Non-Examined Closings/Deleting AIMS Records, and defined in more detail in *Exhibit 4.4.1-1*, Reference Guide, for the type of survey being made to close the AIMS base to AIMS status 90 after the assessment statute expires.

25.6.1.13.2.8.4

(01-15-2021)

**Statute Expiration
Reporting
Responsibilities and
Procedures for SB/SE
Campus Collections**

- (1) This subsection contains procedures for the submission of Form 9355, Barred Statute Reports. These procedures apply to all Operations within SB/SE Campus Collections.
- (2) A Barred Statute Report, Form 9355, is required to be completed by Operations within Campus Collections: CSCO, ASFR, Automated Collection System (ACS), Specialty Collection Offer in Compromise (SOIC).
- (3) When a potential barred statute is discovered, a preliminary Form 9355 is required to be completed. The campus must submit a statute report within seven days to HQ. See the timetable table below for the timeliness of SB/SE Campus Compliance Services Submission of Statute Expiration Report.

Preliminary Form 9355	Number of Days
Notification of potential barred statute to Campus Director	2 days from date of discovery. The days are calculated as business days.
Notification of potential barred statute by Campus Director to Director, Campus Compliance Services when a potential barred statute is identified with: <ul style="list-style-type: none"> • High dollars, • Significant volume of cases, • High profile taxpayer or • Outside of CCS, the Campus 	2 days from date of discovery. The days are calculated as business days.
Preliminary Forms 9355 required to be submitted to HQ	7 days from date of discovery. The days are calculated as business days.
Final Form 9355	Number of Days
Final report submitted to Campus Director for signature	60 days from date of discovery. The days are calculated as calendar days.
Final report submitted to Campus Collections HQ with all required signatures	70 days from date of discovery. The days are calculated as calendar days.

- (4) Campus Compliance Services established a “SBSE HQ Collections” mailbox as a vehicle to report all potential and/or final barred statute reports. Preliminary Form 9355 must be submitted to HQ via the “SBSE HQ Collections” mailbox within 7 days of discovery. The preparation of the preliminary does not imply the preparer of the form is the responsible party. The days are calculated as business days. All potential barred statute reports will be assigned a statute control number by HQ and shared with the site. This statute control number will remain with the case throughout the process.
- (5) If the responsible party is outside of the Campus Collections or BOD that discovered the barred statute, a memo must be prepared and forwarded to the Functional Director of the responsible Campus or BOD. The memo should be from Director to Director. If a potential barred statute report is received from another Campus or BOD, follow the procedures for reporting a potential barred statute.
- (6) When a SBSE Campus Collections employee discovers a potentially barred statute, the employee should consult with the manager to determine if it has, in fact, expired and the date it expired. All available research should be

performed, including the advice of the applicable Statute Coordinators and/or Counsel should be sought, if necessary.

- (7) All final barred statute reports must be submitted to HQ via the “SBSE HQ Collections mailbox” within 70 days of discovery, including all required signatures by the Campus P&A Statute Analyst or designated person. If a final barred statute report can be completed, including all required signatures within 7 days of discovery, a preliminary is not required. The days are calculated as calendar days.
- (8) When completing Form 9355, all pertinent information must be completed. Date of discovery and corrective actions are required on all forms. Disciplinary actions taken should be annotated without stating the responsible employee’s name. Completed final packages should include signed Form 9355, case chronology, sanitized Manager’s History Sheet outlining recommended disciplinary actions, Counsel Memos, if applicable. The completed package should be forwarded to the Campus Director for signature within 60 days of discovery. When all required signatures are obtained, the completed package must be forwarded to Campus Collections HQ within 70 days of discovery.
- (9) Management is required to review all barred statute reports to identify trends or gaps within their Operations to prevent future occurrences.

25.6.1.13.2.8.5
(10-01-2021)

**Statute Expiration
Reporting
Responsibilities and
Procedures for SB/SE
Campus
Examination/AUR**

- (1) This subsection contains procedures for the submission of Form 3999, Statute Expiration Reports. These procedures apply to all Operations within SB/SE Campus Examination/AUR. A Statute Expiration Report, Form 3999, is required to be completed by Operations within Campus Examination/AUR.
- (2) When a potential barred statute is discovered a preliminary Form 3999 is required to be completed. The campus must submit a statute report within 7 days to HQ. See the timetable below for the timeliness of SB/SE Campus Examination/AUR submission of Statute Expiration Report.

Preliminary Form 3999	Number of Days
Notification of potential barred statute to Campus Director	2 days from date of discovery. The days are calculated as business days.
Notification of potential barred statute by Campus Director to Director, Campus Examination/AUR (CEA) w	2 days from date of discovery. The days are calculated as business days.
Preliminary Form 3999 submitted to HQ via the “SBSE CCS Statutes” mailbox	7 days from date of discovery. The days are calculated as business days.
Final Form 3999	Number of Days
Final report submitted to Campus Director for signature	60 days from date of discovery. The days are calculated as calendar days.
Final report submitted to HQ with all required signatures	70 days from date of discovery. The days are calculated as calendar days.

- (3) Campus Examination/AUR established a “SBSE CCS Statutes” mailbox as a vehicle to report all potential and/or final barred statute reports. Preliminary Form 3999 must be submitted to HQ via the “SBSE CCS Statutes” mailbox

within 7 days of discovery. The preparation of the preliminary does not imply the preparer of the form is the responsible party. The days are calculated as business days. All potential barred statute reports will be assigned a statute control number by HQ and shared with the site. This statute control number will remain with the case throughout the process.

- (4) If the responsible party is outside of the Campus Examination/AUR or BOD that discovered the barred statute, a memo must be prepared and forwarded to the Functional Director of the responsible Campus or BOD. The memo should be from Director to Director. If a potential barred statute report is received from another Campus or BOD, follow the procedures for reporting a potential barred statute.
- (5) When a SBSE CEA employee discovers a potentially barred statute, the employee should consult with the manager to determine if it has, in fact, expired and the date it expired. All available research should be performed, including the advice of the applicable Statute Coordinators and/or Counsel should be sought, if necessary.
- (6) All final barred statute reports must be submitted to HQ via the “SBSE CCS Statutes mailbox” within 70 days of discovery, including all required signatures by the Campus P&A Statute Analyst or designated person. If a final barred statute report can be completed, including all required signatures within 7 days of discovery, a preliminary is not required. The days are calculated as calendar days.
- (7) When completing Form 3999, all pertinent information must be completed. Date of discovery and corrective actions are required on all forms. Disciplinary actions taken should be annotated without stating the responsible employee’s name. Completed final packages should include signed Form 3999, sanitized Manager’s History Sheet outlining recommended disciplinary actions, Counsel Memos, if applicable. The completed package should be forwarded to the Campus Director for signature within 60 days of discovery. When all required signatures are obtained, the completed package must be forwarded to HQ within 70 days of discovery.
- (8) Management is required to review all barred statute reports to identify trends or gaps within their Operations to prevent future occurrences.

25.6.1.13.2.9
(09-09-2011)
**Statute Expiration
Reporting
Responsibilities and
Procedures for LB&I
Field Operations and
LB&I Campus
Employees**

- (1) This subsection contains procedures for the submission of a Statute Expiration Report (Form 3999 or Form 3999-T) to the appropriate LB&I executive who is involved, either directly or through support activities, with the processing, classification, or examination of LB&I tax returns. The procedures do not apply to activities conducted by SB/SE, TEGE, or W&I, with respect to LB&I tax returns, as these organizational components have separate statute expiration reporting procedures.

25.6.1.13.2.9.1
(10-01-2019)
**Procedures for the
Submission of LB&I
Statute Expiration
Reports**

- (1) Statute expiration reports are required on all tax periods/returns (except for those shown in (2) below) under examination and/or controlled on AIMS for which the normal three-year period for assessment or the assessment period which has been extended by consent expires while the return is in an AIMS status below 80 or is being examined but not controlled on AIMS. In addition, a statute expiration report is required for LB&I cases when the statutory period

for overassessments has expired and the period for timely filing of a refund suit has also expired. The procedures in this subsection control when a statute expiration report is required to be submitted by LB&I managers/employees not withstanding any provisions contained in or other sections of the IRM.

- (2) A statute expiration report is not required, although the normal period for assessment expired while the return was in an AIMS status of less than 80 or is being examined but not controlled on AIMS, for the following returns:
 - a. Any return involving a net overassessment if a claim has been or can be filed or a credit or refund allowed after timely waiver and within six months after the extended assessment period. See IRC 6511(c)(2).
 - b. Any return for which the assessment can be made because of a statutory exception, including the tolling exceptions, to the normal three-year period for assessment or the assessment period which has been extended by consent.
 - c. Any return that is a non-TEFRA, nontaxable, flow-thru entity, which is associated with an examined, taxable return.
 - d. Any investor return where a Form 3999-T was written for the key case return. A copy of the Form 3999-T should be attached to the investor return.
 - e. Any return where the date of approval to establish the return on AIMS or date of automatic establishment on AIMS (systemically generated establishment of returns) and the date the examination commences is after the date the assessment statute expired.
 - f. Any return surveyed timely before the assessment statute date.
 - g. Any "no change" examination when a no change decision is documented in advance of the statute expiration.
- (3) Form 3999 is used to report expired statutes on all cases other than TEFRA key entities. TEFRA key entities require the preparation of a Form 3999-T.
- (4) When a LB&I employee discovers a potentially expired assessment statute, the employee should consult with the manager immediately to determine whether the assessment statute of limitations has in fact expired and on what date it expired (considering all relevant IRC provisions that impact the calculation of the date by which any tax liabilities must be assessed). Advice of Field Counsel should be sought by the manager if there are any doubts as to whether or not the assessment statute expired. There may be instances where not all of the proposed tax is barred from assessment. Only the barred assessment (or overassessment) amount should be reported on Form-3999/Form 3999-T.
- (5) The preliminary report is to be prepared and submitted within 10 business days of the date of discovery of the potentially expired statute (including securing Counsel advice on whether or not the statute has expired). The preliminary Form 3999/Form 3999-T is prepared by the person who discovered the expired statute. This requirement is not to imply that the preparer of the preliminary report is the person responsible for the expired statute. The preliminary report for barred statutes in field operations should be submitted through the respective Practice Area Director for transmittal to the Assistant Deputy Commissioner Compliance Integration (ADCCI) office. Campus operations should also submit a preliminary report through Assistant Deputy Commissioner Compliance Integration, (ADCCI).

- (6) If after submitting a preliminary report to ADCCI for review, the Practice Area Director discovers that the statute of limitations did not expire as originally believed, then the Practice Area should immediately notify ADCCI to withdraw the preliminary report. A memorandum from the Practice Area Director, explaining why the statute is not expired should be submitted through Assistant Deputy Commissioner Compliance Integration, (ADCCI).
- (7) The final report is prepared by the party responsible for the statute expiration and will be forwarded through channels to the applicable Practice Area Director no later than 60 calendar days from preparation of the preliminary report. The respective Practice Area Director will forward the document to the assistant Deputy Commissioner Compliance Integration, (ADCCI), with a memorandum of proposed disciplinary action. Proposed disciplinary actions, or a statement explaining why disciplinary action is not applicable should not be addressed on Form 3999/Form 3999-T. Alternatively, Form 11396, Recommendation for Disciplinary/Adverse Action may be used in lieu of a memorandum, but only if disciplinary action is proposed.
- (8) If there is no responsible party because prescribed procedures were followed in controlling and protecting the assessment statute of limitations, the final statute expiration report is prepared by the manager of the unit to which the return was assigned on AIMS or which was examining the tax period in question when the assessment statute expired, irrespective of whether or not the tax period was controlled on AIMS.
- (9) The relevant Practice Area Director who approves the final statute expiration report is to ensure that other organizations who in some way may have contributed to the statute expiration, receives copies of the report. Documentation that copies of the final report were provided to other organizations is to be included in block 13 or 15 of the respective Form 3999 or Form 3999-T. relating to Corrective Action Taken or Recommended to Prevent Recurrence of Statute Expiration.
- (10) All LB&I expired statute report packages are submitted to ADCCI for review and processing by the LB&I Barred Statute Analyst. The primary role of the LB&I Barred Statute Analyst is to review and verify, the facts as presented in the package and prepare an objective analysis for LB&I. The objective analysis is supported by documentation that is submitted with the package.
- (11) The expired statute report package sent to ADCCI should include:
 - A fully completed Form 3999/Form 3999-T
 - Memo on disciplinary actions or Form 11396 (use Form 11396 only if disciplinary action is proposed)
 - All pertinent supporting documentations to explain and support the timeline of events leading to the barred statute and/or the reason for the barred statute
- (12) The supporting documentation provided will depend on the individual case, but in general should include:
 - Narrative describing case circumstances
 - Chronology of events leading to expired statute
 - Copy of any memo (or Form 10498-B) allowing the statute to expire
 - Copy of any Form 872s signed by the taxpayer
 - Transcripts of account

- Any applicable statute calculations
- Copy of examination reports as described in IRM 4.46.5.7, **Completing the Examination**.

(13) The list below contains the timetable (all days are business days) for submission of statute expiration reports by LB&I field and campus organizations which support the LB&I examination process.

1. Initial report is submitted by preparer 10 business days from discovery (10 days)
2. Initial report is reviewed and approved by First Level of Management (5 days)
3. Initial report is reviewed and approved by Territory Manager (5 days)
4. Initial report is reviewed and final approval by DFO (5 days)
5. Report is forwarded to Practice Area Director (2 days)
6. Practice Area Director forwards to Assistant Deputy Commissioner Compliance Integration, ADCCI (5 days)

Note: The total number of business days thus far is 32 days.

7. Final report is submitted by preparer (10 days from date preliminary report approved by DFO)
8. Final report is reviewed and signed by First Level management (10 days)
9. Final report is reviewed and signed by Territory Manager (20 days)
10. Final report is approved by DFO (20 days)
11. Report is transmitted to Practice Area Director (5 days)
12. Final Report and recommended disciplinary action is forwarded to Assistant Deputy Commissioner, ADCCI(10 days)
13. LB&I Barred Statute Analyst will notify the Practice Area when the Final report has been processed.
14. Assistant Deputy Commissioner Compliance Integration (ADCCI) reports its findings to LB&I Commissioner annually

Note: Total number business days to process the Final Form 3999/Form 3999-T Report is 75 days.

(14) Management will review completed reports to identify trends and causes of expired statutes with an objective of correcting any identified systemic weaknesses in statute control procedures.

25.6.1.13.2.9.2
(09-12-2014)

Taxpayer Notification of Assessment Statute Expiration and Acceptance of Voluntary Payments on Expired Statute Returns When Taxpayer Has Been Contacted for Return Examination

- (1) See IRM 4.2.1.14, Taxpayer Notification of Assessment Statute Expiration and Acceptance of Voluntary Payments on Expired Statute Returns When Taxpayer Was Contacted for Examination for procedures for notifying taxpayers of assessment statute expiration after taxpayer contact has been made and either a deficiency can or cannot be determined.

25.6.1.13.2.9.3
(12-07-2012)

**Closing Cases Involving
Expired Statute Returns**

- (1) Place a copy of Form 3999/ Form 3999–T in the case file as well as a copy of any notice to the taxpayer concerning a statute expiration. The copy of Form 3999/ Form 3999–T placed in the case file should not contain disciplinary-related information. See IRM 4.2.1.14.3, Guidelines for Cases with Expired Statutes Where the Taxpayer Makes a Voluntary Payment or preparation of Form 3244–A, Payment Posting Voucher, and flagging of the case file via Form 3198, Special Handling Notice, if a voluntary payment is received after the assessment statute expires. The case file should also be flagged with a Form 3198 with the notation: “Payments/credits are to be Transferred to Excess Collections File”, whenever payments or credits need to be transferred to the Excess Collections File as a result of a barred assessment, or barred overassessment. Centralized Case Processing will prepare the Form 8758, Excess Collection File Addition, for transferring payments to the Excess Collections File.
- (2) IRM 25.6.1.7.3, Excess Collection File (XSF) And Unidentified Remittance (URF), if payments of tax are made or credits are available prior to assessment statute expiration but the assessment is barred, and IRM 3.17.220, Excess Collection File for procedures for transferring the payment amounts/credits to the Excess Collections File. IRM 25.6.1.10.2.5.6.1, Claim for an Amount Paid before ASER, and Rev. Rul. 85–67, 1985–1 C.B. 364, for payments made before the ASER passes.
- (3) IRM 25.6.1.10.2.5.6.2, Claim for an Amount Paid After the ASER, if payments of tax are made after the assessment statute expires, then the payment amounts must be refunded to the taxpayer. The taxpayer does not have to file a claim for refund in order to receive a refund of the payment made with the late filed amended return for additional tax assessment.
- (4) Use AIMS Disposal Code 12 with an entry of \$1 in item 35 of the Form 5344 if the AIMS closing is an examined return closing (return examination started and either a tax deficiency can be determined or a determination was made that no tax changes are warranted or adjustments to tax cannot be determined). For surveyed returns, use the applicable disposal code in *IRM 4.4.21*, for the type of survey being made to close the AIMS base to AIMS status 90 after the assessment statute expires.

25.6.1.14
(10-03-2022)

**Estate and Gift Tax
(Form 706/709)**

- (1) This section provides guidelines in identifying and processing Estate (Form 706) and Gift (Form 709) Tax returns.
- (2) Estate Tax Returns must be filed for the estate of every citizen or resident of the United States whose gross estate at date of death exceeds the amount defined by IRC 2010(c). The estate of a non-citizen, non-resident must also file an Estate Tax Return, if the gross estate includes property situated in the U.S.
- (3) If required, a Gift Tax Return (Form 709) must be filed yearly, by April 15. If an extension of time for filing an income tax return is granted to a taxpayer, it shall be deemed to have been granted an extension of time for filing the gift tax return for the same amount of time. For calendar years 2009 through 2012, gift tax returns are required for gifts of present interests in excess of \$13,000 per individual per year. For calendar years 2013 through 2017, gift tax returns are required for gifts of present interests in excess of \$14,000 per individual per year. For calendar years 2018 through 2021, gift tax returns are required for gifts of present interests in excess of \$15,000. Beginning in 2022, gift tax returns are required for gifts of present interests in excess of \$16,000.

25.6.1.14.1
(10-01-2010)
**Estate and Gift Tax
Research**

- (1) To handle Estate and Gift Tax Returns, you may need to reference other Internal Revenue Manuals (IRM) and Internal Revenue Code (IRC) such as:
- IRM 21.5.1, General Adjustments
 - IRM 4.25.1, Estate and Gift Tax Examinations
 - IRM 4.25.2, Campus Procedures for Estate Tax
 - IRM 21.7.1, BMF/NMF Miscellaneous Information
 - IRM 4.25.2, Estate and Gift Tax Returns
 - IRM 3.17.46, Automated Non-Master File Accounting
 - IRC 2058(a), Deduction for State Death Taxes
 - IRC 2058(b), Period of Limitation on Deduction
 - IRC 2014, Credit for Foreign Death Taxes
 - IRC 2511 Transfers in General

25.6.1.14.2
(10-01-2001)
**Estate and Gift Tax
Procedures**

- (1) The following subsections describe procedures for handling Estate and Gift Tax Returns.

25.6.1.14.2.1
(08-24-2012)
**Form 706 U.S. Estate
Tax Return**

- (1) Due to the complex nature of Form 706, the Statute function will not attempt to resolve issues on statute imminent periods unless it is returned to the Statute function for further processing by the Examination Operations.
- (2) All Forms 706 are Category A criteria: Route the case to the Examination Branch per IRM 21.5.1, General Adjustments. Route cases to Accounting if a tax module is currently in or has been in Master File or Service Center Status 14.

Note: The Statute function will **not** close or disallow Form 706 cases before considering (2) above. All cases must be identified as "STATUTE IMMINENT" when routing to the Examination Operations.

- (3) Under current law, decedents dying during calendar year 2010 may elect out of the estate tax. Estate Tax Returns are due within 9 months after the date of the decedent's death unless an extension (Form 4768) of time for filing and/or payment has been granted. See IRM 4.25.2, Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, PL 111-312 (Sections 301-304) (TRUIRJCA), for more information on estate tax return for 2010.

25.6.1.14.2.1.1
(10-01-2020)
**Credit of Foreign Taxes
or State Death Tax
Credit**

- (1) For estates of decedents dying after December 31, 2004, IRC 2058(a) allows the estate of a citizen or resident of the United States to claim as a deduction for federal estate tax purposes an amount equal to any estate, inheritance, legacy or succession taxes owed and paid to any State or the District of Columbia. Former IRC 2011 provided a credit instead of a deduction for state death taxes.
- (2) IRC 2058(b) provides that the deduction shall include only those taxes that were actually paid and for which a claim has been filed within 4 years after the filing of the return required by IRC 6018. IRC 2058(b)(2) extends this period of limitation under certain circumstances as follows. If a petition is filed with the Tax Court, the period of limitation is extended to 60 days after the decision of the Tax Court becomes final. If an extension of time is granted for payment of tax, the period of limitation is extended to expiration of the period of the

extension. If a claim for refund or credit is filed within the time prescribed in IRC 6511, the period of limitation is extended to the last to occur of (i) 60 days after the IRS mails a notice of disallowance of all or part of the claim to the taxpayer, (ii) 60 days after the court decision becomes final, or (iii) 2 years after a notice of the waiver of disallowance is filed under IRC 6532(a)(3). Former IRC 2011(c) provided limitations consistent with IRC 2058(b).

- (3) IRC 2014(a) provides a credit for taxes paid to a foreign country with respect to property situated therein and included in the gross estate. IRC 2014(e) states that the credit shall include only those taxes actually paid and for which a claim has been filed. IRC 2014(e) further provides that the claim must be filed within 4 years after the Estate Tax Return was filed; except if a petition is filed in the Tax Court, then within the 4-year period or within 60 days after the decision of the Tax Court becomes final; or if an extension of time was granted for paying the tax, then within the 4-year period or before the extension ends.
- (4) A claim for refund of overpayment based on the deduction for State Death Taxes under IRC 2058 or a claim for refund of overpayment based on the credit for Foreign Death Taxes under IRC 2014 may be made (despite the provisions of IRC 6511 and 6512) if the claim is filed within the period prescribed. No interest is allowable on these refunds. Former IRC 2011 allowed a claim for refund of overpayment consistent with IRC 2058.
- (5) IRC 2016 provides that if any tax claimed as a credit under IRC 2014 is recovered (from any foreign country) by the executor, notice shall be given to the Secretary. The estate tax will be redetermined; and, without regard to the statute of limitations provided in IRC 6501, the amount of any estate tax due upon redetermination shall be paid upon notice and demand. No interest will be assessed or collected on the tax due on a redetermination resulting from a refund of the foreign tax claimed as a credit prior to the date of receipt of the refund, except to the extent interest was paid on the refund.

25.6.1.14.2.1.2
(09-29-2015)
Form 706-NA
(Nonresident Alien
Estate)

- (1) The executor files a Form 706-NA for the estate of a decedent who is a non-resident and non-citizen if the gross estate includes property situated in the United States. The Cincinnati Campus processes the Form 706-NA.
- (2) Route claims or amended returns to the Cincinnati Campus.

25.6.1.14.2.1.3
(08-24-2012)
Form 706-A United
States Additional Estate
Tax Return

- (1) Beneficiaries of an estate file Form 706-A when special use valuation property belonging to a decedent has been sold and a recapture tax is due. It is filed under the beneficiary(ies) SSN, processed to NMF and is due within 6 months after the date of sale (e.g., date of sale 02/24/1999/ return due 08/24/1999).
- (2) **The Statute Control Date (SCD)** begins with the filing of Form 706-A regardless of when the Form 706 was filed. **The commencement date on the Form 706-A is the date the land is sold.**
- (3) IRM 4.25.2, Estate and Gift Tax Returns, for additional information.

25.6.1.14.2.1.4
(09-20-2016)

**Form 706-QDT U.S.
Estate Tax Return for
Qualified Domestic
Trusts**

- (1) The tax class for this form is 85 and Master File Tax (MFT) Code is 53. A tax
- (2) See IRC 2056A, for filing requirements, tax implications and taxable events.
- (3) See IRM 4.25.2, Estate & Gift Tax Returns.

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25.6.1.14.2.1.5
(10-01-2017)

**Form 706-GS(D) and
Form 706-GS(T)**

- (1) The Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988 provided for a tax to be imposed on distributions and certain trust terminations which are subject to the generation-skipping transfer (GST) tax.
- (2) The skip-person distributee uses Form 706-GS(D) to calculate and report the tax due on taxable trust distributions. The MFT is 78, document code 59 and is processed under tax class 5. If the skip-person distributee is an individual, the return is filed under the distributee's SSN; if the skip-person distributee is a trust, the return is filed under the distributee's EIN. The return is due April 15 of the year following the calendar year when the distribution was made. Trustees are required to report taxable distributions to skip-person distributees on Form 706-GS (D), Notification of Distribution From A Generation-Skipping Trust.
- (3) Form 706-GS(T) is used by the trustee to calculate and report the tax due on taxable trust terminations. The MFT is 77, document code 29 and processed under tax class 5 and filed under an EIN only. The return is due April 15 of the year following the year in which the termination occurred.

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meet category A criteria. Process cases the same as Forms 706 above.

- (5) Under the terms of IRC 2664, the generation-skipping transfer tax exclusion ratio is zero, which has the effect of repealing of the tax to the skip persons during calendar year 2010. Therefore, any distribution to a skip person or termination of a trust benefitting skip people does not result in a tax. Forms 706-GS(D) and 706-GS(T) are not filed. Generation-skipping transfer tax and filing rule were reinstated for transfers effective January 1, 2011.

25.6.1.14.3
(10-03-2022)

**Form 709 United States
Gift (and
Generation-Skipping
Transfer) Tax Return**

- (1) As of January 1, 1977, Form 709, should be used to file Gift Tax Returns yearly, by April 15. If an extension to file an income tax return is granted to a taxpayer, it shall be deemed to have been granted an extension of time for filing the gift tax return for the same amount of time. Form 709 must be filed yearly for gifts made to a donee in excess of \$13,000 (2009-2012), \$14,000 (2013-2017), \$15,000 (2018-2021) or \$16,000 (2022).
- (2) Forms 709 claims and amended returns on statute imminent periods which contain statute related issues are Category A criteria and will be routed to the Examination Branch.

25.6.1.15
(10-01-2019)

**Employee Plan Master
File (EPMF)**

- (1) This section provides guidelines for identifying and resolving Employee Plan Master File (EPMF) cases.
- (2) EPMF are Form 5500 series returns, associated schedules and attachments developed by the Internal Revenue Service (IRS), Department Of Labor (DOL), and the Pension Benefit Guaranty Corporation. They are filed by Employers and Plan Administrators of Pension or Welfare Benefit Plans. Form 8955-SSA (Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits) is the designated successor to Schedule SSA (Form

5500) beginning after December 31, 2008. It is a stand-alone reporting form. Do not file with any of the Form 5500 series returns.

- (3) EPMF returns are processed by the DOL vendor Vangent Inc., in Lawrence, KS using the Employee Retirement Income Security Act (ERISA), ERISA Filing Acceptance System (EFAST2).
- (4) Form 5500 and Form 5500-SF must be filed electronically through the EFAST2 system. Before December 31, 2019, Form 5500-EZ must be paper filed but may be substituted with Form 5500-SF and electronically filed through EFAST2 if allowed. Please see the instructions for the applicable year to determine when this is allowable. Beginning after December 31, 2019, Form 5500-EZ may be electronically filed through EFAST2 or paper filed. Paper filed Form 5500-EZ are processed through the Ogden Campus beginning January 1, 2020. All applicable electronically filed 5500 series returns are processed by Vangent Inc., in Lawrence, KS. All electronically filed Form 8955-SSA are processed by The Filing Information Return Electronically (FIRE) System. All paper Form 8955-SSA are processed by Ogden Campus, Receipt and Control and are boxed and shipped to SSA.
- (5) Forms 5500 series returns post with Transaction Code (TC) 150 and 977 (amended return) or TC 154 for Form 5330.

25.6.1.15.1
(10-01-2017)

**Employee Plan Master
File (EPMF) Research**

- (1) To handle EPMF, you need to reference other Internal Revenue Manual (IRM) and Internal Revenue Code (IRC) such as:
 - IRM 3.11.22, Employee Plan Excise Tax Return
 - IRM 25.6, Statute Of Limitations
 - IRC 4971, Taxes on failure to meet minimum funding standards
 - IRC 4974, Tax on Certain Accumulations in Qualified Retirement Plans
 - IRC 4975, Tax on prohibited transactions
 - IRC 4977, Tax on certain fringe benefits provided by an employer
 - IRC 4978, Tax on Certain Dispositions by Employee Stock Ownership Plans and Certain Cooperatives
 - IRC 4979, Tax on certain excess contributions
 - IRC 4979A, Tax on Certain Prohibited Allocations of Qualified Securities
 - IRC 4980, Tax on reversion of qualified plan assets to employer

25.6.1.15.2
(10-01-2007)

**Employee Plan Master
File (EPMF) Procedures**

- (1) All Form 5500 series returns must be filed on or before the last day of the seventh month following the close of the plan year **unless** extensions have been granted.
- (2) Part I, line 3a and 3b/Schedule C of Form 5330, Tax on Prohibited Transactions (IRC 4975)—the statute period begins when the prohibited transaction is reported on Form 5500 series. The statute is 3 years from the due date or filing date of the Form 5500 series return, whichever is later. If there is no disclosure of the prohibited transaction on the Form 5500 series, the statute is 6 years rather than the normal 3 years. Also, in the case of a continuing transaction (e.g., a loan) the prohibited transaction is deemed to recur on the first day of each subsequent taxable year in which the transaction continues.
- (3) The filing of the Form 5500 series starts the statute running for transactions occurring only in the year to which the form relates.

25.6.1.15.2.1

(09-09-2011)

Employee Plan/Exempt Organization (EP/EO) Returns

- (1) Campus employees will not generate overassessment transactions on EP/EO returns unless directed or requested by local EP/EO Area offices except for math errors or campus processing errors.
- (2) EP/EO returns subject to EP/EO claims are:
 - Form 990 Business Master File (BMF), Return of Organization Exempt From Income Tax
 - Form 990-PF (BMF), Return of Private Foundation
 - Form 990-T (BMF), Exempt Organization Business Income Tax Return
 - Forms 4720 Non Master File (NMF), Return of Certain Excise Taxes on Charities and Other Persons Under Chapter 41 and 42 of the IRC
 - Form 5227 (BMF), Split-Interest Trust Information Return
 - Form 5330 (BMF), Return of Excise Taxes Related to Employee Benefit Plans
 - Form 5500 (EPMF), Annual Return/Report of Employee Benefit Plan and Return/Report of Employee Benefit Plan

Note: Penalty process is posted to BMF MFT 74.

 - Form 5500-EZ (EPMF), Annual Return of One-Participant Pension Retirement Plan

Note: Penalty process is posted to BMF MFT 46.

 - Form 8038 (BMF), Information Return for Tax-Exempt Private Activity Bond Issues

25.6.1.15.2.2

(10-01-2007)

Forms 5330, Return of Excise Taxes Related To Employee Benefit Plans

- (1) Form 5330 is processed and posted to Business Master File (BMF) for assessment and billing purposes.
- (2) All Forms 5330 must have an Employer Identification Number (EIN) or Social Security Number (SSN) shown based on the box checked. If missing, search attachments for a valid TIN. Research EPMF for the Employer Identification Number (EIN). If the Social Security Number (SSN) box is checked and SSN is not shown, research using suffix of "V," the SSN will be established like a 706 filer. If a Taxpayer Identification Number (TIN) is not located after research, correspond with the taxpayer.
- (3) Plan Year Ending must contain an entry if an EIN is present. If blank, use the tax year ending as the plan year ending.
- (4) A 3 digit Plan Number must be present other than 000, if an EIN is present. (Forms with an SSN can show a 000 Plan Number). If blank and a Plan Name is present, research EPMF for the Plan Number. If there is no record after research, use "999". If the period is statute imminent use Protective Manual Assessment (PMA) processing procedures while waiting for reply. Allow taxpayers 30 days for a reply.
- (5) Process the following miscellaneous returns as follows:
 - **Pre-Master File (Pre-Automated Data Processing).** These returns are filed for periods prior to the first period subject to master file processing but are of the type which are presently entered on a Master File.
- (6) Make quick, prompt or jeopardy assessments on taxpayer prepared original non-master and/or master file returns.

25.6.1.15.2.2.1
(10-05-2016)

Statute Cases (Form 5330)

- (7) For further information, refer to IRM 3.11.22, Employee Plan Excise Tax Return.
- (1) The IRC places statutory limitations on the allowance of refunds or credits or for the assessment of additional tax. An additional tax assessment must be made not later than 3 years from the date the return was filed. A claim for refund must be filed not later than 3 years from the date the return was filed, or 2 years from the date the tax was paid, whichever is later. IRM 25.6.1.10.2.7.2.1, Three-year Rule for refund claims. IRM 25.6.1.10.2.7.2.2, Two-year Rule, for refund claims. Although the tax cannot be assessed after statute expiration, payments can be applied to Excess Collection File (XSF).
- (2) The Statute function must take the following actions on all cases forwarded for clearance:
 - a. Check CC AMDIS and if open, route to Examination.
 - b. Route the case to the Document Perfection Operations for expedited processing if statute is within 30 days.
 - c. Report as barred assessment if statute expired and filed timely.
 - d. Input TC 290 in the amount of zero and issue letter to the taxpayer if the statute has expired and filed after statute period.
- (3) Examine Form 5330 for completeness. It can show one or several different tax liabilities if the return due date is the same. Multiple tax liabilities cannot be filed on the same return if the due dates are different. If any questions arise, reject case to the Code and Edit function, since no statute is involved until a return is complete.
- (4) Refer to IRM 3.11.22, Employee Plan Excise Tax Return, for due dates and received dates.
- (5) For the IRC 4979 A excise tax relating to Employee Stock Ownership Plans, the assessment statute will expire three years from the later of either the occurrence of the specific security event described in IRC 4979A(a) or the date on which the Commissioner is notified of the triggering event (normally via a Form 5330, Return of Excise Taxes Related to Employee Benefit Plans).

25.6.1.15.3
(10-01-2007)

Amended Returns

- (1) Statute-related amended returns (including "Revised", "Supplemental", "Corrected", etc.) must be associated with the original for reconciliation and adjustments. The Customer Service/Adjustments function is responsible for reconciliation of returns reflecting a tax decrease.
- (2) See IRM 3.11.22, Employee Plan Excise Tax Return, for reference to amended returns.
- (3) See IRM 21.7.7.4.19.6, Amended Statute Period EO Returns, concerning Statute involvement in the processing of these amended returns.

Form 8749 Unpostable Action & Routing Slip

1040 U.S. Individual Income Tax Return 1996 (60) (68 Use Only EDO not write or staple in this space.) OMB No. 1545-0074 Your social security number 000 : 00:0101 Spouse's social security number 000 : 00:6090 For help finding line instructions, see pages 2 and 3 in the booklet. Yes No Note: Checking "Yes" will not change your tax or reduce your refund. <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<p>1040</p> <p>U.S. Individual Income Tax Return</p> <p>1996</p> <p>(60) (68 Use Only EDO not write or staple in this space.)</p> <p>For the year Jan. 1st Dec. 31, 1996, or other tax year beginning , 1996, ending . 19 OMB No. 1545-0074</p> <p>Your first name and initial Last name Justin Lambert</p> <p>If a joint return, spouse's first name and initial Last name Kate Lambert</p> <p>Home address (number and street). If you have a P.O. box, see page 11. Apt. no. 82320 Figure Rd</p> <p>City, town or post office, state, and ZIP code. If you have a foreign address, see page 11. Morgan Hills NC 28027</p> <p>Do you want \$3 to go to this fund? . If a joint return, does your spouse want \$3 to go to this fund? .</p>
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Clear return as "ORIGINAL DELINQUENT"

ASED 06232000 per received date
 RSED 10152000 per TC460 date

Exemptions	If, of basee about us
<p>a <input type="checkbox"/> Yourself. If your parent (or someone else) can claim you as a dependent on his or her tax return, do not check box 6a.</p> <p>b <input checked="" type="checkbox"/> Spouse</p> <p>c Dependents:</p> <p>(1) First name Last name</p> <p>(2) Dependent's social security number. If born after 1995, see inst.</p> <p>(3) Dependent's relationship to you</p> <p>(4) His or her home in</p>	<p>No TC150 posted per I valid/invalid for primary and secondary taxpayers</p>

JUNE 3, 1997

MSC IRS

Payments		Refund	
52	Federal income tax withheld from Forms W-2 and 1099	52	12240.00
53	1099 estimated tax payments and amount applied from 1995 return	53	
54	Earned income credit. Attach Schedule EIC if you have a qualifying child. Nontaxable earned income: amount ▶ <input type="text"/> and type ▶ <input type="text"/>	54	
55	Amount paid with Form 4868 (request for extension)	55	
56	Excess social security and RRTA tax withheld (see inst.)	56	
57	Other payments. Check if from: a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136	57	
58	Add lines 52 through 57. These are your total payments	58	12240.00
59	If line 58 is more than line 51, subtract line 51 from line 58. This is the amount you OVERPAID	59	2780.00
60a	Amount of line 59 you want REFUNDED TO YOU.	60a	2780.00
Have it sent directly to your bank account? See inst. and fill in 60b, c, and d.		▶ b Routing number <input type="text"/> c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	
▶ d Account number <input type="text"/>		▶ e <input type="checkbox"/>	

IMF01000-00-0101 30199012P01 IMF TAX MODULE NM CTRL:LAMB PAGE 1

70277-212-12991-1 SP-SSN:000-00-6090 UP-CYC:

JUSTIN LAMBERT STATUS DATE:04301992 AIMS :

NEXT CSED:	ASSESSED BAL:	.00	SETTLMNT DATE:	LIEN :
LAST CSED:	TOT INTEREST:	.00	INTEREST DATE:07131994	BWI :
FIRST CSED:	INT ASSESSED:	.00	DASTER RDD :	BWNC :
ASED:	INT PAID:	.00	MATH INCREASE:	CC81 :0
RSED:	FTP TOTAL:	.00	HISTORIC DO :94	CC85 :0
FREEZE:	FTP ASSESSED:	.00	GOVERNING DO :94	TC914:0
STATUS:04 FMS LEVY:	FSC:	TOT EXEMPTIONS:00	TDA COPIYS :	CAF :

INDICATORS: EFT-IND: 0 RTN:

TC DATE	ACCT CD:	BANK ACCT NUM:
460 04151997	AMOUNT	CYCLE DLN
460 08011997	.00	2720
		70217-121-08662-1
		EXT DATE-08151997 EXT NOTICE CODE-00
		70277-212-12991-1
		EXT DATE-10151997 EXT NOTICE CODE-00

Exhibit 25.6.1-3 (10-01-2007)

Form 9355 Barred Statute Report

Barred Statute Report Note: Please read the instructions on the back of this form first.		1. ("x" in proper box) To : <input checked="" type="checkbox"/> Director <input type="checkbox"/> Assistant Regional Commissioner (DP)													
		2. (Show service center name) From: <u>Memphis</u> Service Center													
3. Taxpayer name and address Titus Bird 422 Pillory Stockton, TN 37146		4. Tax form 1040X	5. SSN/EIN 000-00-3232												
9. Barred Assessment Data <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 2px;">a. Amount of deficiency</td> <td style="padding: 2px;">\$ 4,210.00</td> </tr> <tr> <td style="padding: 2px;">b. Interest on deficiency computed to (mmddyy)</td> <td style="padding: 2px;">4,647.03</td> </tr> <tr> <td style="padding: 2px;">c. Penalties (if applicable)</td> <td style="padding: 2px;">1,052.50</td> </tr> <tr> <td style="padding: 2px;">d. Total barred assessment (Lines 9a+b+c)</td> <td style="padding: 2px;">9,909.53</td> </tr> <tr> <td style="padding: 2px;">e. Nonrefundable credits transferred to XSF/URF</td> <td style="padding: 2px;">9,909.53</td> </tr> <tr> <td style="padding: 2px;">f. Net loss to Government</td> <td style="padding: 2px;">\$ 0.00</td> </tr> </table>		a. Amount of deficiency	\$ 4,210.00	b. Interest on deficiency computed to (mmddyy)	4,647.03	c. Penalties (if applicable)	1,052.50	d. Total barred assessment (Lines 9a+b+c)	9,909.53	e. Nonrefundable credits transferred to XSF/URF	9,909.53	f. Net loss to Government	\$ 0.00	7. Date of discovery of barred assessment (mmddyy) 05192000	
a. Amount of deficiency	\$ 4,210.00														
b. Interest on deficiency computed to (mmddyy)	4,647.03														
c. Penalties (if applicable)	1,052.50														
d. Total barred assessment (Lines 9a+b+c)	9,909.53														
e. Nonrefundable credits transferred to XSF/URF	9,909.53														
f. Net loss to Government	\$ 0.00														
10. Status and location of return at time of expiration (Continue on back of this form if more space is needed.) <p style="margin: 0;">Taxpayer filed an amended return with the District Office on January 14, 1994 reporting additional income and tax due (payment submitted in full). Case was erroneously treated as expired although the assessment statute was still open per IRC Section 6501(e). Case file was routed to the Service Center for processing after the extended statute had expired.</p>		8. Statute expiration date (mmddyy) 03172000													
11. Reasons for statute expiration (Check appropriate box) <table style="width: 100%; margin-top: 5px;"> <tr> <td style="width: 33%;"><input type="checkbox"/> a. Inadequate training</td> <td style="width: 33%;"><input type="checkbox"/> b. Procedural deficiency</td> <td style="width: 33%;"><input type="checkbox"/> c. Failure to observe existing procedures</td> </tr> <tr> <td><input type="checkbox"/> d. Misinterpretation of procedures</td> <td><input checked="" type="checkbox"/> e. Incorrect computation of statute date by employee or system</td> <td><input checked="" type="checkbox"/> f. Failure by district office employee to route case to service center before ASED</td> </tr> <tr> <td colspan="3"><input type="checkbox"/> g. Other (specify) _____</td> </tr> </table>				<input type="checkbox"/> a. Inadequate training	<input type="checkbox"/> b. Procedural deficiency	<input type="checkbox"/> c. Failure to observe existing procedures	<input type="checkbox"/> d. Misinterpretation of procedures	<input checked="" type="checkbox"/> e. Incorrect computation of statute date by employee or system	<input checked="" type="checkbox"/> f. Failure by district office employee to route case to service center before ASED	<input type="checkbox"/> g. Other (specify) _____					
<input type="checkbox"/> a. Inadequate training	<input type="checkbox"/> b. Procedural deficiency	<input type="checkbox"/> c. Failure to observe existing procedures													
<input type="checkbox"/> d. Misinterpretation of procedures	<input checked="" type="checkbox"/> e. Incorrect computation of statute date by employee or system	<input checked="" type="checkbox"/> f. Failure by district office employee to route case to service center before ASED													
<input type="checkbox"/> g. Other (specify) _____															
12. Preparer signature <u>Joan Smith</u>		13. Date <u>6/13/2000</u>													
14. Corrective action taken or recommendation to prevent recurrence of statute expiration (Continue on back of this form if more space is needed.) <p style="margin: 0;">All employees have been counseled on the awareness of statute years, the conditions that may extend the statute for assessment, and the use of the monthly Statute Alert Flyer.</p>															
15. Signature of manager <u>Cotton Mather</u>	16. Date <u>6/17/2000</u>	17. Signature of Branch Chief <u>William Penn</u>	18. Date <u>6/18/2000</u>												
19. Signature of Division Chief <u>John Alden</u>	20. Date <u>6/20/2000</u>	21. Signature of Director <u>Miles Standish</u>	22. Date <u>6/25/2000</u>												
Form 9355 (6-91) Cat. No. 13216M Department of the Treasury -- Internal Revenue Service															

Exhibit 25.6.1-3 (Cont. 1) (10-01-2007)
Form 9355 Barred Statute Report

Instructions	
<p>A report must be prepared for all expired statute cases. See IRM 3(15)(58)0, Statute Limitations, for instructions on how to complete this form. The responsible employee's name or other identifying information is not to be included on this form. However, it should be made the subject of a report under separate cover.</p>	
Item 7:	<p>Date of discovery of barred assessment—This is the date a potential expired statute is discovered. A Form 9355 should be completed within 60 days of the required preliminary report. This provides additional time for gathering information to complete the form; i.e., determining the exact area accountable for the barred assessment and/or determining the exact location of the return at the expiration date (Item 10) and the cause for the expiration (Item 11).</p>
Item 14:	<p>Corrective action taken or recommendation to prevent recurrence of statute expiration—A statement of corrective action is required to be attached to this form from all organizations that failed to take appropriate action to protect the statute.</p>
<p>(Use this space for explanations to Items 10, 11, and 14.)</p>	
<p>Form 9355 (6-91)</p>	

Exhibit 25.6.1-4 (10-01-2020)**SB/SE Statute Expiration Reporting Timetable (for examination-related activities)****TIMETABLE FOR SUBMISSION OF STATUTE EXPIRATION REPORTS BY SB/SE FIELD EXAMINATION-RELATED ACTIVITIES/ORGANIZATIONS (including Specialty Programs and supporting activities located in the field)**(all days are business days)

Preliminary Form 3999/Form 3999-T	Number of days
Preliminary report submitted by manager of unit which discovered assessment statute expiration including securing advice, if needed, from Counsel or Technical Services staff, 3 days is days from date of discovery	3 days
Preliminary report reviewed by field Territory Manager and submitted to the applicable next-level manager	3 days
Preliminary report logged in by Examination Area Director or Director, Case Processing or relevant Specialty Programs Manager for control and necessary follow-up to ensure that the final report is prepared and submitted timely	2 days

Final Form 3999/Form 3999-T	Number of days
Final report submitted by manager of party responsible for statute expiration or, if procedures for controlling and protecting statutes were followed, then final report is submitted by manager of the unit to which return was assigned on AIMS or which was examining the tax period (even if not controlled on AIMS) when the assessment statute expired, 13 days is days from date of discovery	13 days
Final report reviewed, approved and submitted by field Territory Manager to the applicable next-level manager (including preparation of any disciplinary action recommendation)	10 days
Final report reviewed, approved and forwarded for information by Examination Area Director or Director, Case Processing or relevant Specialty Programs Manager as appropriate, to applicable Director, Examination or Specialty Programs	7 days
Total maximum business days from discovery of assessment statute expiration until final statute expiration report submitted to applicable Director	30 days

Exhibit 25.6.1-4 (Cont. 1) (10-01-2020)**SB/SE Statute Expiration Reporting Timetable (for examination-related activities)**

Note: Pen and ink changes may be made to appropriate blocks of the online Form 3999 or Form 3999-T, in order to ensure that the forms conform to our current organizational structure and position titles. For preparation of the final statute expiration report, Block 1 of the forms should indicate the applicable Director (Examination or Specialty Programs), as appropriate. Block 2 of the forms should indicate the title of the applicable Director or Specialty Program Manager who approved and is submitting the final statute expiration report.