



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

25.6.23

FEBRUARY 17, 2021

EFFECTIVE DATE

(02-17-2021)

PURPOSE

- (1) This transmits revised IRM 25.6.23, Statute of Limitations, Examination Process-Assessment Statute of Limitations Controls.

MATERIAL CHANGES

- (1) Significant changes to this IRM are listed below:

IRM Reference	Description of Change
IRM 25.6.23.1.1	Added Note to reference guidance for Bipartisan Budget Act of 2015.
IRM 25.6.23.1.2	Added information on the Taxpayer Bill of Rights at the request of TAS.
IRM 25.6.23.1.5	Updated definition of Investor to Investor Level Statute Control (formerly NonTEFRA).
IRM 25.6.23.1.7	Deleted guidance that said FBAR penalty cases will be controlled on AIMS.
IRM 25.6.23.4.5	Updated content from NonTEFRA to Investor Level Statute Control.
IRM 25.6.23.4.5.1	Updated content from NonTEFRA to Investor Level Statute Control.
IRM 25.6.23.4.6	Updated content from NonTEFRA to Investor Level Statute Control.
IRM 25.6.23.5.1.2	<ul style="list-style-type: none">Added a caution statement pertaining to <i>Fowler v. Commissioner</i>, 155 T.C. No. 7 (Sept. 9, 2020).Added guidance regarding MFT 32 records.Added guidance regarding Notice 2020-23.
IRM 25.6.23.5.2	<ul style="list-style-type: none">Added information about rejected returns.Added note that clarifies the Form 895 log file may be an electronic log file.
IRM 25.6.23.5.4	Added guidance regarding closing no-change cases.
IRM 25.6.23.5.7.2	Added guidance regarding no-change determinations.
IRM 25.6.23.5.7.2.1	Updated section to include guidance published in SBSE-04-0220-0009, Interim Guidance to Update OIC-DATL Closing Procedures.
IRM 25.6.23.5.8	Added another example to provide additional guidance.
IRM 25.6.23.7.1	<ul style="list-style-type: none">Added guidance for Bipartisan Budget Act of 2015 cases.Added no-change to the agreed timeframes.

IRM Reference	Description of Change
IRM 25.6.23-3	<ul style="list-style-type: none"> Updated Exhibit to include Alpha Codes AE and AF for the Bipartisan Budget Act of 2015. Updated Alpha Code OO content for better flow and readability. Changed DVD to VDP per IGM LB&I-09-1118-014, Updated Voluntary Disclosure Practice. Added Project Code 1140 to the Alpha Code OO guidance to include post 9/28/2018 VDP cases. Made other minor content changes to incorporate updated procedures for the revised Voluntary Disclosure Practice (VDP) effective with the closure of OVDP on September 28, 2018. Added guidance to Alpha Code RR for IRC 965 per Interim Guidance Memorandum LB&I-04-1120-0020, Interim Guidance for Examinations with IRC 965 Issues - Statute Considerations, Examination and Classification. Removed obsolete guidance on the TETR issue within the Alpha Code RR content. Added content to Alpha Code UU as necessary to comply with the TCJA legislation.
IRM 25.6.23-7	<ul style="list-style-type: none"> Changed title to clarify imminent statutes include no-change cases. Clarified content in subsection. Added additional acronyms to the table.
IRM 25.6.23-8	Added references to the table.

- (2) Minor editorial changes have been made throughout this IRM. Website addresses, form references and IRM references were reviewed and updated as necessary. Formatting changes were made in accordance with SPDER directives. Changed step lists to alpha lists throughout.

EFFECT ON OTHER DOCUMENTS

This IRM supersedes IRM 25.6.23, Examination Process-Assessment Statute of Limitations, dated March 20, 2018. This revision incorporates Interim Guidance Memorandum SBSE-04-0220-0009, Interim Guidance to Update OIC-DATL Closing Procedures, dated February 12, 2020. This revision incorporates Interim Guidance Memorandum LB&I-04-1120-0020, Interim Guidance for Examinations with IRC 965 Issues - Statute Considerations, Examination and Classification, dated November 17, 2020.

AUDIENCE

Appeals, Large Business and International (LB&I), Small Business/Self-Employed (SB/SE) and Wage and Investment (W&I) employees.

Lori L. Caskey
 Director, Examination - Field and Campus Policy
 SE:S:DCE:E:HQ:EFCP
 Small Business/Self-Employed

25.6.23

Examination Process-Assessment Statute of Limitations Controls

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- 25.6.23.7 Cases with Imminent ASEDs
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 - 25.6.23.7.2 Cases With Less Than 90 Days to ASED Expiration
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Exhibits

- 25.6.23-1 Form 895, Notice of Statute Expiration Instructions
- 25.6.23-2 ERCS Form 895, Notice of Statute Expiration Instructions
- 25.6.23-3 Instructions for Updating the Statute on AIMS
- 25.6.23-4 Tables 4.0 and 4.1, Returns With Statute Date Pending
- 25.6.23-5 IRC 6501(e)(1)(A)(ii), Substantial Omission of Items, Examples – More Than \$5,000.00 Omission of Income Attributable to Foreign Financial Assets
- 25.6.23-6 IRC 6501(c)(8), Failure to Notify Secretary of Certain Foreign Transfers, Example-Clarifying Amendment
- 25.6.23-7 Acronyms and Definitions
- 25.6.23-8 Related Resources

25.6.23.1
(03-20-2018)
Program Scope and Objectives

- (1) *Purpose.* This IRM provides guidance on establishing and maintaining assessment statute controls.
- (2) *Audience.* These procedures apply to Appeals, Large Business and International (LB&I), Small Business and Self-Employed (SB/SE) and Wage and Investment (W&I) employees.
- (3) *Policy Owner.* The Director Examination - Field and Campus Policy, who is under the Director, Headquarters Examination.
- (4) *Program Owner.* Field Examination Special Processes (FESP), which is under the Director, Examination - Field and Campus Policy.
- (5) *Contact Information.* To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.6, Providing Feedback About an IRM Section - Outside of Clearance.

25.6.23.1.1
(02-17-2021)
Background

- (1) This IRM provides guidance on the processes and procedures used to establish, maintain, and monitor assessment statute expiration dates (ASED). This IRM primarily focuses on the ASED. Guidance regarding the Refund Statute Expiration Date (RSED) may be found in IRM 4.10.11.4.2, Refund Statute Expiration Date (RSED) - Consideration and Examiner's Responsibilities. Guidance regarding the Collection Statute Expiration Date (CSED) may be found in IRM 5.1.19, Collection Statute Expiration and IRM 25.6.1.12, Collection Statute Expiration Date (CSED).
- (2) The application of these procedures extends to all examinations and supporting activities conducted by the area offices and campuses.
- (3) Statute controls are designed to help ensure the following:
 - Statute expiration dates for tax returns are properly determined and the records are annotated to reflect the correct assessment statute expiration date (ASED).
 - Miscellaneous civil penalties controlled on Examination Return Control System (ERCS) but not Audit Information Management System (AIMS) that have statute expiration dates are properly determined and monitored.
 - Cases are closely monitored to prevent the unintended expiration of the statutory assessment period.

Note: For control of Bipartisan Budget Act of 2015 partnership statute of limitations on making adjustments, see Interim Guidance Memorandum LB&I-04-0320-0005 (expiring April 01, 2022) and Form 15271, Bipartisan Budget Act (BBA) Partnership Adjustment Statute Extension Check Sheet, for more information. After the expiration dates of the interim guidance memorandum, consult IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures.

25.6.23.1.2
(02-17-2021)
Responsibilities

- (1) The Director, Headquarters Examination, is the executive responsible for providing policy and guidance for examination employees and ensuring consistent application of policy, procedures, and tax law to effect tax administration while protecting taxpayers' rights. See IRM 1.1.16.3.5, Headquarters Examination, for additional information.
- (2) The Director, Examination - Field and Campus Policy (formerly known as the Director, Examination AUR/Policy), reports to the Director, Headquarters Examination, and is responsible for the delivery of policy and guidance that impacts the examination process. See IRM 1.1.16.3.5.1, Exam/AUR Policy, for additional information.
- (3) Field Examination Special Processes (FESP), which is under the Director, Examination - Field and Campus Policy, is the group responsible for providing policy and procedural guidance on standard examination processes to employees. See IRM 1.1.16.3.5.1.2, Examination - Field Special Processes, for additional information.
- (4) Employees are required to inform taxpayers of their rights as outlined in the Taxpayer Bill of Rights (see Document 13190-B, Taxpayer Bill of Rights).

25.6.23.1.3
(03-20-2018)
Program Management and Review

- (1) Periodic program reviews are conducted to:
 - Assess the effectiveness of specific programs within Examination or across the organization,
 - Determine if procedures are followed,
 - Validate policies and procedures, and
 - Identify and share best/proven practices.

25.6.23.1.4
(03-20-2018)
Acronyms

- (1) See Exhibit 25.6.23-7, Acronyms and Definitions, for acronyms used throughout this IRM.

25.6.23.1.5
(02-17-2021)
Terms

- (1) The following table contains terms and definitions as applied throughout this IRM.

Term	Definition
Campus Pass-Through Function	The Campus Pass-through Function (CPF) is the suspense unit for investor returns located in the Brookhaven Campus and Pass-through Entities (PTE) Ogden. The two CPFs will obtain and control, through the AIMS and PCS, investor returns related to PCS linked key cases within their jurisdiction. For details see Campus Pass-through Function, see IRM 4.31.3, TEFRA Examinations – CPF Procedures, and IRM 4.31.6, Investor Level Statute Control (ILSC) Pass-Through Examinations - CPF Procedures.
General Adjustments	With respect to net operating loss or credit carrybacks, these are adjustments to tax in the carryback year(s) unrelated to the loss carryback.

Term	Definition
Investor	The Partner, Member, Shareholder, or Beneficiary return that reflects pass-through items from a pass-through entity directly or indirectly.
Investor Level Statute Control (formerly NonTEFRA)	Investor Level Statute Control (ILSC) refers to pass-through returns where the statute is controlled at the investor level. These include S-Corporations, Partnerships not subject to TEFRA, and Partnerships that elect out of the Bipartisan Budget Act of 2015 regime.
Key Case	A pass-through return, usually a Form 1120S, U.S. Income Tax Return for an S Corporation; a Form 1065, U.S. Return of Partnership Income; or a Form 1041, U.S. Income Tax Return for Estates and Trusts. It may also be a promotion or tax avoidance scheme (an agency or promoter examination) that results in pass-through items to partners, shareholders, or investors (individual returns or another pass-through entity).
Statute Control Record	<p>Statute control report or system used by the associated function to maintain and document statute awareness and protection measures. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • Form 895, Notice of Statute Expiration, (Area Offices and some Campus Examination Functions), • CEAS notes (Correspondence Examination Automation Support- CEAS Cases), • Non-AIMS Pending Statute Report (Correspondence Examination - Non-CEAS Cases), • IDRS Controls/TEFRA database (TEFRA), • 120 Day Numeric Statute Report (Centralized Case Processing), • ERCS 895 Report/LB&I SSIVL (Centralized Case Processing). <p>The statute control records are used to provide a document trail for performance of statute protection actions and decisions.</p>
Statute Monitoring Report	<p>Statute reports generated regularly by each function which provide information on cases reporting a statute requiring awareness and review. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> • ERCS Pending Statute Report/ERCS 895 Report (Area Offices and some Campus Examination Functions), • AIMS Table 4.0 (Correspondence Examination - CEAS Cases), • Non-AIMS Pending Statute Report (Correspondence Examination - Non-CEAS Cases), • PCS Report 4-4 (TEFRA), • 120 Day Numeric Statute Report (Centralized Case Processing), • ERCS 895 Report/LB&I SSIVL (Centralized Case Processing).

Term	Definition
Tolling/Tolled	Tolling interrupts the running of a statute of limitations in certain situations. When a statute has been <i>tolled</i> , the running of the statute has been interrupted or paused.

25.6.23.1.6
(03-20-2018)

Related Resources

- (1) See Exhibit 25.6.23-8, Related Resources, for references used throughout this IRM.

25.6.23.1.7
(02-17-2021)

Additional Information

- (1) The words *tax period* can be used interchangeably for references in this section to *tax return*. Also, references to the *normal* statute of limitations refer to the three-year period of time after a return is filed or due, whichever is later, for assessment of tax. See IRC 6501(a), General Rule.
- (2) References to using ERCS are intended only for those organizational components who use ERCS, otherwise use of AIMS in conjunction with the specific function's inventory control system is appropriate.
- (3) References to Area Director (AD) are equivalent to Director of Field Operations (DFO) in LB&I cases.
- (4) References to social security number (SSN) are also intended to refer to individual tax identification number (ITIN).
- (5) The term manager refers to front-line, group or team managers, unless otherwise specified.
- (6) There are a number of miscellaneous civil penalties that have statute expiration dates. These miscellaneous civil penalties are controlled on ERCS, but not on AIMS. Assessments are made under Master File Tax (MFT) 55 or MFT 35 for Individual Master File (IMF), or MFT 13 for Business Master File (BMF). See IRM 20.1, Penalty Handbook, IRM 21.2.4.3.3, Civil Penalty Modules, and IRM 25.6.1.9.13, Civil Penalties, for further guidance.

Exception: FBAR penalty cases established after January 4, 2018 and those previously controlled under MFT C6 will now reflect MFT Y0 and will be controlled on ERCS.

25.6.23.2
(03-20-2018)

Components of Statute Controls

- (1) The essential tools for controlling statutes for examination cases in the area offices and campuses are as follows:
- Form 895, Notice of Statute Expiration,
 - Electronic statute control records and listings such as Correspondence Examination Automation Support (CEAS), Tax Equity and Fiscal Responsibility Act (TEFRA) Database, Examination Return Control System (ERCS), Statistical Sampling Inventory Validation Listings (SSIVLs) and Partnership Control System (PCS),
 - Pending Statute Report and 895 Log generated through ERCS.

Note: The ERCS Pending Statute Report does not list returns with expired or alpha coded statutes.

- AIMS Table 4.0 or Table 4.1, Returns with Statute Date Pending,

Note: References to AIMS Table 4.0 are used throughout this section even though the SSIVL program may be used in area offices and campuses to generate the Table 4.0 data as opposed to an AIMS report generator.

- 120 Day Numeric Statute Report (Centralized Case Processing (CCP)),
- ERCS 895 Report/LB&I SSIVL (CCP),
- Use of a red folder for tax returns with ASEDs that are due to expire within 180 days.

Note: Area offices and campuses may use various combinations of these, and other tools and procedures to achieve and supplement the statute control requirements of this section. This list is not all inclusive and not all functions will use each of the tools listed here.

25.6.23.3
(03-20-2018)
**Returns Subject to
Statute Control**

(1) Statute controls are required for the following:

- All tax returns controlled on AIMS or being examined (regardless of whether the return is controlled on AIMS) with ASEDs that may expire within 180 days considering the return due date or date filed, whichever is later. See IRM 25.6.23.5.1.1, Time for Initiating Controls.

Exception: In case closing functions, such as CCP, statute controls are required on all returns upon which the ASED may expire within 120 days. See IRM 25.6.23.6.1.1, Time for Initiating Statute Controls in Case Closing Functions.

- All returns which have an alpha code in the ASED on AIMS.

Note: This requirement does not apply to Alpha Code EE cases in Campus Correspondence Exam (Corr Exam). Please see IRM 25.6.23.5.1.4(5), Initiation of Controls by Examiner or Specialist - Area Offices and Campus Operations, for additional information on processes required for Alpha Code EE cases in Corr Exam.

- All returns with consents to extend the period of time for assessment.
- All returns with prompt assessment requests filed under IRC 6501(d), Request for Prompt Assessment. See Treas. Reg. 301.6501(d)-1, Request For Prompt Assessment (see 26 CFR 6501(d) -1) which specifies that the assessment is to be within 18 months after receipt of the written request for prompt assessment. A request for prompt assessment is not the same as a request for prompt determination filed in bankruptcy cases. The request for prompt determination does not result in a reduction of the period of time to make the assessment.
- Returns with open requests for reconsideration of rejected claims **and** the statutory period for filing suit for refund may expire within 180 days.
- Return preparer penalty cases with statutes that may expire within 180 days.
- IRC 5000A, Requirement to Maintain Minimum Essential Coverage, individual shared responsibility payment (SRP) cases with statutes that may expire within 180 days.
- Other return-related penalty cases with statutes that may expire within 180 days when the period of time for assessment of the penalty needs to be extended, and a consent to extend the period of time for assessment of tax is not required. For example, assertion of the IRC 6707A, Penalty for Failure to Include Reportable Transaction Information With

Return, penalty on an S corporation return when the limited situations in which an S corporation may be subject to tax do not apply.

- Any other miscellaneous civil penalties with a statute of limitations period that may expire within 180 days. See IRM 20.1, Penalty Handbook.

(2) Examples of specific types of returns which require statute controls include the following:

- Returns requisitioned for information (Source Code 45).
- Tax Equity and Fiscal Responsibility Act (TEFRA) partnership returns.
- Cases with transferee liability under IRC 6901, Transferred Assets.
- Returns placed in suspense, including fraud and grand jury suspense.

25.6.23.4
(03-23-2015)

Responsibilities of Managers and Employees

- (1) **Managers** have primary responsibility for initiating and maintaining statute controls.
- (2) Managers are responsible for ensuring that all employees within their jurisdiction:
 - Understand the law pertaining to statutes - commensurate with the employees' assigned responsibilities,
 - Maintain required statute controls, and
 - Make timely assessments of tax and penalties.
- (3) Examiners are responsible for controlling statutes on their assigned cases.
- (4) Clerks, secretaries, and other individuals may have assigned responsibilities in controlling statutes.
- (5) Specific responsibilities are described throughout this section.

25.6.23.4.1
(03-23-2015)

Area Office Examination Manager Responsibilities

- (1) In area office examination groups, the manager is responsible for the following:
 - a. Maintaining continuous statute controls on cases in the work group, **and**
 - b. Reconciling data in the group's Exam Return Control System (ERCS) Pending Statute Report, monthly, with data in AIMS Table 4.1 or Table 4.0.

25.6.23.4.2
(03-20-2018)

Campus Manager Responsibilities

- (1) At campuses, the Examination Operations Manager designates a manager to have primary responsibility for maintenance of the continuous statute control file and for reconciliation with data in AIMS Table SC 4.0.
- (2) Department Managers are responsible for monthly verification of Audit Information Management System (AIMS) statute reports and, when applicable, Non-AIMS statute case listings for Employee Group Codes (EGCs) and employees assigned to them.
- (3) Department Managers with inventory that contains pass-through entities and/or related investors are responsible for monthly verification of Partnership Control System (PCS) statute reports in addition to AIMS and Non-AIMS reports.
- (4) Managers may delegate the tasks related to verification, but must provide oversight and be responsible for research and annotation accuracy as well as

timely completion of research and case resolution. See IRM 25.6.23.5.5, and IRM 25.6.23.5.6, for specific annotation requirements.

25.6.23.4.3
(03-23-2015)
**Responsibility for
Transferred Cases**

- (1) When a return is transferred from one work group to another, in the same or another area office or campus, the accuracy of the assessment statute information reflected on AIMS/ERCS must be checked by the receiving organization by comparing the contents of the case file, Integrated Data Retrieval System (IDRS) research and/or other applicable systems research with AIMS/ERCS information.
- (2) If a return has been transferred and the return is still in transit, then statute controls and monitoring of the ASER are the responsibility of the organizational component to which the return is charged on AIMS as that component is the unit which will receive the notice of statute expiration via AIMS/ERCS reports. In transit returns which are "missing" must be located before the ASER has passed in order to determine the proper course of action to protect the government's interest. Locating a "missing" return may require a joint effort of the transferor and the transferee units. Form 3210, Document Transmittal, is to be promptly acknowledged (within 5 business days of receipt) and followed up on by the transferor if not promptly acknowledged by the transferee (within 15 calendar days of date sent) as part of the statute control process.

25.6.23.4.4
(03-23-2015)
**Responsibility for Cases
on Loan**

- (1) When a case file is on loan to another office (to Area Counsel, for example), responsibility for statute control remains with the manager of the group where the case is assigned (under AIMS control).

25.6.23.4.5
(02-17-2021)
**Responsibility for
Investor Returns -
Investor Level Statute
Control**

- (1) Initially, the group controlling the Investor Level Statute Control (ILSC) Pass-through entity is responsible for statute control and securing statute extensions for **all** related investor returns they control on AIMS. See IRM 25.6.23.1.5, Terms, for applicable definitions. The key case group secures necessary information regarding any other key cases or entities in which the investor may have an interest from the group controlling the investor(s) if different from the key case group. See IRM 4.31.5, Investor Level Statute Control (ILSC) Examinations - Field Office Procedures.
- (2) If any investor statute expires while the S corporation or partnership is under examination, the statute of the pass-through entity is deemed as having not been properly protected, unless the decision to allow the investor statute to expire is properly documented prior to its expiration. See IRM 25.6.23.4.5.1, Inconsistent Application for Investor Returns - ILSC.
- (3) If an investor's ASER does expire and an assessment cannot be made, examiners should refer to IRM 25.6.1.13, Barred Assessments/Barred Statute Cases, (or other procedures required by your organizational component) for procedures in preparing and submitting a Form 3999, Statute Expiration Report, or other form prescribed by your organization.

Note: If the investor statute was not already expired at the start of the entity examination, barred statute procedures are applicable regardless of whether the investor was controlled on AIMS unless previously documented using Form 15041, Investor Level Statute Control (ILSC) Pass-Through Entity Intent Not to Pursue Investor - Statute Protection.

- (4) Once it is determined there is no entity-level statute to protect (see Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, “GG - ILSC Pass-Through”) the entity statute should be updated to GG or, if not all investors are controlled by the examiner at that time, the earliest investor statute not currently controlled by the examiner. The decision to update the entity ASSED should be documented on Form 895, Notice of Statute Expiration, or other statute control record.

Note: Use of the earliest possible uncontrolled investor statute will help to ensure statute reports timely notify management and examiners of potential statute concerns so appropriate actions can be taken to protect the government’s interests with respect to all investor returns.

- (5) The key case area retains responsibility for statute control on **all** related investor returns:
- Except when the requirements contained in IRM 4.31.5.9.1, Initiating Timely PCS Controls on ILSC Pass-Through Entities, have been satisfied, or
 - Except when a decision has been made to allow one or more investor statutes to expire and the procedures to do so contained in IRM 25.6.23.4.5.1, Inconsistent Application for Investor Returns - ILSC, have been satisfied, or
 - Until Form 5546, Examination Return Charge-Out Sheet, is issued, or
 - Until 45 days after Form 6658, Notice of Special Investor Action, is issued.

Caution: Key case area retains responsibility of statute control on all investors. When the key case is linked on PCS, the key case examiner will continue to be responsible for investors they control on AIMS. The Campus Pass-Through Function (CPF) will maintain control of investors not controlled on AIMS by Examination. If an investor is controlled by an examiner other than the key case examiner, the other examiner will be notified by the CPF of the examination and will be responsible to control the investor statute they have on AIMS.

25.6.23.4.5.1
(02-17-2021)
**Inconsistent Application
for Investor Returns -
ILSC**

- (1) Generally, to protect the statute of any ILSC pass-through entity, examiners must protect **all** investor statutes. All investors of a pass-through entity should be treated consistently and results from examinations should pass through to the investors as such.
- (2) Occasionally circumstances may exist which would make the protection of all investor statutes either impossible or impractical. Such circumstances should not prohibit the examiner from conducting a thorough examination on the entity and the available investor returns.

Example: John files his 2013 Form 1040, U.S. Individual Income Tax Return. The return is delinquent and includes a Schedule K-1 from ABC, an S corporation for which John is a 60% shareholder. Timothy, the 40% shareholder, filed his Form 1040 timely for 2013 and his statute has expired. It is determined the S corporation warrants examination. The S Corporation and John’s return can be placed under examination and any resulting adjustments can be applied to John even though Timothy’s return cannot be adjusted.

Note: In this scenario the S Corporation's assessment statute is not relevant. In general, no statute control is necessary for ILSC key case entities as they are considered information returns. Unless there is an entity level statute to consider (see Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, "Alpha Code GG - ILSC Pass-Through") the statute of limitations of each investor return controls the pass-through entity issues on the respective investor's return.

Further, when potential results are determined inconsequential, such circumstances should not require use of administrative resources or taxpayer engagement.

Example: GHI, an S corporation, filed Form 1120S reflecting (\$500,000) in pass-through losses. The examination of the S corporation resulted in a \$100,000 proposed adjustment. Mary's Form 1040 was reviewed, as a 2 percent shareholder, and it was determined that the allocated loss was not claimed due to basis limitations. Because Mary did not claim the loss there is no tax adjustment on Mary's return in the loss year as a result of the entity level adjustment.

Approval may be obtained to allow an open investor statute to expire through use of Form 15041, ILSC Pass-Through Entity Intent Not to Pursue Investor - Statute Protection. Approval is sought by obtaining the concurrence of the examiner's Territory Manager or Campus Department Manager. In the example above, it would be appropriate to allow Mary's statute to expire with a completed and approved Form 15041 since any adjustment will not result in additional tax to Mary in the loss year.

Caution: Use of Form 15041, ILSC Pass-Through Entity Intent Not to Pursue Investor - Statute Protection, is an exception to normal policy. This process should only be used in unique circumstances and with required approvals. See IRM 4.31.5, ILSC Examinations - Field Office Procedures.

Example: Kate timely files a claim for refund on a Form 1040-X, Amended U.S. Individual Income Tax Return, relating to a Schedule K-1 from DEF, an S-corporation. The IRC 6501, Limitations on Assessment and Collection, statute expired subsequent to the filing of the claim. The claim was not paid out and the case was forwarded for examination. The claim is sent to the exam group with an Alpha Code AA statute along with DEFs amended Form 1120S, U.S. Income Tax Return for an S Corporation, reflecting an Alpha Code GG statute. Upon receipt of the claim for refund, the examiner determines Kate is the 70 percent shareholder of DEF. In addition, there are two 15 percent shareholders; Amy and Connie. Amy has not filed an amended return and the IRC 6501 normal statute will expire within 30 days. Since there is not enough information to develop the key case examination within the period remaining on

statute to expire with a completed and approved Form 15041, ILSC Pass-Through Entity Intent Not to Pursue Investor - Statute Protection, prior to the statute expiration. Connie filed an amended return and the refund claim was paid. Connie's IRC 6501 statute has expired, and because the refund was paid, it is not available for disallowance or

offset. Because Connie's IRC 6501 statute expired prior to the start of the DEF examination, it is not necessary to obtain approval on Form 15041 for Connie's expired statute. DEFs and Kate's returns can be examined without examining Amy or Connie. Any exam adjustments to DEF can be applied to Kate up to the claim amount even if DEF adjustments cannot be made to Amy's or Connie's returns.

Example: You are examining JKL, an S corporation, owned 60 percent by Joe and 40 percent by Karen. During the examination, you determine that Joe embezzled money from the S-corporation. This will result in an adjustment for unreported income to the S-corporation and a distribution to Joe. Although the adjustment resulted from Joe's actions, it would be appropriate to protect both shareholders' statutes since the unreported income will pass through to all shareholders.

- (3) The documentation requirement to support the decision to allow the investor statute to expire is satisfied by completing all fields on the Form 15041, including a detailed explanation which supports the decision, and attaching the fully authorized, signed, and dated Form 15041, to the Form 895, Notice of Statute Expiration. Approval **must** be obtained prior to the expiration of the investor's statute, and whenever possible, should be secured at least 12 months prior to the expiration of the investor's statute.

Note: An electronic signature on a PDF file copy of the Form 15041 is permissible. If signing electronically, the signature line must reflect the full name of the person signing the document and date of signature.

25.6.23.4.6
(02-17-2021)

Responsibility for Partner Returns—TEFRA

- (1) See IRM 4.31.2.5, Statutes, for instructions on TEFRA statutes. The statute of the TEFRA partnership controls the statute for related partners' returns for partnership items and affected items. Generally, partner level statute extensions are not required for partners in a TEFRA partnership. If the statute extension form for extending the statute at the partners' level includes the TEFRA-related wording which references TEFRA partnership items and affected items (see consent Form 872, Consent to Extend the Time to Assess Tax, and Form 872-A, Special Consent to Extend the Time to Assess Tax), the partners statute will remain open for making adjustments to the partner's return which result from TEFRA partnership items and affected items after the partnership level statute expires.

25.6.23.4.7
(03-23-2015)

TE/GE Responsibilities When Nontaxable Return Converted to Taxable Return

- (1) When a Tax Exempt/Government Entities (TE/GE) specialist converts a Form 990, Return of Organization Exempt From Income Tax, or Form 5500, Annual Return/Report of Employee Benefit Plan, return to a taxable return, TE/GE is responsible for controlling and protecting the statute until such time as:
 - a. A return is secured **and** the case is closed by TE/GE, or
 - b. The matter is referred to Examination by Form 5666, TE/GE Referral Information Report, or Form 5346, Examination Information Report, and the referral is accepted by Examination.

25.6.23.5
(03-23-2015)
Statute Controls in Examination

- (1) The procedures in this subsection apply to work groups in area offices and campus operations which are involved with the examination of tax returns including Planning and Special Programs, Technical Services staff and Classification sections at campuses. They cover examinations and related activities conducted by:
 - Revenue agents,
 - Tax auditors/Tax compliance officers,
 - Tax examiners,
 - Estate and gift tax attorneys, legal assistants, and paralegal specialists,
 - Employment tax specialists, and
 - Excise tax specialists.

25.6.23.5.1
(03-23-2015)
Initiating Statute Controls

- (1) Statute controls are initiated in all Examination functional areas for all returns meeting control criteria. See IRM 25.6.23.3, Returns Subject to Statute Control.

25.6.23.5.1.1
(03-23-2015)
Time for Initiating Controls

- (1) For all tax returns which are filed (whether timely or late filed), statute controls are established no later than 180 days prior to the normal assessment statute expiration date (based on the later of the date the return was filed or due, without regard to extensions). Statute expiration dates may be determined by referring to IRM 25.6.1.6.4, Statute of Limitations Chart for Tax Returns.
- (2) If a tax return has not been filed, statute controls are established at 180 days before the normal assessment statute expiration date had the return been timely filed, or at the time the substitute for return is input, whichever is earlier. If Alpha Code EE is used in the ASED field for the non-filer, then ERCS will automatically generate the Form 895, Notice of Statute Expiration, when the forms are generated for the group. See Alpha Code EE instructions in Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS.
- (3) In the Campus, undelivered non-filer inventories (Source Code 24/25, Project Code 0277, Employee Group Code 5065) are exempt from following the statute controls as outlined in this IRM. All other 'deemed delivered' non-filer inventories must follow these requirements.

25.6.23.5.1.2
(02-17-2021)
Screening for Statute Accuracy

- (1) As tax returns are received in Examination functions in the area offices and campuses, they will be screened to determine the accuracy of the assessment statute expiration date (ASED) information. The purpose of the screening is to determine the accuracy of the ASED reflected in the AIMS/ERCS statute control records, not merely that the AIMS and ERCS ASEDs agree with each other. The statute information reflected on AIMS/ERCS is not to be accepted as accurate, but must be confirmed by reviewing case file information and conducting appropriate IDRS research. The initial statute screening for most tax returns will be done when the returns are classified for examination at the campuses or the key area office. Subsequent screenings for determining the accuracy of the assessment statute information, and to identify the need for establishing statute controls, is required to be performed by the receiving organization as the return moves from one organizational component to another. The manager of the receiving organization is required to ensure this statute screening is accomplished within 5 workdays of receipt of the return.

Caution: If the return appears to be a non-filed return, the controlling employee must research MFT 32 on the IDRS system. A return found with an MFT 32 record has a live statute of limitations. See IRM 25.25.6.7, MFT 32 Procedures, and IRM 25.23.2.7.2.2, MFT 32 - Overview, for more information.

Caution: The controlling employee must research the Command Code TRDBV in IDRS to verify if any rejected returns exist that may impact the IRC 6501 statute of limitations. The Tax Court upheld that an original return that was filed but rejected due to an incorrect Identity Protection Personal Identification Number (IPPIN) did commence the statute of limitations (*Fowler v. Commissioner*, 155 T.C. No. 7 (Sept. 9, 2020)). However, a filed return may be rejected for many different reasons, and not just for an IPPIN issue. Therefore, examiners must research in IDRS.

Note: Any miscellaneous civil penalties with a statute of limitations should receive the same level of screening for statute accuracy as any tax returns described above.

- (2) The assessment statute screening detailed above is required even if the return is placed in group inventory and not immediately assigned to an examiner.

Area Offices - Except for those returns where the ASED is three years from the normal return due date, statute screening actions, and the ASED verification, must be documented on the case activity record by the manager, or assigned examiner. If the ASED requires correction, or is within 180-days of expiration, a Form 895, Notice of Statute Expiration, must be prepared, to record the managerial approval and facts surrounding the correction of the ASED.

Campus Operations - Statute screening activities will be documented on the case activity record by the assigned examiner or examiner designated to review unsigned inventory. If the updated ASED is within 180-days, is not three-years from the normal return due date and/or requires an update, the manager will document concurrence with the ASED and/or the update. If the case is on CEAS the examiner's documentation and manager's concurrence will be made on CEAS notes instead of the case activity record.

- (3) The statute date is determined through an analysis of all available information in the administrative file, including information from internal systems and application of appropriate Internal revenue code sections, regulations and the IRM.
- (4) Notice 2020-23, Section B, provides filing deadline relief to taxpayers affected by COVID-19, pursuant to IRC 7508(A)(a). The statute of limitations per IRC 6501, Limitations on Assessment and Collection, begins the date the return was filed, or due to be filed, if later. Thus, 2019 returns specified in Section III. A of the notice and filed before April 15, 2020 are deemed to be due and filed on April 15, 2020, resulting in an ASED of April 15, 2023 (IRC 6501(a), IRC 6501(b)(1)). Additionally, 2019 tax returns filed after April 15, 2020 would have an ASED of three years from the filing date, even if that date is before July 15, 2020 (IRC 6501(a)). Notice 2020-23 does not impact the ASED, but rather provides the taxpayer a postponement period, to file through July 15, 2020 without penalty. For 2019 tax year return, the ASED is set, as in normal conditions, as followed:

Example: Form 1040, filed on 3/15/2020. ASED is 4/15/2023.

Example: Form 1040, filed on 5/15/2020. ASED is 5/15/2023.

Example: Form 1040, filed on 09/01/2020. ASED is 09/01/2023.

25.6.23.5.1.3
(03-20-2018)

**Initiation of Controls by
Manager - Area Offices**

- (1) In area offices, the manager or designee provides the employee assigned to the tax return a partially completed Form 895, Notice of Statute Expiration.
- (2) On a manually prepared Form 895, Notice of Statute Expiration, Items 1 through 3 may be entered by the person generating the form. ERCS automatically generates the same information in Items 1 through 3 on the ERCS version of Form 895.

Note: For returns in unassigned inventory, unless the manager has assigned responsibility to an examiner to respond to Form 895, the manager is to timely complete the Form 895, Notice of Statute Expiration, for those returns. If the responsibility for responding to the Form 895 for unassigned inventory has been assigned to an examiner, the assigned examiner is to timely respond to the Form 895.

25.6.23.5.1.4
(03-20-2018)

**Initiation of Controls by
Examiner or Specialist -
Area Offices and
Campus Operations**

- (1) **Area Offices** - If the examiner or specialist does not receive a Form 895, Notice of Statute Expiration, from the manager, the employee initiates and completes a Form 895 (or requests the manager to initiate Form 895) for any tax return or penalty case in the employee's possession, either assigned or unassigned, which may have a statute expiration date within 180 days, or otherwise meets control criteria. See IRM 25.6.23.3, Returns Subject to Statute Control.
- (2) When an area office examiner or specialist requisitions a tax return or penalty case which may have a statute expiration date within 180 days, the examiner or specialist initiates and completes a Form 895. The Form 895 may be generated electronically if controls have been established on ERCS.

Note: Without prior managerial approval, an examiner cannot begin an examination or requisition any return for audit if fewer than twelve months remain on the statutory period for assessment. See IRM 25.6.22.2.1, Assessment. Approval and justification will be documented by the manager on Form 9984, Examining Officer's Activity Record.

- (3) **Campus Operations Other Than Correspondence Exam (Corr Exam) and Pass-Through Function (CPF)**- The employee in possession of a tax return which may have a statute expiration date within 180 days prepares a Form 895 by completing items 1(a), 1(b), 1(c), 2, 3, 5 and 7 when appropriate. The examiner hand carries the tax return (enclosed in a red file folder) and the partially completed Form 895 to the manager.

Note: If the case is a paperless batch case, an electronic Form 895 must be completed and saved as part of the Report Generating Software (RGS) Case File Documents.

Note: Form 895 is no longer required to be used as a statute monitoring and control tool for Corr Exam and Campus Pass-Through Functions.

- (4) **Campus Operations - Correspondence Exam (Corr Exam)** - Assessment Statute Expiration Dates (ASEDs) set to expire within 180 days, and alpha coded ASEs, with the exception of EE (no return filed), will be documented on CEAS as a non-action note. Case activity sheets/workpapers will be used for non-CEAS cases and will include the Standard Employee Identifier (SEID) of the examiner and, when applicable, the SEID of the concurring manager.

Note: ASEs, **other than** the normal 4/15 (timely filed returns), or the 9/12 (timely filed returns with a defaulted statutory notice of deficiency), and Alpha Code EE (no return filed) statutes will be elevated to the examiner's manager for concurrence with the ASE computations or the assigned statute alpha code. Managers will indicate concurrence with the statute date or code as a non-action CEAS note on CEAS cases and on case activity sheets/workpapers for non-CEAS cases.

Note: Alpha Code EE ASEs will not be documented until a return is filed. SSIVLs will be used to identify TC 976/977 posts indicating return filings. ASEs will be updated in accordance with return filings within 120 days from the date the TC 976/977 is posted.

- (5) **Campus Operations - Campus Pass-Through Function (CPF)** - ASEs within 180 days of expiration will be documented in IDRS controls or on the TEFRA Database.

25.6.23.5.2
(02-17-2021)

**Completion of Form 895
by Area Office Examiner
or Specialist**

- (1) Line by line instructions for completing Form 895, Notice of Statute Expiration, are in Exhibit 25.6.23-1, Form 895 Instructions. Upon receiving a partially completed Form 895 from the manager or designee, an examiner or specialist in an area office will complete Form 895 according to the following instructions.

Note: Exhibit 25.6.23-2, ERCS Form 895 Instructions, provides instructions for the preparation of the ERCS Form 895.

- a. By reference to the tax return and/or IDRS information, verify the correctness of the data on Form 895, specifically, the taxpayer's name, address, social security number (SSN) or employer identification number (EIN), Master File Tax (MFT) code, tax period, and ASE.
- b. To verify the ASE, inspect the original return, if available, for information establishing the date of filing.

Items That May Be Used to Verify Statute Expiration Dates
A "received date" stamp.
A postmark date on the mailing envelope.
An approved extension of time to file the return.
IDRS research: including CC TRDBV for rejected returns.

Caution: Under IRC 7502, Timely Mailing Treated as Timely Filing and Paying, an original tax return that is received after the due date (including an

extended due date) for filing the return, but that is postmarked (or that is 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). The period for assessment begins on the due date of the return. See IRM 25.6.1.6.15, When a Document is Treated as Filed Under the IRC, for a complete discussion of the IRC 7502 rules.

- c. If the original tax return is not in the case file, inspect a transcript of the taxpayer's tax module to determine the return received date from the "Return Received Date" data field.
- d. Note any errors or changes on Form 895.
- e. Complete Items 4 through 7 on Form 895.
- f. Sign and date Form 895. An electronic signature on a Portable Document Format (PDF) file copy of the Form 895 is permissible. An electronic signature must include the full name of the person signing the document, not just the SEID or other identifying information.
- g. Return the completed Form 895 to the manager for review within 10 days of receipt.
- h. After approval by the manager, attach Form 895 to the inside of the case file folder. When the case is closed from the group, attach Form 895 to the outside of the case file folder on top of any other attached documents. A copy of the Form 895 is to be retained by the manager in a Form 895 log file. If the case file Form 895 is subsequently updated, a copy of the updated Form 895 will be attached to the previous Form 895 contained in the Form 895 log file, and both copies will be retained by the manager. The log file copy will be retained by the manager in accord with the time frames specified in IRM 4.7.3.9, Retention Requirements of Statute Related Management Information.

Note: The Form 895 log file may be an electronic file.

25.6.23.5.3
(03-20-2018)
**Form 895 Completion
Requirements for Area
Office Managers and
Applicable Campus
Operations Managers**

- (1) If the examiner or specialist does not return the completed Form 895, Notice of Statute Expiration, to the manager within 10 days of the date the Form 895 is generated, the manager will follow up with the examiner or specialist to secure the Form 895. The manager must secure the Form 895 from the examiner and approve the accuracy of the completed Form 895 information within 20 days of the date the Form 895 is generated. The group secretary, clerk, or other designated employee must update ERCS within 3 days of the date that the manager approves the accuracy of the information reflected on the Form 895. The following steps will be taken by the manager to ensure the proper and timely completion of Form 895.
 - a. Upon receiving a Form 895, the manager verifies the expiration date. The area office manager initials and dates Item 5 on Form 895. The campus manager signs Item 1(c) on Form 895.
 - b. The signature or initials of the manager constitutes the manager's concurrence with the statute information reflected on the Form 895. An electronic signature on a PDF file copy of the Form 895 is permissible. If signing electronically, the signature or initials line must reflect the full name of the person signing the document.
 - c. The manager ensures that statute information on Form 895 is entered on AIMS and, in area offices, on ERCS.

- d. The group secretary, clerk, or other clerical staff is to update the ERCS "Date Returned" field with the date the Form 895 is approved by the manager.

Note: When a secretary, clerk, or other clerical staff is not available the manager is responsible for ensuring ERCS is updated timely.

- e. The manager returns Form 895 to the examiner or specialist for attachment to the case file folder and retains a copy of Form 895 in a Form 895 log file. The log file copy of the Form 895 may be destroyed after 3 years plus current year, or after no further reference value, whichever is earlier; however the log file copy of the Form 895 **must** be retained for a minimum of three years by the responsible manager, in accord with Document 12990, Records and Information Management Records Control Schedules.

25.6.23.5.4
(02-17-2021)
**Area Office Group
Statute Controls**

- (1) The manager maintains continuous statute controls using ERCS.
- (2) The manager ensures correct statute information is entered on ERCS. Statute expiration information entered on ERCS is automatically recorded on the AIMS database.
- (3) The manager generates an ERCS Pending Statute Report at least monthly. ERCS has the capability of generating reports of cases with statutes expiring within any designated number of days.

Reminder: The ERCS Pending Statute Report does **not** list returns with expired statute dates or with alpha statute codes.

- (4) The manager must generate an ERCS 895 Report, which lists returns with expired statute dates and with alpha statute codes.
- (5) At least monthly, the manager, or a person designated by the manager, examines the reports of cases showing statute expiration dates within 180 days. The manager will take the following actions:
 - a. Ensure the statute expiration information is accurate, including the propriety of the ASED alpha codes which were used or should be used.
 - b. Close the case promptly unless there is a compelling reason to keep it open. One example of a compelling reason to keep a case open would be cases for which the ASED Alpha Code YY for participation in abusive offshore arrangements was assigned (see ASED Alpha Code YY in Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS).
 - c. Secure a consent to extend the statutory period for assessment.
 - d. Take other appropriate action to protect the government's interest.

Caution: In SB/SE, "No-change" determinations must be closed to Status Code 90 before the ASED expires. An exam group may be responsible for a barred statute on a "no-change" case with an imminent ASED if the procedures in IRM 25.6.23.7.2 are not followed.

- (6) The manager may assign an employee to monitor the Pending Statute Report and identify cases requiring managerial attention.

- (7) The manager reconciles statute control information with data in AIMS Tables 4.0 or 4.1 according to instructions in IRM 25.6.23.5.10.2, Verification of ERCS and AIMS Tables 4.1 and 4.0 Data.
- 25.6.23.5.5
(03-20-2018)
Campus Statute Controls - Campus Operations Other Than Corr Exam and CPF
- (1) The campus statute control files customarily will be maintained in a central location. Managers in the campuses have the option of using more than one statute control file.
- (2) Statute control for returns designated for area offices will be included in the campus statute control file, but area office returns will be separated from returns assigned to the campus.
- (3) The manager or designee carries the Form 895, Notice of Statute Expiration, by hand to the employee who maintains the statute control file.
- (4) The employee who maintains the statute control file places a copy of the completed Form 895 in the open, continuous statute control file in order by statute expiration date, then in alphabetical or SSN/EIN order.
- (5) The employee attaches Form 895 to the outside of the case file folder on top of all other attachments.
- 25.6.23.5.6
(03-20-2018)
Campus Statute Controls - Corr Exam and CPF
- (1) Corr Exam and Campus Pass-Through Function (CPF) statute coordinators will utilize electronic reports/listings for statute monitoring. These reports include, but are not limited to, Campus AIMS Table 4.0 and PCS Report 4-4.
- (2) For cases that are not on AIMS, Campus Non-AIMS Pending Statute listings generated from IDRS will be used for controlling and monitoring statutes. Non-AIMS Pending Statute listings will be created by establishing a dual control on TXMOD for imminent statute cases subject to a tax increase that are not on AIMS.
- Example:** Exam Statute TXMOD Control=xxXXXXxxxx/team number of employee assigned to the case, category = STAT, Activity text + month and year of ASED, such as ASED05/14.
- Note:** Contact your Statute Coordinator to obtain the established Statute TXMOD Control Number for your area.
- The Non-AIMS Pending Statute monitoring report (CCA/42/43 TXMOD control listing) will be reviewed monthly for statute monitoring and protection. To ensure each case is properly accounted for, the following annotations will be placed to the left of the taxpayer identification number:
- “C” if the case has been closed and the assessment has been posted,
 - “P” if the case has been worked and the adjustment is pending,
 - “S” if the case is in suspense waiting for technical advice, etc.,
 - “NW” if the case has not been worked,
 - “T” if the case was transferred out. Must also indicate the date of the transfer in the far right margin.
- Example:** Exam Statute TXMOD Control=xxXXXXxxxx/team number of employee assigned to the case, category = STAT, Activity text + month and year of ASED, such as ASED05/14.

Reminder: Contact your Statute Coordinator to obtain the established Statute TXMOD Control Number for your area.

- (3) Actions needed to resolve case issues will be documented by the person performing the review. Identified statute concerns will be addressed with the assigned examiner and monitored for timely assessment by the designated person, usually the statute coordinator. Documentation will also include notification details, such as the name or SEID of the person alerted, date of contact, and date issue was resolved when applicable.
- (4) Statute protection actions will be documented as follows based upon the specifics of the case and functional area:
 - **Corr Exam - CEAS Cases:** Statute protection actions will be documented within CEAS as "CEAS notes".
 - **Corr Exam - Non-CEAS Cases:** Statute protection actions will be documented on the Non-AIMS Pending Statute monitoring report (CCA/42/43 TXMOD control listing), including the reviewer's SEID and the SEID of the examiner notified of action needed.
 - **CPF:** Statute protection actions will be documented through IDRS controls or through the TEFRA database.
- (5) Corr Exam and CPF will utilize electronic data to identify TC 976/977 postings to Alpha Code EE cases and ensure ASEDs are updated within 120 days of TC 976/977 posting.
- (6) Documented listings will be retained for three years from the Fiscal Year end date of the year in which the action was performed. Annotated copies of the Non-AIMS statute monitoring listing will be signed and dated by the reviewer and reviewer's team manager and retained for 3 years in the same location as AIMS statute monitoring reports as outlined in IRM 4.4.27.5.1, Table 4.0 and 4.1 - Statute Control Reports.

25.6.23.5.7
(03-20-2018)
**Extending the
Assessment Statute
Expiration Date**

- (1) If the examiner or specialist cannot expeditiously conclude the examination, the examiner or specialist and the manager may decide to execute a statute extension, subject to the consent of the taxpayer. Every attempt should be made to complete cases before a statute extension becomes necessary. Instructions for obtaining consents are in IRM 25.6.22.5, Preparation of Consent Forms-General Procedures.
- (2) Upon receipt of an executed extension, update the statute expiration date on Form 895, Notice of Statute Expiration, or the statute control record applicable to each function as defined in IRM 25.6.23.1.5, Terms, and on AIMS. The AIMS data may be updated through data entry on ERCS. See IRM 25.6.23.5.8, Updating Statute Expiration Dates on Form 895 in Area Offices, and IRM 25.6.23.5.9, Updating AIMS and ERCS.
- (3) If the taxpayer does not consent to extend the statute, the examiner will initiate action, as necessary, to issue a statutory notice of deficiency or initiate other means to assess tax deficiencies before the statute expires.

25.6.23.5.7.1
(03-20-2018)

Extension Not Solicited

- (1) If the statute extension will not be solicited, annotate Form 895, Notice of Statute Expiration, or the applicable statute control record, stating the reasons why. Have the manager initial the Form 895 notation or otherwise validate the decision (electronic signature or note on statute control record other than Form 895). If the notation and initials are completed electronically and not authenticated and date stamped (for example, CEAS notes), the document must be in a PDF file, and instead of initials, must contain an electronic signature reflecting the full name (not the SEID) of the person signing and the date signed.

Example: In a claim for refund/credit case, if an extension is not warranted, since the claim is the only issue, enter the notation: "No extension necessary—Claim for refund, credit or abatement issue only. No potential deficiency", initialed by the examiner and the manager.

- (2) Alpha coding the ASED should only be considered, after a statute extension is solicited, or when there is insufficient time to secure a statute extension, due to mitigating factors beyond the examiner's control.

Example: The return is received in the examining group (generally, less than 30 calendar days prior to the return's ASED). See Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, for additional instructions on the use of alpha codes.

25.6.23.5.7.2
(02-17-2021)

Reliance on IRC Provisions Which Extend the Normal Assessment Statute

- (1) The manager has the authority and the responsibility to decide whether or not it is in the interest of the government to permit the normal assessment statute to expire in reliance on an IRC provision which serves to extend the normal three-year assessment statute of limitations. In certain instances, the decision by the manager to allow the normal period for assessment to expire in reliance on another IRC provision must be concurred with, in writing, by the territory manager – see paragraph (4) below. The statute date should be updated once all applicable approvals have been secured.
- (2) This decision authority does not apply to tax periods which have been referred to, and are currently under investigation by Criminal Investigation as a joint investigation. For assessment statute management guidance on cases referred for joint investigation, see IRM 25.1.4.3.8, Statute Protection.
- (3) This decision authority should be exercised only after a timely and proper solicitation of an extension of the normal assessment statute of limitations has been made and the taxpayer has refused to extend the assessment statute either affirmatively or by lack of response.
- (4) See Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, for procedures for documenting the case file and the need to secure territory manager concurrence if any of the following is relied upon to extend the normal statute of limitations or if Alpha Code YY is used:
 - a. IRC 6501(c)(1), Exceptions—False Return,
 - b. IRC 6501(c)(8), Exceptions—Failure to Notify Secretary of Certain Foreign Transfers,
 - c. IRC 6501(c)(9), Exceptions—Gift Tax on Certain Gifts not Shown on Return,
 - d. IRC 6501(c)(10), Exceptions—Listed Transactions,

- e. IRC 6501(e), Substantial Omission of Items,
- f. IRC 7609(e)(1), Suspension of Statute of Limitations—Subsection (b) Action (pertaining to summonses) or
- g. IRC 7609(e)(2), Suspension of Statute of Limitations—Suspension After 6 Months of Service of Summons.

Note: Approval must be secured from the Area Director or Director of Field Operations prior to updating the case if Alpha Code AC will be used.

- (5) Managers have the authority to allow the normal statute to expire, if the conditions in Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS, are present. A Form 3999, Statute Expiration Report, or Form 3999-T, Statute Expiration Report (for TEFRA key cases), is required. See IRM 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.

Exception: LB&I does not require a Form 3999 or Form 3999-T for no-change determinations. See IRM 25.6.1.13.2.9.1, Procedures for the Submission of LB&I Statute Expiration Dates.

Reminder: Preparation of the Form 3999, or Form 3999-T should begin at the time it is identified, or determined the outcome of the examination will be a barred deficiency, or a “no change” determination, and the normal statute of limitations was already expired at the time of the determination. See IRM 25.6.1.13.2.8.1 (5), Procedures for the Submission of SB/SE Statute Expiration Reports.

Reminder: A net zero loss to the government does not waive the requirement for a Form 3999, Statute Expiration Report, for SB/SE employees. See IRM 25.6.1.13.2.8.1 (1), Procedures for the Submission of SB/SE Statute Expiration Reports.

25.6.23.5.7.2.1
(02-17-2021)
**Offer in Compromise -
Doubt as to Liability
(OIC-DATL) Exam
Statute Controls**

- (1) The filing of an Offer in Compromise - Doubt as to Liability (OIC-DATL) request extends the statute for additional tax assessments in accord with the terms of the waiver provisions of a Form 656-L, Offer in Compromise (Doubt as to Liability), filed by the taxpayer.
- (2) From the date the offer is considered *pending* and is in review status (Transaction Code (TC) 480 input) the statute is tolled, as defined in IRM 25.6.23.1.5, Terms, for the period the offer is under consideration and, unless accepted, for an additional year thereafter.

Note: If the result of the determination is appealed by the taxpayer there are additional tolling provisions that further suspend the assessment statute during Appeal’s consideration of the offer.

- (3) In addition to the assessment statute, OIC-DATL cases also carry a Tax Increase Prevention and Reconciliation Act (TIPRA) statute limiting the time the IRS may consider the offer. IRC 7122(f), Deemed Acceptance of Offer Not Rejected Within Certain Period, provides “Any offer-in-compromise submitted under this section shall be deemed to be accepted by the Secretary if such offer is not rejected by the Secretary before the date which is 24 months after

the date of the submission of such offer.” See IRM 5.8.8.12, 24-Month Mandatory Acceptance under IRC 7122(f).

Caution: If the TIPRA “deemed acceptance” statute expires prior to the conclusion of the OIC-DATL examination, the offer will be considered accepted regardless of any examination findings.

(4) Given the simultaneous statutes on OIC-DATL cases, statutes should be controlled as follows:

- a. Cases accepted for processing that are forwarded to Planning and Special Programs (PSP) or Workload Selection and Delivery (WSD) will be updated to reflect the TIPRA “deemed acceptance” statute by the receiving function prior to being forwarded for examination. This statute date will be calculated as 24 months from the date the Form 656-L is stamped received and will be identified as a TIPRA statute with the inclusion of an “R” after the date itself. For example, if a Form 656-L is stamped received by the Brookhaven Service Center (BSC) on 12/7/2017, the TIPRA statute input by PSP or WSD will be shown as “12/7/2019R”.

Caution: The TIPRA statute does not provide any measure or indication of the time remaining under IRC 6501, Limitation on Assessment and Collection, to make additional tax assessments. This should not be confused with the assessment statute date which is calculated separately from the TIPRA statute date.

- b. The examination will be conducted while the case is controlled by the TIPRA statute, to allow for monitoring, of the time remaining before an OIC-DATL case defaults as accepted.

Caution: The TIPRA statute cannot be extended by consent.

Caution: If the ASED was not expired at the time the OIC-DATL was filed, the Form 656-L must be retained in the case file in the same manner as an executed statute extension consent form would be retained (such as a Form 872, Consent to Extend the Time to Assess Tax). See IRM 25.6.22.5.12(d), Examiner’s Responsibility after Receipt of Consent.

25.6.23.5.8
(02-17-2021)
**ASED Updates Recorded
on Form 895 in Area
Offices**

(1) Update Form 895, Notice of Statute Expiration, anytime there is a change in the ASED as follows:

- a. Check the blank next to the appropriate explanation as provided in Section 6 of Form 895.

Example: One occurrence that requires an update to the ASED is the execution of a consent to extend the statutory period of limitations for assessment. If a consent is secured, the examiner or specialist checks the “Consent Secured” in Section 6 of Form 895.

Example: The statute expiration date must be updated when the reliance on a specific alpha code no longer applies. The remarks section of the Form 895 must be updated accordingly.

- b. The examiner or specialist enters the updated expiration date and their initials in Item 5 of Form 895. If the update is completed electronically, the document must be in a PDF file and, instead of initials, must contain an electronic signature reflecting the full name of the person signing and the date signed.
- c. The examiner or specialist forwards the case file, with Form 895 attached, to the manager for approval.

25.6.23.5.8.1
(03-20-2018)

ASED Updates in Area Offices (Manager's Responsibilities)

- (1) In area offices, the manager:
 - a. Verifies the correctness of an updated statute expiration date.
 - b. Initials the updated statute expiration date in Item 5 of Form 895, Notice of Statute Expiration. If the update is completed electronically, the document must be in a PDF file, and instead of initials, must contain an electronic signature reflecting the full name of the person signing and the date signed.
 - c. Ensures the updated statute expiration date is entered on ERCS and AIMS (see IRM 25.6.23.5.9, Updating AIMS and ERCS, below).
 - d. Saves a copy of the Form 895 in the Form 895 log file.
 - e. Returns the case file with Form 895 attached to the examiner or specialist.

25.6.23.5.8.2
(03-20-2018)

ASED Updates at Campuses

- (1) At campuses, the employee initiating action to update statute information notifies the person who maintains the statute control file of such changes if applicable. The notification is routed through the manager.
- (2) The employee maintaining the statute control file records the updated statute expiration date in Item 5 of Form 895, Notice of Statute Expiration, or on the applicable statute control record.

25.6.23.5.9
(03-23-2015)

ASED Updates on AIMS and ERCS

- (1) The employee with possession of the case file, at the time an occurrence affects the statute expiration date, is responsible for initiating action to update the statute date on AIMS and on ERCS (in area offices). Input of statute information to ERCS will automatically generate the same statute information on AIMS.
- (2) The person who initiates a statute update will follow up within 14 days to ensure the correct statute date is on ERCS and on AIMS.
- (3) Detailed instructions for AIMS and ERCS updates to the statute are in IRM 4.4.34, Updating/Correcting AIMS Data Base, IRM 4.7.3, Statute of Limitations, and Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS.

25.6.23.5.9.1
(03-23-2015)

Purpose of ASED Updates on AIMS and ERCS

- (1) Updating the AIMS and ERCS data bases:
 - a. Informs management that the statute of limitations on each return has been considered and acted upon.
 - b. Minimizes the number of returns on the statute report. Once the data base is updated, AIMS Tables 4.0 and 4.1 no longer include cases with extended statutes (if the revised expiration date is beyond 180 days).

The tables identify open ended consents such as the Form 872-A, Special Consent to Extend the Time to Assess Tax, statute extensions and returns with no extensions necessary because the ASER has been coded with a special statute condition alpha code. Functions such as Planning and Special Programs, Technical Services Staff, and Centralized Case Processing, which receive returns from other work areas, have especially voluminous tables to research when the originating functions do not enter accurate information on the AIMS and ERCS systems.

- c. Reduces the possibility of erroneous quick assessments made by the Statute Function at the campus for returns under area control.

25.6.23.5.9.2
(03-23-2015)

Failure to Update AIMS

- (1) Failure to update the statute expiration date on AIMS will cause AIMS Tables 4.0 and 4.1 to show expired statutes when, in fact, the statutes may not have expired.

Note: Certain MFT 13/55 penalty cases are controlled on ERCS only. These penalty cases are still subject to statute control procedures. Any necessary statute updates for these penalty cases must be made on ERCS. Failure to update the statute expiration date on ERCS will cause expired statute dates to show on ERCS statute reports when the statutes may not have expired.

- (2) Examined returns requiring a tax assessment that have less than 60 days remaining on the assessment statute cannot be closed using normal AIMS processing procedures, and will result in the closing being “rejected” by AIMS. Manual assessment procedures must be followed in accordance with IRM 4.4.25, Quick Assessments, before forwarding the case for final AIMS closure.

Exception: Normal AIMS processing procedures can be used to close an examined return with less than 60 days remaining on the assessment statute if fraud has been established, and the Fraud Indicator is entered on Form 5344, Examination Closing Record.

25.6.23.5.10
(03-23-2015)

AIMS Tables 4.1 and SC 4.0

- (1) AIMS Table 4.1, Returns with Statute Date Pending, is a computer generated listing, produced monthly on AIMS, showing returns in examination groups in the area offices, with AIMS Status Codes 05, 06, 08–19, with statute dates that (according to AIMS) have expired or will expire within 180 days.
- (2) AIMS Table 4.0, Returns with Statute Date Pending, is essentially the same as AIMS Table 4.1. AIMS Table 4.0, which is generated by the Area AIMS/ERCS staff, lists returns charged to functional areas in area offices other than examination groups. Tax returns in Planning and Special Programs (PSP), Examination Technical Services, and Centralized Case Processing (CCP) appear in Table 4.0, which lists returns in AIMS statuses 00–59, except for those included in Table 4.1.
- (3) Table SC 4.0, Returns with Statute Date Pending, is a comparable listing of returns in Examination units at the campuses. Table SC 4.0 lists cases in valid status codes within the status code range 00–59.
- (4) Exhibit 25.6.23-4, Tables 4.0 and 4.1, Returns With Statute Date Pending, describes the data in Tables 4.0 and 4.1.

25.6.23.5.10.1
(03-20-2018)

**Responsibilities for
Monthly Verification of
ERCS and AIMS Tables
4.1 and 4.0 Data**

- (1) The function responsible for AIMS/ERCS must ensure timely distribution of AIMS Table 4.0 and 4.1.
- (2) The manager in area offices is responsible for monthly verification of data in the ERCS Pending Statute Report and in AIMS Tables 4.1 and 4.0. The manager may delegate responsibility for verifying the statute control data to other employees. Overall responsibility for verification still lies with the manager, even if the manager delegates this responsibility to another employee.
- (3) At campuses, the employee responsible for the statute control file completes the monthly Table 4.0 verification for cases with statute expiration dates within 90 days, under the supervision of an assigned manager.
- (4) AIMS Tables 4.0 and 4.1 are the most urgent of the AIMS tables to be worked. The tables must be worked within five (5) days of receipt, whether distributed by e-mail or in hard copy. If distributed by e-mail, receipt is the day it appears in the recipient's e-mail inbox, not when the e-mail message is opened by the recipient. If the employee designated for receipt of the table is out of the office, the manager is to provide an alternative process so that the table is worked within five (5) days of receipt.

Note: In Campus Corr Exam and Campus Pass-Through Functions (CPF), Alpha Code EE ASEDs will not be documented (CEAS notes, Table 4.0, etc.) until a return is filed and becomes statute imminent. Alpha Code EE records and/or related annotations are not required on Table 4.0, Statute Monitoring Reports, or other electronic data used for monthly statute certification. Campus Corr Exam and CPF will utilize electronic data to identify TC 976/977 postings to Alpha Code EE cases and ensure ASEDs are updated within 120 days of TC 976/977 posting.

25.6.23.5.10.2
(03-20-2018)

**Verification of ERCS and
AIMS Tables 4.1 and 4.0
Data**

- (1) See IRM 4.7.3, Statute of Limitations, and IRM 4.7.6.7, Statute Expiration Reports, which pertain to ERCS Pending Statute Report and ERCS 895 Report.
- (2) Verification of ERCS statute control listings, and AIMS Table 4.1 and Table 4.0 data, is done at least monthly by the manager or other designated person. See IRM 4.4.27.5.1.1, Procedures for Working Statute Control Report, for complete instructions. In general, the below steps will be completed.

Note: An electronic signature and/or annotations on a PDF file copy of the Tables 4.1 and 4.0 is permissible. If signing electronically, the signature or initials line must reflect the full name of the person signing the document and the date signed.

- a. Compare AIMS Table 4.1 or 4.0 data with data in the ERCS Pending Statute Report and/or other statute control record as maintained in each function. For returns with alpha statute codes, compare to the ERCS 895 Report and/or other statute control record as needed. Criteria for alpha statute codes are described in Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS.
- b. By reference to the ERCS 895 Report or other statute control record, ensure there is complete information for each return on the AIMS table with a statute expiration date within 180 days.

- c. Verify that the statute expiration date shown on Form 895 (per the ERCS reports) or on the other statute control record and on AIMS agree and are correct.
- d. Notify the manager and the examiner, or specialist, of any discrepancies, and annotate Table 4.1 or 4, or the ERCS Pending Statute Report
- e. The manager, with assistance from the examiner, or specialist as needed, will resolve discrepancies. Make a notation on the AIMS table of all discrepancies and their resolution.
- f. If the AIMS Table 4.1 or 4.0 (or ERCS statute report) indicates there is a tax return meeting statute control criteria and it is not controlled as required by each function, perform a special search to locate the return. Upon locating the tax return in the group, notify the responsible examiner or specialist that statute control must be established or place the return in a red file folder and hand carry it to the manager for statute determination and to establish controls as needed. In the case of an off-site manager, consult with the manager on how to provide them with the information they need to establish the controls.
- g. If the ERCS Pending Statute Report or the statute control file contains information on a return which is not listed on AIMS Table 4.1 or 4.0, determine whether or not the return is physically located in the Examination unit. Secure an AMDISA print, if necessary, to help locate the return. If the return is located, ensure the statute expiration date on AIMS is correct.
- h. If the return is not located, verify the return has physically left the Examination unit. Secure a receipted Form 3210, Document Transmittal, acknowledging transfer of the case file to another unit. Update AIMS/ERCS accordingly.
- i. If there has never been a record of the return in the work group, notify the manager. The manager initiates a search for the return. The manager may obtain assistance from the AIMS/ERCS Coordinator in locating the return.
- j. Enter any corrected statute expiration dates on AIMS, and/or other applicable inventory systems. Once an update is input with a statute expiration date beyond 180 days from the current date, that return will not appear on the AIMS statute table. Returns with statute dates shown as "872-A" will remain on the AIMS table.
- k. Upon completion of the above actions, the group secretary, or other designated person, forwards the Table 4.1 or 4.0 to the manager, or other designated employee, for final review.
- l. As per Document 12990, Records Control Schedule, Section 23 - Tax Administration-Examination, Item 75 AIMS Table 4.0, statute listings may be destroyed after 5 years plus the current year, or after no further reference value, whichever is earlier; however, Tables 4.0 or 4.1 **must** be retained for a minimum of three years by the responsible manager.

25.6.23.5.11
(03-23-2015)
Statute Transcripts

- (1) Statute transcripts are generated monthly at the campuses on tax modules that reflect credit balances, no return posted and returns with a potential statute expiration date within 180 days. The potential expiration date is three years from the due date of the return.
- (2) Instructions on researching statute transcripts are in IRM 25.6.1.11, Statute Transcripts, and in IRM 4.4.27.5.15, Accounts Maintenance and Statute Transcripts.

- (3) Upon verifying a case in a Campus Examination Operation that has a potential expiration date within 180 days, per a statute transcript, review transcript and account to ensure all items have been addressed as part of the examination.
- (4) If statute expiration is **not** imminent (within 180 days), ensure that the correct statute date is reflected on AIMS. If the statute date is within 180 days, also take the actions specified in IRM 25.6.23.5.4 (5), Area Office Group Statute Controls.

25.6.23.5.12
(03-20-2018)

**Disposition of Form 895
or Other Statute Control
Records**

- (1) When a case file under statute control is closed or transferred from an Examination work group, attach Form 895, Notice of Statute Expiration, or other paper statute control record to the front of the case file folder, on top of all other attachments.
- (2) When processing of the case is completed, Form 895 or other paper statute control record is placed in the administrative case file by the case closing function.
- (3) All original Form 895 or paper statute control records must be retained with the case file to reflect the history of statute determinations made, who approved and the date of approval, as well as other pertinent information as to the ASED determinations.

Note: Cases using electronic statute control records, such as CEAS notes, IDRS, or the TEFRA database, are **not** required to have a paper copy of their statute control record for inclusion in the case file. These records must be maintained with the electronic case file.

25.6.23.6
(03-23-2015)

**Statute Controls in
Examination Case
Closing Functions**

- (1) The following instructions apply to the below case closing functions.
 - Centralized Case Processing (CCP) units located at campuses and
 - Batch Processing or any other function closing examined cases at campuses.

25.6.23.6.1
(03-20-2018)

**Initiating Controls in
Case Closing Functions**

- (1) Statute controls will already be established on most returns or penalty cases with potential statute expiration dates within 180 days on cases coming into case closing functions/process.
- (2) In the event controls have not been established, the following steps will be taken in case closing functions **other than** CCP:
 - a. If Form 895, Notice of Statute Expiration, or other statute control record is required, but is not attached, notify the manager responsible for statute controls in the closing function and see IRM 25.6.23.6.1.3, Initiation of Statute Controls in Case Closing Functions, for instructions on preparation of Form 895.
 - b. The manager may contact the originating function for additional statute information or to give feedback about the lack of proper statute controls.
 - c. Date stamp, showing the date of receipt in the closing function, the Form 895 which is attached to the case file folder. Write "Statute Control" on the outside of the case file, followed by the name of the tax examiner responsible for screening the case for statute controls.
 - d. Place a red folder around the case file if the case is not already contained in a red folder.

- e. Staple Form 895 to the outside of the file folder if the Form 895 is not already there.
- (3) CCP will take the following steps in the event controls have not been established:
 - a. If Form 895 or other statute control record is required, but is not attached notify the manager responsible for statute controls in the closing function, and see IRM 25.6.23.6.1.3, Initiation of Statute Controls in Case Closing Functions, for instructions on how to use the 120 Day Numeric Statute Report, or the ERCS 895 Report/LB&I SSIVL to establish statute controls.
 - b. The manager may contact the originating function for additional statute information or to give feedback about the lack of proper statute controls.
 - c. Place a red folder around the case file if the case is not already contained in a red folder.

25.6.23.6.1.1
(03-23-2015)
**Time for Initiating
Statute Controls in Case
Closing Functions**

- (1) All returns with 120 days or less remaining before the statutory period for assessment will expire (or **may** expire) are placed under statute controls.

25.6.23.6.1.2
(03-20-2018)
**Screening Returns
Received in Case
Closing Functions**

- (1) Immediately upon receipt in the case closing function, a designated tax examiner or clerk (hereinafter "statute examiner"), screens all returns and penalty cases to identify returns or cases with statutes expiring within 120 days.
- (2) The statute examiner inspects all returns and penalty cases with tax periods ending two and a half years, or more, prior to the date received in the case closing function for potential statute expiration.
- (3) The statute examiner verifies that the statute expiration date on Form 895, Notice of Statute Expiration, or other statute control record is correct, taking into account any special statute conditions, if any, and is correctly reflected on AIMS, ERCS, and Master File as applicable.
- (4) If the correct statute expiration date cannot be determined with certainty, the statute examiner obtains assistance from a manager.
- (5) At campuses, assistance may also be obtained from the Statute Function.
- (6) The statute examiner reviews consents to extend statutes to ensure the consents are prepared correctly and have appropriate, timely signatures for the taxpayer and for the IRS.

25.6.23.6.1.3
(03-20-2018)
**Initiation of Statute
Controls in Case
Closing Functions**

- (1) If there is no statute control record provided with the case file and the statute expiration date is within 120 days, the statute examiner must initiate statute controls.

Reminder: All cases meeting the 120-day statute criteria must be controlled regardless of the length of time the case is going to be in the closing function.

- (2) CCP statute coordinators will utilize the 120 Day Numeric Statute Report or ERCS 895 Report/LB&I SSIVL for statute control. Actions needed to resolve case issues will be documented by the person performing the review. Documentation will also include identification, such as name or SEID, of the person alerted, date of contact, and date issue was resolved when applicable.
- (3) For all other case closing functions, line-by-line instructions for completing the current Form 895, Notice of Statute Expiration, are in Exhibit 25.6.23-1, Form 895 Instructions.
- (4) If a Form 895, Notice of Statute Expiration, or other statute control record is submitted with a case, the statute examiner adds or corrects data as needed, including the following items, and initials any additions or corrections:
 - Taxpayer name
 - SSN/EIN
 - Return form number
 - Taxable year or period
 - Statute expiration date
- (5) Any correction to the statute expiration date on Form 895 or other statute control record must be compared with the Master File ASER and AIMS ASER to ensure they all agree.

25.6.23.6.2
(03-20-2018)

**Centralized Statute
Controls in Case
Closing Functions**

- (1) Statute controls are centralized in a single location.
- (2) The statute control file may consist of:
 - Form 895, Notice of Statute Expiration,
 - ERCS Pending Statute Report,
 - AIMS Table 4.0,
 - 120 Day Numeric Statute Report (CCP), and/or
 - ERCS 895 Report/LB&I SSIVL (CCP).

25.6.23.6.2.1
(03-20-2018)

**Statute Control
Responsibilities in Case
Closing Function**

- (1) The Manager is responsible for monthly verification of AIMS/ERCS Statute reports and, when applicable, Non-AIMS statute case listings for EGCs and employees assigned to them.
- (2) Managers may delegate the tasks related to verification but must provide oversight and be responsible for research and annotation accuracy, as well as timely completion of research and case resolution.
- (3) Actual maintenance of the file may be assigned to clerical personnel. This procedure does not relieve other managers and employees of their responsibilities to protect statutes within their respective areas.
- (4) An employee with possession of a tax return in the closing function notifies the person maintaining the statute control file of any action or development affecting the statute.

25.6.23.6.2.2
(03-23-2015)

**Case Closing Functions
- Form 895 Statute
Control File - Open
Section**

- (1) Copies of Form 895, Notice of Statute Expiration, in the open section of the control file are filed in order by statute expiration date. Form 895 showing restricted consents and Form 872-A, Special Consent to Extend the Time to Assess Tax, are placed in the front of the open section of the file.
- (2) Multiple Form 895s with the same expiration date are filed in order by SSN/EIN.
- (3) The open section of the Form 895 file is monitored weekly. See IRM 25.6.23.6.3, 30-Day Statute Search - Case Closing Functions, below for action to be taken on cases with statute expiration dates within 30 days.

25.6.23.6.2.3
(03-23-2015)

**Case Closing Functions
- Form 895 Statute
Control File - Closed
Section**

- (1) Upon verifying that assessment has been made (AIMS Status 90, Transaction Code 300; Form 3552, Prompt Assessment Billing Assembly), move the control copy of Form 895, Notice of Statute Expiration, along with any documentation from the open section to the closed section of the file.
- (2) Maintain the closed section of the file by month closed in order by SSN/EIN.

25.6.23.6.3
(03-20-2018)

**30-Day Statute Search -
Case Closing Functions**

- (1) The following procedures will be followed when 30 days **or** less remain on the statute:
 1. The statute examiner photocopies/prints the pertinent statute control record or generates a list of imminent statute cases.
 2. The statute examiner gives the photocopy/print or list to the manager or supervisor of the case closing function and to the responsible tax examiner or special search clerk.
 3. If the statute is otherwise protected, the person who verifies such information annotates the statute control record accordingly, initials the entry and returns it to the statute examiner. In lieu of initials, an electronic signature may be used on a PDF file. If using an electronic signature, the full name of the person signing and date signed must be reflected.
 4. If a return cannot be located after a special search, see IRM 25.6.23.6.6, Search for Missing Returns in Case Closing Functions. The statute examiner initiates action to develop information and make a quick assessment.
 5. The statute examiner inputs an AIMS freeze code (Freeze Code "1") using command code AMFRZ to prevent case closure. This will enable a tax examiner to abate any duplicate assessment that may occur.

25.6.23.6.4
(03-20-2018)

**When to Update Statute
Control Records in Case
Closing Functions**

- (1) The statute expiration date will be changed upon receipt of:
 - a. A properly executed statute extension, or
 - b. A notice of termination.

25.6.23.6.4.1
(03-20-2018)

**Procedure for Updating
Form 895 in Case
Closing Functions Other
Than CCP**

- (1) The following procedures will be followed when updating Form 895, Notice of Statute Expiration:
 - a. Locate the case file with the Form 895 attached and pull the control file copy of Form 895.
 - b. Enter the new statute expiration date in Item 5 of Form 895.
 - c. Write the consent form number, date received, and the name of the examiner in Item 7.
 - d. The employee making the update initials Form 895 next to the revised statute date. Instead of initials, an electronic signature may be used on a PDF file. If using the electronic signature, the full name of the person signing and date signed must be reflected.
 - e. The manager or supervisor approving the update initials Form 895 next to the revised statute date. Instead of initials, an electronic signature may be used on a PDF file. If using the electronic signature, the full name of the person signing and date signed must be reflected.
 - f. Return the case file, with the updated Form 895 attached, to the assigned tax examiner for closing.
 - g. File the revised Form 895 in the form 895 log file according to the updated statute expiration date.

25.6.23.6.4.2
(03-20-2018)

**Updating Form 895 for
Statute Extensions
Received in Case
Closing Functions Other
Than CCP**

- (1) Write or type the consent form number, date received, and name of the examiner in Item 7 of Form 895, Notice of Statute Expiration.
- (2) Attach the consent form to the back of the first page of the return. If the consent covers multiple years, the original will be attached to the back of the first page of the tax return for the latest year and photocopies will be attached to the back of the first page of the tax return(s) for the earlier years.
- (3) For penalty case files where there is no tax return, the executed consent form should be placed in a visible place within the case file.

25.6.23.6.4.3
(03-20-2018)

**Updating Statute Control
Record in CCP**

- (1) The 120 Day Numeric Statute Report or ERCS 895 Report/LB&I SSIVL will be used by CCP to document statute actions and authorize updates as necessary. See IRM 25.6.23.6.5, 120 Day Numeric Statute Report, ERCS 895 Report/LB&I SSIVL, or AIMS Table 4.0 Use in Case Closing Functions, for additional details.

25.6.23.6.4.4
(03-20-2018)

**Updating AIMS and
ERCS in Case Closing
Functions**

- (1) Generally, when a change or correction in the statute expiration date is determined, the person identifying such change initiates action to enter the revised statute date through AIMS/ERCS. Form 5348, AIMS/ERCS Update (Examination Update), is used to update the statute date on AIMS/ERCS.

Exception: If a tax examiner in CCP has referred a case with a statute issue to the Field Office Resource Team (FORT) or Field Liaison, after discussions with Field Exam, any corrections to the statute would be input through ERCS by the FORT or Field Liaison via the CCP AIMS/ERCS analyst.

- 25.6.23.6.5
(03-20-2018)
120 Day Numeric Statute Report, ERCS 895 Report/LB&I SSIVL, or AIMS Table 4.0 Use in Case Closing Functions
- (1) 120 Day Numeric Statute Report and ERCS 895 Report/LB&I SSIVL are computer/electronically generated listings used by CCP and pulled from the AIMS/ERCS databases which reflect returns with statute dates that either have expired or are due to expire within 120 days.
 - (2) AIMS Table 4.0 and Table SC 4.0 are computer/electronically generated listings used by case closing functions other than CCP and pulled from the AIMS database which reflect returns with statute dates that either have expired or are due to expire within 180 days.
 - (3) See IRM 25.6.23.5.10, AIMS Tables 4.1 and SC 4.0, for the return status codes included in Table 4.0.
 - (4) See Exhibit 25.6.23-4, Tables 4.0 and 4.1, Returns with Statute Date Pending for information contained in AIMS Table 4.0.
- 25.6.23.6.5.1
(03-20-2018)
120 Day Numeric Statute Report, ERCS 895 Report/LB&I SSIVL, or AIMS Table 4.0 Responsibilities in Case Closing Functions
- (1) The statute examiner or a designated manager is responsible for generating the required case closing function's statute monitoring report as described in IRM 25.6.23.6.5, 120 Day Numeric Statute Report, ERCS 895 Report/LB&I SSIVL, or AIMS Table 4.0 Use in Case Closing Functions.
 - (2) Additional responsibilities of the statute examiner and managers are explained in IRM 25.6.23.6.5.2, Verifying 120 Day Numeric Statute Report, ERCS 895 Report/LB&I SSIVL, or AIMS Table 4.0 Data With the Statute Control File in Case Closing Functions, and IRM 25.6.23.6.6, Search for Missing Returns in Case Closing Functions.
- 25.6.23.6.5.2
(03-20-2018)
Verifying 120 Day Numeric Statute Report, ERCS 895 Report/LB&I SSIVL, or AIMS Table 4.0 Data With the Statute Control File in Case Closing Functions
- (1) Each month a designated person (the statute examiner or manager) reviews and reconciles their function's designated statute monitoring report data with the AIMS/ERCS statute control data or with statute control records for all returns with statute expiration dates within the next 120 days.
Note: An electronic signature and/or annotations on a PDF copy of the statute monitoring report is permissible. If signing electronically, the signature or initials line must reflect the full name of the person signing the document and date signed.
 - (2) The designated person will do the following:
 - a. Identify all returns with statutory periods of limitation expiring within 120 days. First verify data for returns with statute dates within 30 days; then verify remaining returns in priority order (60 days, then 90, then 120 days, etc.).
 - b. Locate all returns appearing on a function's statute monitoring report for the first time. Returns showing on the statute monitoring report as repeats do not have to be physically located if previous tables show the return was located and the statute date has not changed. Place an "R" in front of the taxpayer name to indicate that the return has been located.
 - c. Compare taxpayer name data on the statute monitoring report with the same data on the electronic statute controls, AIMS/ERCS statute controls or on Form 895, Notice of Statute Expiration, Item 1.
 - d. Compare the statute date on the statute monitoring report with the date on the electronic statute controls, AIMS/ERCS statute controls or on

Form 895, Item 5, as well as contents of case file such as consent form, Form 3198, Special Handling Notice for Examination Case Processing, etc.

- e. Reconcile any differences between the statute monitoring report, electronic statute controls, AIMS/ERCS, Form 895 or contents of case file.
- f. Note any explanations, including resolution actions, on the statute monitoring report.
- g. If necessary, update the AIMS/ERCS databases to show the correct statute expiration date information.
- h. If the statute will expire within 60 days or less and the AIMS/ERCS record shows the case is open, and it is not a no-change determination, request a quick assessment. See IRM 4.4.25, Quick Assessments.
- i. If the AIMS/ERCS record, electronic statute controls or Form 895 statute controls shows the case is closed, verify closure through: AMDISA on AIMS (Status 90), a transcript of the tax module showing Examination case closure (posting of Transaction Code 300 or 301) and/or information noted on the statute control file document(s).

Note: Annotate statute monitoring report showing the date the return was closed and the method (terminal, quick assessment, etc.). If not previously done, update the AIMS/ERCS databases.

- j. If a statute extension was received, annotate the form number and the new statute expiration date on the statute monitoring report. If not previously done, update AIMS/ERCS with the extended date.
- k. If a case appears on the statute monitoring report and a corresponding statute control record is not located, research AIMS/ERCS for the most recent data to locate the return. If there is no information on AIMS/ERCS, perform additional research. See IRM 25.6.23.6.6, Search for Missing Returns in Case Closing Functions.
- l. If the information on the statute monitoring report is consistent with data in AIMS/ERCS and the statute control record, place a check mark next to statute date, or in the comments section of the statute monitoring report.
- m. If the case has been closed, place a "C" next to the taxpayer name, or in the comments section of the statute monitoring report, and indicate the date and method of closure.
- n. If a case cannot be located in the case closing function, indicate "no record" or "NR" on the statute monitoring report and search for the missing return. See IRM 25.6.23.6.6, Search for Missing Returns in Case Closing Functions.
- o. For case closing functions **other than** CCP, if a return listed on the statute monitoring report was ordered but not received, place an "O" in front of the taxpayer name. If the return was requested two months or more prior to the date of the listing, make a follow-up request for the return. Enter the date of the follow-up on the report. For **CCP**, an **O** is used to signify cases open in CCP inventory and require no date or other notation.
- p. If a case on the listing has been transferred, place a "T" next to the taxpayer name and indicate the date of transfer and where it was transferred.
- q. After statute monitoring report information has been verified against the statute control records, and the statute monitoring report shows cases that have been closed, transferred or erroneously charged to the case closing function, the manager or supervisor with overall responsibility for the statute monitoring report determines where the case is located. If the case is still open in the area office or campus, notify the manager with physical

possession of the case of the early statute expiration date. The manager with physical possession of the case, outside the case closing function, reviews the case file and takes necessary action to protect the statute and update the AIMS and ERCS databases.

- r. After reconciling all items on the statute monitoring report and making appropriate notations, the manager or supervisor responsible for the statute control file signs and dates the statute monitoring report.
- s. As per Document 12990, Records Control Schedule, Section 23, Tax Administration-Examination (Item No. 75), reports may be destroyed after 5 years plus current year, or after no further reference value, whichever is earlier; however, AIMS tables 4.1/4.0 **must** be retained for a minimum of three years by the responsible manager.

25.6.23.6.6
(03-20-2018)

**Search for Missing
Returns in Case Closing
Functions**

- (1) If a return on the statute monitoring report cannot be located in the case closing function, perform additional research.
- (2) Steps for conducting a missing return search are as follows:
 - a. Perform IDRS research.
 - b. Check for related returns.
 - c. Contact the Exam group, and/or
 - d. Request the return from files.
 - e. The missing return may have been erroneously attached to a related return.
 - f. If research indicates a related return has been examined and closed within the past nine months, requisition the return from files to see if the missing return is attached.
 - g. If the missing return is not located after additional research, provide the AIMS/ERCS analyst with the research information and request assistance in locating the return. If the return still cannot be located, gather enough information to make a protective manual assessment. See IRM 4.4.25, Quick Assessments.
 - h. When a protective assessment is made, input an AIMS freeze code (Freeze Code "1") using command code AMFRZ to prevent case closure. This will allow an examiner to abate any duplicate or erroneous assessment.
 - i. At local option, a copy of the completed statute monitoring report may be provided to the AIMS/ERCS analyst, whether or not there are missing returns.

25.6.23.7
(03-23-2015)

**Cases with Imminent
ASEDs**

- (1) Cases with imminent statute of limitations require special handling and it is imperative that examiners and managers allow adequate time for case closing procedures; including, for the necessary case review, case processing and closure.

25.6.23.7.1
(02-17-2021)

**Minimum Time
Remaining on ASED**

- (1) When submitting a case to Centralized Case Processing (CCP) or Technical Services, as applicable, certain minimum amounts of time must remain on the ASED to allow the case to be processed in the normal course of business. The minimum time remaining on the ASED at the time the case is received by CCP or Technical Services is as follows, by case type:

- Agreed/No-Change cases must have at least 4 months (120 days) remaining.
Reminder: Quick assessment procedures found in IRM 4.4.25.4, Statute of Limitations Less Than 60 Days (Special Processing), Area Office Group and CCP Procedures, do not apply to no-change cases.
- Unagreed (Non TEFRA) cases for issuance of statutory notice of deficiency must have at least 6 months (180 days) remaining at the time the case is received in Technical Services for issuance of the statutory notice of deficiency.
- Unagreed (Non TEFRA) cases going to Appeals, except estate tax cases or IRC 6206, Special Rules Applicable to Excessive Claims Under Certain Sections, excessive claims cases, must have at least 395 days remaining on the ASED at the time the case is initially received in Technical Services. This allows the case to be transferred with the requisite 12 months (365 days) remaining on the ASED for acceptance by Appeals. Estate tax cases or IRC 6206 excessive claims cases must have at least 300 days remaining when received by Technical Services to allow for the requisite 9 months (270 days) remaining when they are received in Appeals.
Reminder: These minimum times also apply to multi-year cases with at least one unagreed year.
- Agreed/No-Change TEFRA key entity cases must have at least 12 months (365 days) remaining.
- Unagreed TEFRA key entity cases must have at least 20 months (600 days) remaining at the time the case is received in Technical Services. IRM 4.31.2.3.13, Unagreed Key Case.
- BBA minimum timeframes to dispose of the case are unique to BBA. See Interim Guidance Memorandums LB&I-04-1019-010 (expiring 10/31/2021), and LB&I-04-0320-0005 (expiring 04/01/2022), and Form 15271, Bipartisan Budget Act (BBA) Partnership Adjustment Statute Extension Check Sheet, for more information. After the expiration dates of the interim guidance memorandums, consult IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures. and Form 15271, for more information.
- If Appeals returns a case to Examination for consideration of new information or new issues raised by the taxpayer, the case must have at least 7 months (210 days) remaining on the ASED when the case is received in Examination.
- For cases where Appeals previously released jurisdiction and returned the case to Examination for additional work, there must be at least 6 months (180 days) remaining on the ASED when the case is received back in Appeals.

Note: For unagreed case packages where the TEFRA key entity is controlled using Alpha Code AC, there must be a minimum of 32 months remaining on the ASED for all open partner IRC 6501, Limitation on Assessment and Collection, statutes, and all partner statute dates must be extended to the same date. Examiners must closely coordinate all case actions with their local Technical Services Pass-Through Coordinator under these circumstances.

25.6.23.7.2
(03-20-2018)
**Cases With Less Than
90 Days to ASED
Expiration**

- (1) In addition to the other procedures (red folder, statute control record, Form 3198, Special Handling Notice for Examination Case Processing) for flagging imminent assessment statute cases, when a deficiency or no-change case includes a tax period that has less than 90 days remaining on the assessment statute of limitations at the time of closing from the group, the following actions are required:
 - a. The case will be discussed by the manager in control of the case with their immediate manager and the case activity record will be documented to note the discussion with the immediate manager has taken place concerning the circumstances surrounding the imminent statute.
 - b. The manager in possession of the imminent assessment statute case will contact the appropriate manager in either Centralized Case Processing or Technical Services, depending on which organizational component will be receiving the case, to advise of the imminent statute case requiring special handling and whether or not the case requires Area Counsel review of any proposed statutory notice of deficiency (SNOD) as required by IRM 4.8.9.9.2.1, Mandatory Area Counsel Review. If Area Counsel review is required, a special handling notice should be attached to the case file and annotated with the remark: "Area Counsel Review of Proposed SNOD Required."
 - c. The case file is to be delivered to Centralized Case Processing or Technical Services, as applicable, by the most practical method (either hand delivery or by overnight mail/delivery service) and the manager is to follow-up with the receiving unit's manager to ensure receipt of the case.
 - d. If the imminent statute case requires issuance of a SNOD (or FPAA) then the case examiner will be made available for preparation of the notice, depending upon the needs of the Technical Services staff.

25.6.23.7.3
(03-23-2015)
**TEFRA Cases With Less
Than 240 Days to ASED
Expiration**

- (1) For TEFRA cases, the steps enumerated in IRM 25.6.23.7.2, Cases With Less Than 90 Days to ASED, are to be followed, except that for TEFRA pass-through entity cases, a case is considered to meet the requirements for the imminent statute case processing procedures of IRM 25.6.23.7.2, Cases With Less Than 90 Days to ASED, if the TEFRA entity has less than 240 days remaining on the statute of limitations.

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Exhibit 25.6.23-1 (03-23-2015)

Form 895, Notice of Statute Expiration Instructions

This exhibit provides instruction for preparation of the manually prepared version of Form 895, Notice of Statute Expiration. Exhibit 25.6.23-2, ERCS Form 895 Instructions, provides instruction for preparation of the ERCS version of Form 895.

Item Number	Description
#1. (a)	Name and Address of Taxpayer -An AIMS address label may be used.
#1. (b)	Taxpayer Identification -Enter SSN or EIN if not on a label used in 1. (a). Return Form Number. For example, enter as "1040" or "1120." Taxable Year or Period. For example, enter as "201312" or "201309." Enter only one tax year on Form 895. Up to four quarterly Form 941, Employer's Quarterly Tax Return, tax periods for the same calendar year may be on one Form 895. For example, enter as "201303, 201306, 201309, 201312."
#1. (c)	Employee Charged with Return -Enter the name of the examiner to whom the return is assigned as of the date Form 895 is initiated. The examiner to whom the return is assigned will sign and date this item upon verifying or completing Items 1 through 7.
#2.	Notification Date -Enter the date Form 895 is initially issued to the assigned employee.
#3.	AIMS Assignee Code -Enter the number of the group where the return is assigned as of the date Form 895 is initiated.
#4.	Date Return Filed or Due (whichever is later) -Enter the filing date, but not earlier than the return due date. Information on determining a return due date is contained in IRM 25.6.1.6.4, Statute of Limitations Chart for Tax Returns, and information as to when a return is filed is at IRM 25.6.1.6.15, When a Document Is Treated as Filed Under the IRC.
#5.	Statute Expiration Date -Enter the correct ASED based on the date the tax return was filed. The employee charged with the return and the responsible manager initial and date next to the expiration date. Any update to the statute expiration date, including alpha code designations, must be entered in Item 5 with the employee and manager initials and date. The Form 895 does not serve as the approved input document for updating the statute on AIMS. Instructions for updating the statute date on AIMS, and alpha code instructions are in Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS. If a tax return has more than one statute expiration date, enter the earliest date in Item 5 and describe other expiration dates in Item 7.
#6.	Appropriate Blank to be Checked by Individual Charged with Return -Check the applicable blank.
#7	Remarks -State information pertinent to the statute determination which is not evident elsewhere on Form 895.

Exhibit 25.6.23-2 (03-23-2015)**ERCS Form 895, Notice of Statute Expiration Instructions**

This exhibit provides instruction for the ERCS version of Form 895, Notice of Statute Expiration. Exhibit 25.6.23-1, Form 895 Instructions, provides instruction for preparation of the manually prepared version of Form 895.

Reminder: Electronic signatures are permitted on PDF file copies of Form 895. An electronic signature must reflect the full name of the person signing the document and date signed. An electronic signature may also be used instead of initials.

Item Number	Description
#1. (a)-completed by ERCS	Name and Address of Taxpayer.
#1. (b)-completed by ERCS	Taxpayer Identification- <ul style="list-style-type: none"> TIN: SSN or EIN of the taxpayer. MFT: Master File Tax code. Tax Period: For example, "201312" or "201309." Form Number: For example, "1040" or "1120".
#1. (c)-completed by ERCS	Employee Charged with Return- On the signature line the examiner to whom the return is assigned signs and dates this item upon verifying or completing Items 1 through 7.
#2.- completed by ERCS	Notification Date.
#3.- completed by ERCS	AIMS Assignee Number
#4.	Date Return Filed or Due (whichever is later)- Enter the filing date, but not earlier than the return due date. Information for determining a return due date is contained in IRM 25.6.1.6.4, Statute of Limitations Chart for Tax Returns, and information as to when a return is filed is at IRM 25.6.1.6.15, When a Document Is Treated as Filed Under the IRC.
#5.	Statute Expiration Date- Enter the correct assessment statute expiration date, based on the date the tax return was filed. ERCS will initially generate the statute expiration date that is on AIMS. The employee charged with the return and the responsible manager place their initials and date next to the expiration date. Any update to the statute expiration date, including alpha code designations, must be entered in Item 5 with employee and manager initials and dates. The Form 895 does not serve as the approved input document for updating the statute on AIMS. Instructions for updating the statute date on AIMS, and alpha code instructions are in Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS. If a tax return has more than one statute expiration date, enter the earliest date in Item 5 and describe other expiration dates in Item 7.
#6.	Appropriate Blank to be Checked by Individual Charged with Return- Check the applicable blank.
#7.	Remarks- State information pertinent to the statute determination which is not evident elsewhere on Form 895.

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Exhibit 25.6.23-3 (02-17-2021)

Instructions for Updating the Statute on AIMS

(1) Form 5348, AIMS/ERCS Update (Examination Update), is used to update statute of limitation information on AIMS. Form 5348 is also used to request statute updates on Examination Returns Control System (ERCS). Statute updates on ERCS will automatically update the same data on AIMS. See IRM 4.4.34, Updating/Correcting AIMS Data Base, and IRM 4.7.3, Statute of Limitations.

(2) An extended or corrected statute expiration date is entered in this format: MMDDYYYY. For example: 04152015.

Exception: For BBA tax returns, see Interim Guidance Memorandums LB&I-04-1019-010 and LB&I-04-0320-0005. and Form 15271, Bipartisan Budget Act (BBA) Partnership Adjustment Statute Extension Check Sheet, for more information. After the expiration dates of the interim guidance memorandums, consult IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures and Form 15271, for more information.

Once a statute update has been input on AIMS and the statute expiration date is more than 180 days from the date AIMS Table 4.0 or 4.1 is generated, the return will no longer appear on the table.

Reminder: Once a statute is updated and a return no longer carries a statute of 180 days or less, it is no longer necessary to maintain the case file within a red folder. The red folder should be removed from the case until the updated statute again falls to within 180 days of expiration.

(3) When an open-ended consent has been secured, for example, Form 872-A, Special Consent to Extend the Time to Assess Tax, enter "872-A" in the ASED field.

This entry does not remove the return from AIMS Table 4.0 or 4.1. The "872-A" designation will appear on the table indicating an open-ended consent has been secured.

(4) Where a restricted consent to extend the statute is accepted, ensure that all deficiencies other than those covered by the extension are assessed (partial assessment) before the statute is updated, on AIMS and on ERCS, to the extended expiration date. Statute consent code "R" must be input to AIMS if a restricted consent agreement is entered into with the taxpayer. For guidelines on restricted consents, see IRM 25.6.22.8, Restricted Consents.

Updating ASED Upon Issuance by Area Office of a Statutory Notice of Deficiency or Notice of Final Partnership Administrative Adjustments (FPAA): When a statutory notice of deficiency is issued, the Technical Service's issuing office will update the ASED on returns with a calendar date ASED to include the minimum number of days the period for assessment is suspended from running (90 or 150 days if the notice is addressed to a person outside the United States, plus 60 days for a total of 150 or 210 days). This is done in order to reflect the best information available with respect to the statute of limitations at the time the notice of deficiency is issued. Should the updated ASED change, for example, as a result of an agreement by the taxpayer to the deficiency, then the ASED would be updated again to reflect the new information. When an FPAA is issued, the Technical Service's issuing office will update the ASED of the TEFRA entity to include the minimum number of days the tax matters partner (TMP) or other partners have to petition the Tax Court, District Court or Claims Court (90 days for TMP, plus 60 days for other partners after the initial 90 days, for a total of 150 days as per IRC 6226, Judicial Review of Final Partnership Administrative Adjustments), plus one year as per IRC 6229, Period of Limitations for Making Assessments, to reflect the best information available with respect to the statute of limitations at the time the FPAA is issued.

Alpha Codes: A two-digit alphabetic code designating a special statute situation may be entered in the day (DD) position of the statute date on AIMS and ERCS. For example, if Alpha Code FF is entered for a reference return and the actual statute expiration date is 04/15/2014, the statute date will be entered on AIMS as 04/FF/2014. An alpha code on the AIMS statute database does not remove the return from AIMS Table 4.0 or 4.1. It

Exhibit 25.6.23-3 (Cont. 1) (02-17-2021)**Instructions for Updating the Statute on AIMS**

creates a message indicating that special conditions exist which affect the statute expiration date. Also, it should be noted the ASER is updated on AIMS as the result of entering an alpha code, but the ASER is not updated at Master File.

Caution: The employee(s) charged with the tax return must update the alpha statute when the criteria that was relied upon is no longer met.

Exhibit 25.6.23-3 (Cont. 2) (02-17-2021)
Instructions for Updating the Statute on AIMS

Alpha Codes

Alpha Code	Description
AA	Claim for Refund/Credit/Abatement Issue
AB	Assessment Statute of Limitations Waived by Properly Executed Closing Agreement
AC	TEFRA-Entity Statute Protected at the Partner Level
AD	Employment Tax Return Examination Limited to IRC 3121(q), Tips Included for Both Employee and Employer Taxes
AE	IRC 6235(a)(1) date is allowed to expire
AF	BBA Partner subject to Chapter 2/2A adjustments and the partner's statute is protected by IRC 6501(c)(12), Certain Taxes Attributable To Partnership Adjustments
BB	Loss Carryback-IRC 6501(h), Net Operating Loss or Capital Loss Carrybacks
CC	Joint Investigation
DD	Credit Carryback-IRC 6501(j), Certain Credit Carrybacks
EE	No Return Filed-IRC 6501(c)(3), No Return
FF	Reference Return
GG	Investor Level Statute Control (ILSC) Pass-through
HH	TEFRA Partner
II	Form 1040, Other Taxes
JJ	Non-Taxable Fiduciary or Certain Deceased Spousal Unused Exclusion (DSUE) Returns
KK	Bankruptcy Suspension-IRC 6503(h), Cases Under Title 11 of the United States Code
LL	Third-Party Summons Suspension-IRC 7609(e), Suspension of Statute of Limitation
MM	Activity Not Engaged in for Profit-IRC 183(e)(4), Time for Assessing Deficiency Attributable to Activity
NN	IRC 6501(e), Substantial Omission of Items
OO	IRC 6501(c)(1), False Return, Taxpayer not under joint investigation
PP	Non-taxable TE/GE Return
QQ	Docketed Case
RR	Various Other IRCs that Override IRC 6501(a), Limitations on Assessment and Collection - General Rule

Exhibit 25.6.23-3 (Cont. 3) (02-17-2021)**Instructions for Updating the Statute on AIMS**

Alpha Code	Description
SS	Financial Disability–IRC 6511(h), Running of Periods of Limitation Suspended While Taxpayer is Unable to Manage Financial Affairs Due to Disability
TT	Mitigation–IRC 1314(b), Amount and Method of Adjustment
UU	IRC 6501(c)(8), Failure to Notify Secretary of Certain Foreign Transfers
VV	IRC 6501(c)(9), Gift Tax on Certain Gifts Not Shown on Return
WW	Failure to Provide Information with Respect to “Listed” Transactions–IRC 6501(c)(10), Listed Transactions
XX	Return Preparer, Promoter and Aiding/Abetting Penalties (Only Used for ERCS Controls, not an AIMS Entry)
YY	Participation in Abusive Offshore Arrangements
ZZ	AIMS Database Transfer–Temporary ASSED Alpha Code (Not to be Used/Input Unless Receiving/Gaining Unit Approves)

Caution: Assessment statutes have expired and the ability to assess a tax liability has been lost through improper use of alpha codes. It is important that persons making alpha code determinations understand how the tax law impacting the periods of limitation applies in each particular situation.

Caution: Generally, alpha coding the ASSED should only be considered after attempting to extend the assessment statute or where there is not sufficient time to attempt to protect the assessment statute when the return is received in the examining group (generally, less than 30 calendar days prior to the return’s ASSED).

There can be more than one special statute condition for a given tax period. In such cases, the statute controls should reflect the normal statute expiration date until it is determined with certainty which special assessment statute condition be relied upon to alpha code the AIMS ASSED.

As a general rule, the alpha code should not be entered on AIMS and on statute control records prior to 180 days before expiration of the normal statutory period for assessment and the individual ASSED alpha code descriptions below should be read in the context of this general rule.

Exception: The exception to this general rule is Alpha Code EE may be entered on AIMS in non-filer situations at the time the AIMS record for the non-filed tax period is established. Also, Alpha Code ZZ may be input prior to 180 days before expiration of the normal statutory period for assessment to enable transfer of the return.

Most alpha codes apply only when specific requirements of the law are met. The alpha code should be used only when it is clear that all essential elements of the applicable law are present.

For protection of the persons making and approving the ASSED alpha code determination, in cases where the normal statutory period for assessment is still open, a statement in the “remarks” section of Form 895 or other statute control report or system as utilized by function is required. The signatures or initials of both the employee charged with the return and the manager next to the statement give added assurance that all aspects of the alpha code condition have been carefully considered. Electronic signatures are permitted on the statute control records if the form is in PDF. If signing electronically, the signature must reflect the full name of the person signing the document (not just the SEID or other identifier) and the date signed. An electronic signature may also be used instead of initials, providing the full name and date are reflected.

Exhibit 25.6.23-3 (Cont. 4) (02-17-2021)**Instructions for Updating the Statute on AIMS**

The procedures immediately below are to be followed in those instances when the examiner and manager have made a decision to allow the normal assessment statute to expire in reliance on the extended assessment statute provisions of IRC 6501(c)(1), False Return; IRC 6501(c)(8), Failure to Notify Secretary of Certain Foreign Transfers; IRC 6501(c)(9), Gift Tax on Certain Gifts not Shown on Return; IRC 6501(c)(10), Listed Transactions; IRC 6501(e), Substantial Omission of Items; IRC 7609(e), Suspension of Statute of Limitations. Also, see Alpha Codes AC, OO and YY, below for the requirement to document the case file and secure Territory Manager (for Alpha Code YY and in some circumstances OO), or Area Director (AD)/Director, Field Operations (DFO) (for Alpha Code AC) concurrence if any of these alpha codes are entered on AIMS/ERCS.

Note: These procedures do not apply to tax periods which have been referred to the Criminal Investigation for consideration of a joint investigation either before or after the expiration of the normal assessment statute of limitations. For assessment statute management guidance on cases referred for joint investigation, see IRM 25.1.4.3.8, Statute Protection.

1. Timely and properly make a request to the taxpayer to extend the normal assessment statute of limitations and document the file accordingly with the request and the taxpayer's response (or lack of response).
2. Prior to expiration of the normal assessment statute, document the manager's decision to allow the normal assessment statute to expire in reliance on an extended assessment statute specified above. Documentation is accomplished by the manager preparing a memorandum to file that has been concurred with, in writing, by the Territory Manager that fully sets forth the rationale and calculations to support the conclusion to allow the normal assessment statute to expire. The requirement to seek concurrence from the Territory Manager applies only to the special assessment statute conditions associated with the IRC subsections specified above or the Alpha Code "YY" and occasionally Alpha Code "OO".

Note: If using Alpha Code AC, written approval from the AD/DFO is required prior to updating the statute or proceeding with the examination.

3. Prior to the expiration of the normal assessment statute, update the AIMS database by means of the appropriate code:
 - Alpha Code "AC" for TEFRA-entity statute protected at the partner level,
 - Alpha Code "LL" for third-party summons suspension,
 - Alpha Code "NN" for substantial omission of items,
 - Alpha Code "OO" for false/fraudulent return,
 - Alpha Code "UU" for failure to notify of foreign transfers,
 - Alpha Code "VV" for inadequately disclosed gifts,
 - Alpha Code "WW" for failure to disclose "listed transactions," and
 - Alpha Code "YY" for participation in abusive offshore arrangements.

AA - Claim for Refund/Credit/Abatement Issue

Alpha Code AA can be used to designate a claim for refund/credit/abatement that was timely filed by the taxpayer if **all** of the following conditions are met:

- A decision has been made that there are no other issues on the return which warrant an assessment,
- 180 days or less remain in the statute of limitations for assessment, and
- The claimed refund/abatement has **not** been made.

Note: If the claimed refund/abatement has been made, refer to alpha codes BB or DD for potential application.

Exhibit 25.6.23-3 (Cont. 5) (02-17-2021)**Instructions for Updating the Statute on AIMS**

If unpaid, the refund statute is held open for refund or credit up to the amount of the claim subject to the limitation on the amount provided by the lookback rules of IRC 6511(b), Limitations on Credit or Refund.

Example: For a refund claim filed **within** the three-year period from the time the return was filed, the amount is limited to the tax paid during the three-years immediately preceding the filing of the claim, plus the period of any extension of time for filing the return.

Example: For a refund claim **not filed within** the three-year period from the time the return was filed, the amount is generally limited to the tax paid during the two-years immediately preceding the filing of the claim. See IRM 25.6.1.10.2.7, Claims for Credit or Refund - General Time Period for Submitting a Claim.

Caution: Alpha Code AA should **NOT** be used if there are issues which could result in assessment of additional tax or penalties. The statute for assessment is not held open by the timely filing of a claim for refund/credit/abatement.

If the statute for assessment is open when a claim is received for examination, the actual statute expiration date, not the AA, should be entered initially on the statute control records. The statute controls should be updated to AA only after the examiner is certain there is no likelihood of a tax or penalty assessment, and only after the examiner ascertains that the refund or abatement amount has not already been made. An appropriate statement on the statute control record would be: "The return was inspected and there are no material issues other than those on the claim and the claimed refund (or abatement) has not been made."

Note: Even though the assessment statute has expired, other adjustments can be made to partially or fully offset an otherwise allowable claim for refund or abatement if the refund or abatement has not been made to the taxpayer. If the refund or abatement has been made to the taxpayer, no offsets can be made after the expiration of the assessment statute of limitations. See IRM 21.4.5, Erroneous Refunds, for additional information on other possible remedies.

Alpha Code AA may be used for formal claims, informal claims, and for taxpayer requests for abatement of unpaid tax (AIMS source code 73 – Taxpayer Request, also known as audit reconsiderations) when the taxpayer has filed a return. Alpha Code AA may be used for Offer in Compromise - Doubt as to Liability (OIC-DATL) cases for which the assessment statute has expired prior to the taxpayer's filing of the Form 656-L, Offer in Compromise (Doubt as to Liability), and the Tax Increase Prevention and Reconciliation Act (TIPRA) statute is no longer applicable. See IRM 25.6.23.5.7.2.1, for more guidance on the TIPRA statute procedures.

Note: If a statutory notice of deficiency (SNOD) was issued for an audit reconsideration year and a 150-day tack-on period was previously added to the ASED, the statute prior to the tack-on period should be used when determining if the ASED is open and when updating to Alpha Code AA.

Example: If the ASED was 04/15/20XX when the SNOD was issued, the tack-on period under IRC 6503(a), Suspension of Running of Period of Limitation, adds 150 days for assessment, making the statute after the notice 09/12/20XX. If the taxpayer filed a claim, audit reconsideration, or request for abatement, the correct statute for a subsequent assessment is 04/15/20XX, or if that date has already passed, use 04/AA/20XX.

If the taxpayer has not filed a return and requests abatement of an assessment made by means of a substitute for return under IRC 6020(b), Returns Prepared For or Executed by Secretary, the ASED, if alpha coded, should be Alpha Code EE. Also, see Alpha Code SS – Financial Disability, for claims filed after the normal statute of limitations which are based on a claim of financial disability, as defined in IRC 6511(h)(2), Financially Disabled.

Alpha Code AA may also be used for preparer penalty cases under IRC 6694(a), Understatement of Taxpayer's Liability by Tax Return Preparer, or IRC 6695, Other Assessable Penalties with Respect to the Preparation of Tax Returns for Other Persons, where:

Exhibit 25.6.23-3 (Cont. 6) (02-17-2021) Instructions for Updating the Statute on AIMS

- The normal three-year ASSED has expired,
- The preparer has paid the penalty, and
- A claim for refund of the penalty has been filed.

Note: If the taxpayer has not timely filed a claim for refund, overassessments are not to be made after the Refund Statute Expiration Date (RSED). While a Form 870, Waiver of Restrictions on Assessment & Collection of Deficiency in Tax & Acceptance of Overassessment, reflecting an overassessment can constitute the required claim for refund, the signed Form 870 **must** be filed with the IRS (IRC 7502, Timely Mailing Treated as Timely Filing and Paying) on or before the RSED. See Rev. Rul. 68-65, 1968-1 C.B. 555. Generally, if the taxpayer files a claim for credit or refund, a refund statute control date (RFSCDT) is set at Master File (MF). If no claim has been filed, but the signed Form 870 reflecting an overassessment is used as the claim for refund, then caution must be exercised as no RFSCDT will be on Master File to block refunds which are outside the refund statute of limitations. See IRM 4.10.8.10.7, Inviting Claims in Overassessment Cases.

AB - Assessment Statute of Limitations Waived by Properly Executed Closing Agreement

Alpha Code AB designates that the statutory limitation pertaining to the period of time for assessment of tax for the taxable period has been waived by a closing agreement that has been properly executed by both the taxpayer and a delegated IRS official. The month (MM) and year (YYYY) entries accompanying the Alpha Code AB are the month and year the statute expired, absent the properly executed closing agreement waiving the assessment statute of limitations.

AC - TEFRA-Entity Statute Protected at the Partner Level

Generally, the TEFRA IRC 6229, Period of Limitations for Making Assessments, statute is secured at the partnership level with a Form 872-P, Consent to Extend the Time to Assess Tax Attributable to Partnership Items, (preferred method) or Form 872-O, Special Consent to Extend the Time to Assess Tax Attributable to Partnership Items. However, there are some occasions where it is not possible to secure an extension at the partnership (key case) level. When this happens, it is necessary to protect the IRC 6501, Limitations on Assessment and Collection, statute at the partner level before the TEFRA partnership IRC 6229 statute expires.

TEFRA proceedings should be finalized prior to the expiration of the key case statute whenever possible. It is recommended that a Final Partnership Administrative Adjustment (FPAA) be issued, if necessary, to avoid the need to control partner level IRC 6501 statutes. It may be necessary to quickly issue a Notice of Beginning of Administrative Proceeding (NBAP), FPAA, and untimely notice letter in some cases.

If a determination is reached that the issuance of an FPAA or a statute extension at the TEFRA partnership level is not an option, the period of limitations must be protected by securing a Form 872, Consent to Extend the Time to Assess Tax, from each partner with an open IRC 6501 statute being controlled and adjusted. The Form 872 does not extend the IRC 6229 minimum period, it only extends the partner's 6501 period. See IRM 25.6.22, Extension of Assessment Statute of Limitations by Consent.

When a determination has been made not to protect the IRC 6229 statute or the IRC 6229 statute has expired and one or more of the direct/indirect partners' IRC 6501 statute is open, the key case statute, upon approval, will be updated to Alpha Code AC. See IRM 4.31.2, TEFRA Examinations - Field Office Procedures.

Caution: Alpha Code AC cannot be used until there are 180 days or fewer on the IRC 6229 statute.

Exhibit 25.6.23-3 (Cont. 7) (02-17-2021)**Instructions for Updating the Statute on AIMS**

If an Alpha Code AC is used at the key case level, the pass-through tier statute should be updated to Alpha Code AC when the regular statute date is within 180 days of expiration or has expired, unless the tier itself is under examination. All direct or indirect partners being adjusted with open IRC 6501 statutes should have a calendar date statute.

Note: The Alpha Code AC should not be routinely used. The use of Alpha Code AC requires Area Director (AD) or Director, Field Operations (DFO) concurrence prior to opening or proceeding with an examination where the IRC 6229 statute has expired or will expire within 180 days. Approval is secured using the Approval Memo Template found on the Partnership Knowledge Base: *Alpha Code AC-Approval Memo Template*.

Following approval, the key case IRC 6229 statute for the month (MM) and year (YYYY) segments will retain the normal three-year, or extended, statute date. Only the day (DD) segment of the statute date will be updated to Alpha Code AC. For example, if the regular three-year expiration date is 03/15/2014 the updated statute would show as 03/AC/2014.

If a determination is made to continue or initiate an examination with a short or expired key case statute the IRS will need to rely on the direct/indirect IRC 6501 partner statute. For example, to address a partner's net operating loss carryforward created by the key case partnership, the partnership and partner's expired tax years will need to be controlled on AIMS to make the affected item carryover adjustment. In this situation, the Alpha Code AC would be used for the key case, any intervening tiers and the partner's expired statutes. There must be an open IRC 6501 statute on the partner carryforward year being adjusted.

For the partner's expired statute, the Alpha Code AC is entered in the day (DD) position. The month (MM) and year (YYYY) positions designate the statute date of the open year (carryforward) where the adjustments will be made.

If the partner's statute of the open year (carryforward) is extended prior to issuance of a FPAA to the partnership or the IRS does not have a countersigned partner agreement, the Alpha Code AC statute month (MM) and year (YYYY) must be updated to reflect the date of the extended statute. Once the FPAA has been issued or the IRS has a countersigned agreement from the partner the alpha statute can be updated to Alpha Code HH.

Example: A 2012 key case partnership return generated losses claimed by its 2 partners; Partner A, a 20 percent partner, and Partner B, an 80 percent partner. In 2018 the examiner noted that the statute for the 2012 partnership and partner returns expired in 2016. A large loss claimed by Partner B on the 2012 return, however, created a NOL carryforward to the 2016 tax year. Partner B's 2016 return has an open statute of 04/15/2020. A review of the 2012 partnership return by the examiner determined the items creating the partner's loss should be disallowed. The partner's NOL was solely attributable to the partnership's 2012 return. Since this is a partnership item the use of the Alpha Code AC statute was considered and approved. The 2012 partnership return, and Partner B's 2012 and 2016 returns are controlled by the group and Alpha Code AC statute procedures were followed. IRM 4.31.2, TEFRA Examinations - Field Office Procedures. Partner Bs 2012 statute is updated to 04/AC/2020 and the statute for 2016 remains 04/15/2020. A statute extension for 2016 is subsequently secured extending the statute to 06/30/2021. Since no partnership FPAA has been issued and there is no countersigned agreement for Partner B, Partner Bs 2012 tax year statute is updated to 06/AC/2021. Note: Partner Bs intervening years, 2013 - 2015, are not controlled because the NOL being adjusted was not used in these years.

If 100 percent of the partner statutes are not protected with respect to adjustments passing from the TEFRA entity, an explanation as to why certain partners' statutes were allowed to expire must be included on the Alpha Code AC Approval Memo. This memo must be attached to the key case partnership Form 895, Notice of Statute Expiration. For example, the memo would explain why the statute for Partner A referenced above was not protected.

Exhibit 25.6.23-3 (Cont. 8) (02-17-2021)**Instructions for Updating the Statute on AIMS****AD - Employment Tax Return Examination Limited to IRC 3121(q)**

Alpha Code AD indicates that the examination is limited to IRC 3121(q), Tips Included for Both Employee and Employer Taxes. Employment taxes for tip income not reported to the employer is the only issue. See IRM 4.23.7.8, Statute of Limitations for Tip Examinations, for additional information.

AE - IRC 6235(a), Period Of Limitations On Making Adjustments [Effective for returns filed for partnership taxable years beginning after December 31, 2017]

The IRC 6235(a)(1) date is the IRS' deadline for issuing a Notice of Proposed Partnership Adjustment (PPA/NOPPA). The IRC 6235(a)(1) date is generally extended by the Field exam group to allow timely issuance of the PPA/NOPPA by Technical Services or Appeals. Technical Services or Appeals may also solicit an extension under IRC 6235(b), or solicit an extension of the IRC 6235(a)(1) date. Issuance of the PPA/NOPPA triggers other dates under IRC 6235(a) that must be considered when determining the deadline for issuing a Notice of Final Partnership Adjustment (FPA). If one of these other dates is later than the IRC 6235(a)(1) date, the IRS may rely on the latest date, and make a managerial decision to allow IRC 6235(a)(1) to expire and update the statute date field to "AE". Generally, this will happen after the case is no longer in the Field Exam group. See Interim Guidance Memorandums LB&I-04-1019-010 (expiring 10/31/2021) and LB&I-04-0320-0005 (expiring 04/01/2022) and Form 15271, Bipartisan Budget Act (BBA) Partnership Adjustment Statute Extension Check Sheet, for more information. After the expiration dates of the interim guidance memorandums, consult IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures, and Form 15271, Bipartisan Budget Act (BBA) Partnership Adjustment Statute Extension Check Sheet, for more information.

AF - BBA Partners Subject to Chapter 2/2A Adjustments Protected by IRC 6501 (c)(12), Certain Taxes Attributable to Partnership Adjustments

Used on partners in a BBA partnership that are subject to Chapter 2/2A adjustments and their statute is protected by IRC 6501(c)(12). Alpha Code AF will be used primarily with Partnership Control System (PCS) linked partner returns controlled in the Pass-Through Entities (PTE). See Interim Guidance Memorandums LB&I-04-1019-010 (expiring 10/31/2021) and LB&I-04-0320-0005 (expiring 04/01/2022) and Form 15271, Bipartisan Budget Act (BBA) Partnership Adjustment Statute Extension Check Sheet, for more information. After the expiration dates of the interim guidance memorandums, consult IRM 4.31.9, Centralized Partnership Audit Regime (BBA) Field Examination Procedures, and Form 15271, Bipartisan Budget Act (BBA) Partnership Adjustment Statute Extension Check Sheet, for more information.

BB - NOL or Capital Loss Carryback

Under IRC 6501(h), Net Operating Loss or Capital Loss Carrybacks, or IRC 6501(k), Tentative Carryback Adjustment Assessment Period, the period for assessing a deficiency on a carryback year return can be determined by the statute date of the loss (source) year return. Alpha Code BB can be used to designate a return reflecting a net operating loss (NOL) or capital loss carryback for which a claim for refund or tentative allowance **has been paid** to the taxpayer, thus disqualifying use of the Alpha Code AA.

Note: Alpha Code BB is **not** to be used for carryback years in situations where claims for refund have been filed as a result of carryback losses and the claims **have not been paid**. In such instances, the Alpha Code AA may be appropriate as a claim for refund, which can result from either an overstatement of income/understatement of deductions on the original return **or** because of **unpaid** claims for refund resulting from carryback losses.

When using Alpha Code BB, the assessment statute of the loss (source) year return must be protected to assess a deficiency on a carryback year due to any changes to the loss carryback.

Exhibit 25.6.23-3 (Cont. 9) (02-17-2021)**Instructions for Updating the Statute on AIMS**

Alpha Code BB may be used when a taxpayer has filed, because of a carryback loss, an application for tentative allowance (Form 1045, Application for Tentative Refund, or Form 1139, Corporation Application for Tentative Refund) or a claim for refund (with Form 1040-X, Amended U.S. Individual Income Tax Return, or Form 1120-X, Amended U.S. Corporation Income Tax Return), in which the refund claim **has been paid** to the taxpayer **AND** the following conditions have also been met regarding any open statute on a carryback year at the time of determination:

- a. There are no *general adjustments* (as defined in IRM 25.6.23.1.5, Terms) to the carryback year return when a claim for refund has been paid and/or
- b. There are no *general adjustments* to the carryback year return that would result in a tax assessment greater than any tentative allowance amount (reduced by tax which may be assessed because of adjustments to the loss carryback) for the carryback year.

Note: If there is no open statute on a carryback year at the time of determination then conditions (a) and (b) listed above are not applicable. In this case, the Alpha Code BB would be appropriate as long as the application/claim were filed and the refund/credit has been paid to the taxpayer.

Caution: While *general adjustments* in the carryback year can be made to the extent they do not result in a deficiency greater than the tentative allowance or claim amount, care must be exercised due to the difficulty of determining the amount of tax attributable to the *general adjustments* and whether or not the tax resulting from the *general adjustments* will exceed the tentative allowance or claim amount (reduced by tax which may be assessed as a result of adjustments to the loss carryback).

Alpha Code BB should **NOT** be used if the assessment statute on the carryback year(s) is still open and there may be *general adjustments* affecting tax for the carryback year that could exceed the tentative allowance or claim amount. Any *general adjustments* generating more tax than the claim or tentative allowance amount would require assessment based on the ASED of the carryback year without regard to the provisions of IRC 6501(h), Net Operating Loss Or Capital Loss Carrybacks or IRC 6501(k), Tentative Carryback Adjustment Assessment Period, relating to the ASED on the loss (source) year.

When Alpha Code BB is used, some examples of appropriate statements in the "Remarks" section of Form 895 or other statute control record would be:

- a. **If the ASED on the carryback return has not expired and the taxpayer has filed an Application for Tentative Allowance:** "The ASED for the carryback return is still open; however, the return was inspected and there are no material general adjustments which will result in a deficiency greater than the tentative allowance amount (reduced by tax which may be assessed as a result of adjustments to the loss carryback) and a deficiency can be assessed for the carryback year as a result of either or both a decrease in the carryback loss and/or general adjustments in the carryback year which will result in a deficiency not exceeding the tentative allowance amount."
- b. **If the ASED on the carryback return has not expired and the taxpayer has filed a claim for refund as a result of the loss carryback and the claim has been paid:** "The ASED for the carryback return is still open; however, the return was inspected and there are no material general adjustments which will result in a deficiency for the carryback year and a deficiency can be assessed for the carryback year as a result of a decrease in the carryback loss."
- c. **If the ASED on the carryback return has otherwise expired and the taxpayer has filed an Application for Tentative Allowance:** "The normal ASED for the carryback year has expired and under IRC 6501(h) and IRC 6501(k), a deficiency can be assessed for the carryback year as a result of either or both a decrease in the carryback loss and/or general adjustments in the carryback year which will result in a deficiency not exceeding the tentative allowance amount."
- d. **If the ASED on the carryback return has otherwise expired and the taxpayer has filed a claim for refund as a result of the loss carryback and the claim has been paid:** "The normal ASED for

Exhibit 25.6.23-3 (Cont. 10) (02-17-2021)**Instructions for Updating the Statute on AIMS**

the carryback year has expired and under IRC 6501(h), a deficiency can be assessed for the carryback year as a result of a decrease in the carryback loss.”

Alpha Code BB is entered in the day (DD) position of the statute date field. The month (MM) and year (YYYY) positions designate the statute date of the **loss year**.

Example: A 2013 carryback year return has a statute expiration date of 04/15/2017 and the 2015 loss year return has a statute date of 04/15/2019. The statute for the 2013 carryback year return will be updated to 04/BB/2019. The 04/BB/2019 designation will drop the carryback year return from AIMS Tables 4.0 and 4.1 until the 2019 date again comes within 180 days of expiring.

Note: Alpha Code BB is **not** to be used for the loss year return or for tax years with losses carried forward.

If the ASED of the loss (source) year return is extended, the Alpha Code BB statute of the carryback years will require updating to reflect the new MM and YYYY ASED for the loss (source) year. If an open-ended consent is secured with Form 872-A, Special Consent to Extend the Time to Assess Tax, for the loss (source) year return, the ASED of the carryback year would be 872-ABB.

CC - Joint Investigation

Alpha Code CC is used for tax periods covered by a Form 10498-B, Joint Investigations Intent to Solicit Consent to Extend Statute, or memorandum signed by the Territory Manager and Special Agent in Charge (SAC), Criminal Investigation (CI) or the Area Director (AD), stating that no consent to extend the statute should be secured. See IRM 25.1.4.3.8, Statute Protection. An appropriate statement in the Remarks section of Form 895 or other control record would be: “Concurrence memorandum approved on [date signed by the Territory Manager or the Area Director].”

Alpha Code CC may also be used with a tax return under joint investigation which has a statutory period for assessment that expired before the return was established on AIMS.

If Criminal Investigation withdraws from the joint investigation prior to the expiration of the statute, the statute controls should be updated to reflect the normal statute expiration date, or other applicable ASED alpha code, for example NN or OO, if some other exception to the normal three-year assessment statute applies.

If it is ultimately determined that there is no exception to the normal ASED, then replace the Alpha Code CC ASED with the actual statute expiration date. If the ASED has in fact expired and an assessment cannot be made, refer to IRM 25.6.1.13.2.8, Statute Expiration Reporting Responsibilities and Procedures for SB/SE Area Office and Campus Organizational Components Involved Directly With or Providing Support for Tax Return Examinations, or other procedures required by your particular organizational component, for the procedures for preparing and submitting a Form 3999, Statute Expiration Report.

DD - Credit Carryback

Under IRC 6501(j), Certain Credit Carrybacks, or IRC 6501(k), Tentative Carryback Adjustment Assessment Period, both of which adopt the definition of **credit carryback** provided in IRC 6511(d)(4)(C), Credit Carryback Defined, the period for assessing a deficiency on a carryback year return can be determined by the statute date of the return from which the credit was carried. Under IRC 6501(i), Foreign Tax Carrybacks, the period for assessing a deficiency on a carryback year return can be determined by the statute date of the return giving rise to the excess tax credit plus one year.

Credits which may be carried back include:

- General business credits as defined in IRC 39, Carryback and Carryforward of Unused Credits,
- Foreign tax credits as defined in IRC 904(c), Limitation on Credit, and

Exhibit 25.6.23-3 (Cont. 11) (02-17-2021)**Instructions for Updating the Statute on AIMS**

- Disallowed oil and gas extraction taxes as defined in IRC 907(f), Special Rules in Case of Foreign Oil and Gas Income.

Caution: See discussion of limitations to the carryback of foreign tax credits and disallowed oil and gas extraction taxes below.

For general business credits, Alpha Code DD can be used to designate a return reflecting a general business credit carryback for which a claim for refund or tentative allowance **has been paid** to the taxpayer, thus disqualifying use of the Alpha Code AA.

Note: Alpha Code DD is **not** to be used for carryback years in situations where claims for refund have been filed as a result of a general business credit carryback and the claims **have not been paid**. In such instances, the Alpha Code AA may be appropriate as a claim for refund can result from either an overstatement of income/understatement of deductions on the original return **or** because of **unpaid** claims for refund resulting from carryback losses or credits.

Alpha Code DD may be used when a taxpayer has filed, because of a general business credit carryback loss, an application for tentative allowance (Form 1045, Application for Tentative Refund, or Form 1139, Corporation Application for Tentative Refund), or a claim for refund (with Form 1040-X, Amended U.S. Individual Income Tax Return, or Form 1120-X, Amended U.S. Corporation Income Tax Return), in which the claim for refund **has been paid** to the taxpayer **AND** the following conditions have also been met regarding any open statute on a carryback year at the time of determination:

- a. There are no *general adjustments* (as defined in IRM 25.6.23.1.5, Terms) to the carryback year return when a claim for refund has been paid, and/or
- b. There are no *general adjustments* to the carryback year return that would result in a tax assessment greater than any tentative allowance amount (reduced by tax which may be assessed because of adjustments to the general business credit carryback) for the carryback year.

Note: If there is not an open statute on a carryback year at the time of determination then conditions (a) and (b) listed above are not applicable and the Alpha Code DD would be appropriate as long as the application/claim were filed and the refund/credit has been paid to the taxpayer.

Caution: While *general adjustments* in the carryback year can be made to the extent they do not result in a deficiency greater than the tentative allowance or claim amount, care must be exercised due to the difficulty of determining the amount of tax attributable to the *general adjustments* and whether or not the tax resulting from the *general adjustments* will exceed the tentative allowance or claim amount (reduced by tax which may be assessed as a result of adjustments to the general business credit carryback).

Note: Alpha Code DD should **not** be used if the assessment statute on the carryback year(s) is still open and there may be **general adjustments** affecting tax for the carryback year that could exceed the tentative allowance or claim amount. Any **general adjustments** generating more tax than the claim or tentative allowance amount would require assessment based on the ASER of the carryback year without regard to the provisions of IRC 6501(j) or IRC 6501(k) relating to the ASER on the return from which the general business credit was carried.

Foreign tax credits and disallowed oil and gas extraction taxes: The Form 1045, Application for Tentative Refund, and Form 1139, Corporation Application for Tentative Refund, cannot be used to carryback unused foreign tax credits or disallowed oil and gas extraction taxes. However, if the tax credit was carried back on an amended return and the claimed refund amount resulting therefrom had been refunded to the taxpayer, then IRC 6501(i) would allow assessment of a deficiency resulting from the tax credit carryback so long as the assessment statute is open on the tax period giving rise to the excess tax credit plus one year.

Exhibit 25.6.23-3 (Cont. 12) (02-17-2021)**Instructions for Updating the Statute on AIMS**

Alpha Code DD may be used in these circumstances to code the AIMS ASED for the carryback tax period to designate the applicability of the IRC 6501(i) statute.

Credits can be *released* as a result of loss carrybacks from a subsequent year and made available for carryback or carryover to some other year. In these situations, the ASED for assessing a deficiency for the refunded amount or the tentative allowance amount of the “released” credit that is attributable to the loss carryback is also determined under IRC 6501(j) or IRC 6501(k).

When Alpha Code DD is used, some examples of appropriate statements in the Remarks section of Form 895 or other statute control record would be:

- a. **If the ASED on the carryback return has not expired and the taxpayer has filed an Application for Tentative Allowance:** “The ASED for the carryback return is still open; however, the return was inspected and there are no material general adjustments which will result in a deficiency greater than the tentative allowance amount (reduced by tax which may be assessed as a result of adjustments to the credit carryback), and a deficiency can be assessed for the carryback year as a result of either or both a decrease in the credit carryback and/or general adjustments in the carryback year which will result in a deficiency not exceeding the tentative allowance amount.”
- b. **If the ASED on the carryback return has not expired and the taxpayer has filed a claim for refund as a result of the credit carryback and the claim has been paid:** “The ASED for the carryback return is still open; however, the return was inspected and there are no material general adjustments which will result in a deficiency for the carryback year and a deficiency can be assessed for the carryback year as a result of a decrease in the credit carryback.”
- c. **If the ASED on the carryback return has otherwise expired and the taxpayer has filed an Application for Tentative Allowance:** “The normal ASED for the carryback year has expired and under IRC 6501(j) and IRC 6501(k), a deficiency can be assessed for the carryback year as a result of either, or both, a decrease in the credit carryback and/or general adjustments in the carryback year which will result in a deficiency not exceeding the tentative allowance amount.”
- d. **If the ASED on the carryback return has otherwise expired and the taxpayer has filed a claim for refund as a result of the loss carryback and the claim has been paid:** “The normal ASED for the carryback year has expired and under IRC 6501(j), a deficiency can be assessed for the carryback year as a result of a decrease in the credit carryback.”

Alpha Code DD is entered in the day (DD) position of the statute date field. The month (MM) and year (YYYY) positions designate the statute date of the tax year *generating the credit*.

Example: A 2013 return with a statute date of 04/15/2017 is a carryback year. The credit is carried from the 2015 year which has a statute expiration date of 04/15/2019. The 2013 carryback year return will be updated to reflect a corrected statute date of 04/DD/2019. The 04/DD/2019 designation will drop the carryback year return from AIMS Tables 4.0 and 4.1 until the 2019 date is again within 180 days of expiration.

Note: Alpha Code DD is **NOT** used for the tax return which generated the credit nor for tax years with credits carried forward.

If the ASED of the return from which the credit was carried is extended, the DD statute of the carryback years will require updating to reflect the new MM and YYYY ASED for the return from which the credit was carried. If an open-ended consent is secured with Form 872-A, Special Consent to Extend the Time to Assess Tax, for the credit generating year return, the ASED of the carryback year would be 872-ADD.

Exhibit 25.6.23-3 (Cont. 13) (02-17-2021)**Instructions for Updating the Statute on AIMS****EE - No Return Filed**

Alpha Code EE designates a return has not been filed by the taxpayer. Therefore, there is no statute expiration date.

Exception: Tax returns are placed in MFT 32 to “house” suspected identity theft returns. Employees must research MFT 32 on IDRS to verify a return has not been filed by the taxpayer(s). See IRM 25.23.2.7.2.2, MFT 32 - Overview, for more information.

Alpha Code EE is used in the AIMS ASED when a substitute for return is prepared by the IRS, either by inputting AM 424 with an appropriate push code to post a Substitute for Return (SFR) Transaction Code (TC) 150 to Master File or by the IRS filing an actual IRC 6020(b), Returns Prepared for, or Executed by Secretary, return to assess the types of taxes that can be assessed without the IRS first issuing a notice of deficiency.

Alpha Code EE may also be used when information returns, or other **non-income tax** returns have not been filed, and controls are established to assess a civil penalty.

Alpha Code EE is entered in the day (DD) position of the statute field. The month (MM) and year (YYYY) positions should reflect the “normal” ASED if the return had been timely filed **without** regard to extensions.

Example: A timely filed 2020 individual income tax return (due 04/15/2021) would have a “normal” statute expiration date of 04/15/2024. If the 2020 return was never filed the ASED should read 04/EE/2024. The ASED would remain 04/EE/2024 even if the taxpayer had been granted an extension of time to file their 2020 return.

When a late filed return is received from a taxpayer, the examiner or specialist will replace the Alpha Code EE statute designation with a true statute expiration date based on the date the return was received by the IRS. The examiner or specialist will obtain transcripts throughout the examination, at least once a year, to check for postings (such as TC 976 or 977) indicating a return may have been filed. Hard copies of these dated transcripts are to be retained in the case file. The date and action taken for checking transcripts, as well as the results of the check, will also be documented on the case activity record. See IRM 4.4.9, Delinquent and Substitute for Return Processing, for additional information.

Note: The taxpayer’s signing and submitting of a waiver of restriction on assessment (Form 4549, Report of Income Tax Examination Changes, Form 870, Waiver of Restrictions on Assessment & Collection of Deficiency in Tax & Acceptance of Overassessment, etc.) does not constitute a return under IRC 6020(a) and, therefore, does not commence the running of the assessment statute of limitations, see Rev. Rul. 2005–59, 2005-37 I.R.B. 505.

FF - Reference Return

Alpha Code FF is used when a return is requisitioned for reference only (Source Code 45) and there is no expectation of making a tax assessment for the tax period. If the statute is still open when a reference return is secured, the true statute expiration date should be used, rather than Alpha Code FF, until a definite determination is made that there will be no tax change.

If a reference return is examined, replace Source Code 45 with a source code appropriate for an open examination **and** replace the Alpha Code FF statute designation with the actual statute expiration date.

GG - ILSC Pass-through

Alpha Code GG is used for non-taxable, investor level statute control (ILSC) Form 1065, U.S. Return of Partnership Income, and Form 1120-S, U.S. Income Tax Return for an S Corporation returns. The statute for assessments passing from the non-taxable ILSC return is determined on the returns of the partners or shareholders.

Exhibit 25.6.23-3 (Cont. 14) (02-17-2021)**Instructions for Updating the Statute on AIMS**

Caution: The ILSC pass-through return should not use an Alpha Code GG if the partners or shareholders do not have open assessment statutes.

Alpha Code GG statutes should **not** be used if:

- There is a possibility of a tax or penalty assessment on the S corporation, or
- There is a possibility of a penalty assessment on the partnership, or
- A final determination has not been made that the partnership comes within the TEFRA or BBA provisions.

Reminder: Form 14769, S Corporation - Statute Analysis Tool, may be used to assist in determining and identifying which (entity and/or investor) statutes need to be protected when examining an S corporation.

Alpha Code GG should be used **only** if all the following four conditions are confirmed:

1. The entity is not liable for entity level tax or penalties. **For S corporations** this includes the Built-in Gains (BIG) Tax (IRC 1374, Tax Imposed on Certain Built-In Gains), Excess Net Passive Income Tax (IRC 1375, Tax Imposed When Passive Investment Income of Corporation Having Accumulated Earnings and Profits Exceeds 25 Percent of Gross Receipts), Last in First out (LIFO) Recapture Tax (IRC 1363(d), Effect of Election on Corporation), recapture of prior C corporation credits and/or tax paid on fuels. **For S corporations and partnerships** this includes penalties under IRC 6707A, Penalty for Failure to Include Reportable Transaction Information with Return, IRC 6698, Failure to File Partnership Return or IRC 6699, Failure to File S Corporation Return.
2. The S corporation election is valid and has not had a terminating event, including, but not limited to, an invalid shareholder, three years of excessive net passive investment income, or a revocation.
3. A final determination has been made that the partnership does not fall within the TEFRA or BBA provisions.
4. **All** investor statutes are controlled on AIMS and protected, or are properly linked via the Partnership Control System (PCS), unless they have a signed Form 15041, ILSC Pass-Through Entity Intent Not to Pursue Investor - Statute Protection, to allow the investor's statute to expire as detailed in IRM 25.6.23.4.5.1, Inconsistent Applications for Investor Returns - Investor Level Statute Control.

Note: If an item listed above initially prevents the use of the Alpha Code GG statute and that item is later resolved, it may be appropriate to update the statute to Alpha Code GG at that time.

Example: For example, the entity was late filed and assessed the failure to file penalty. You confirm the penalty was properly assessed and no additional penalty applies. If the entity meets all other requirements, the Alpha Code GG statute is permissible.

Example: Another example could include an S corporation that is potentially a taxable entity subject to the built-in-gains (BIG) tax. If you can confirm the current year would not be subject to the entity level tax since there were no taxable dispositions, the Alpha Code GG statute could be used if the entity also meets all of the other requirements.

The month and year of the alpha coded ASER is three years after the ILSC return is filed or due, whichever is later.

HH - TEFRA Partner

Alpha Code HH is used for returns of partners in TEFRA partnerships with **only** TEFRA pass-through adjustments **and** the assessment statute is protected at the TEFRA entity level for all TEFRA entities from which an adjustment to the TEFRA partner's return is to be made. Alpha Code HH must **not** be used if there are ILSC adjustments at the partner level.

Exhibit 25.6.23-3 (Cont. 15) (02-17-2021)**Instructions for Updating the Statute on AIMS**

Alpha Code HH is used by campus TEFRA units where partner returns are held pending only the outcome of TEFRA partnership examinations.

Area offices may use Alpha Code HH when the return of the partner only is subject to TEFRA pass-through adjustments. Area offices will **not** use the Alpha Code HH for open partner examinations when issues other than TEFRA pass-through adjustments exist.

Note: The only S corporation returns which may come under TEFRA are those for tax years beginning after December 31, 1982 and beginning before January 1, 1997.

II - Form 1040, U.S. Individual Income Tax Return, Other Taxes

Alpha Code "II" is used to indicate the Form 1040 return is examined for the non-filing or under-reporting of taxes reportable in the Other Taxes section of the Form 1040, and to indicate that a determination has been made that there are no income tax issues (Tax and Credits before consideration of Other Taxes) of material tax consequence on the Form 1040 return which require examination or the assessment statute has already expired with respect to the income taxes.

Since the extended tax assessment statute resulting from the non-filing of Other Taxes only applies to the tax liability relating to the Other Tax and does not apply to the income tax ASSED, a careful determination that no income tax issues are present on the return must be made before alpha coding the AIMS ASSED with Alpha Code "II", if the income tax ASSED has not otherwise expired at the time the alpha coding determination is being made. If there are income tax issues of tax consequence based on inspection of the Form 1040 and the period for assessment of the income taxes has not expired, do not code the AIMS ASSED with Alpha Code "II". Action must be taken to protect the income tax assessment statute of limitations.

Also, consideration needs to be given to protecting the assessment statutes for the Other Taxes, for which an examination is warranted, rather than relying on a non-filing determination to permit assessment of the Other Taxes at any time. Care must be exercised whenever a separate return or schedule required for an Other Tax is not filed with the Form 1040 return and the IRS will rely on a non-filing determination to permit assessment of the Other Tax at any time. In particular, before concluding that filing of Form 1040 has no effect on the period for assessment of an Other Tax, make sure it has been determined the Other Tax is separate and distinct from the income taxes imposed by subtitle A of the IRC. See Rev. Rul. 79-39, 1979-1 C.B. 435 (FICA taxes on tip income are separate and distinct) and Rev. Rul. 82-185, 1982-2 C.B. 395 (self-employment taxes are not separate and distinct from income taxes). There is no separate ASSED reflected on Master File or AIMS for these Other Taxes as Master File only reflects the ASSED of the Form 1040 so the ASSED for Other Taxes needs to be determined separately in instances of non-filing of Other Taxes.

Non-filing for the purposes of this AIMS alpha code means the taxpayer filed a Form 1040 return but did not attach the information specified by the form or form instructions. An example of Other Taxes required to be reported on the Form 1040 return are household employment taxes, which are required to be reported in the Other Tax section of the Form 1040, and are to be supported by the attachment to the Form 1040 of a Schedule H, Household Employment Taxes. A taxpayer's entry of a "zero" on the Form 1040 line item prescribed for reporting household employment taxes without supplying the supporting Schedule H will not start the running of the statute of limitations for household employment taxes. For example, a taxpayer who mistakenly computes wages and, therefore, honestly believes they have no tax liability and follows the IRS guidance that the schedule does not have to be filed, has not started the period of limitations (the "first position"). The same treatment should apply if a number (greater than zero) is entered in the Other Tax section without the supporting schedule being supplied (the "second position"). Case law specifically addressing the Schedule H has yet to be established regarding these positions.

If the taxpayer did report a tax liability for household employment taxes (in this example) on the Form 1040, the AIMS Alpha Code "II" can be used to designate the return is being examined for household employment taxes

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Instructions for Updating the Statute on AIMS

only. Form SS-10, Consent to Extend the Time to Assess Employment Taxes, should be used to extend the assessment statute for household employment taxes, if necessary, even if AIMS is coded with the Alpha Code "II". Again, there is presently no way to indicate the Other Tax ASSED on AIMS. The month and year of the ASSED on AIMS when using the Alpha Code "II" should be the month and year of the expiration of the Form 1040 ASSED, whether or not there was a filing or nonfiling of the Other Tax.

In addition to the household employment taxes discussed above, the Alpha Code "II" can be used to designate the period for assessment has not expired for such Other Taxes as the Social Security and Medicare tax on tip income not reported to the employer and the excise taxes on excess contributions or accumulations in qualified retirement or other plans. For a comprehensive list of Other Taxes reported on the Form 1040 depending upon the tax period under consideration, see the instructions for the Other Tax section of the Form 1040. Again, as stated above, care must be exercised to determine if the underlying tax being considered requires the filing of a "return" for taxes which are separate and distinct from the income taxes imposed by subtitle A of the IRC, and the Other Tax being considered has a period for assessment which has not already expired. For additional information, also see IRM 25.6.1.9.4.3, Forms Reporting More Than One Item of Tax. See *Paschall v. Commissioner*, 137 T.C. 8 (2011), in which the Tax Court held the failure to file Form 5329, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts, kept the assessment statute open on the excise taxes imposed on excess contributions to an individual retirement account under IRC 4973, Tax on Excess Contributions to Certain Tax-Favored Accounts and Annuities, and failure to file penalty under IRC 6651(a)(1), Failure to File Tax Return or to Pay Tax, although the Form 1040 returns, where the excise taxes should have been reflected after calculation on Form 5329, were timely filed.

JJ - Non-taxable Fiduciary and Certain Deceased Spousal Unused Exclusion (DSUE) Returns

Alpha Code JJ is used for Form 1041, U.S. Income Tax Return for Estates and Trusts, fiduciary returns for which it has been determined that the fiduciary entity is not a taxable entity for the tax periods in question but is a pass-through entity. The assessment statutes are determined on the returns of the beneficiaries receiving pass-through items from the Form 1041.

Alpha Code JJ is also used during an examination of a Form 706, U.S. Estate Tax Return, or Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, when a related estate or gift tax return is being examined for purposes of determining the subject return's correct Deceased Spousal Unused Exclusion (DSUE) amount. Alpha Code JJ is only used for the related estate or gift tax return(s) when no otherwise viable alpha code is available.

KK - Bankruptcy Suspend

Alpha Code KK is used for returns of taxpayers who file petitions in Bankruptcy Court **and** the assessment statute is suspended pending resolution of the bankruptcy (unless the court lifts the stay earlier). Since, for bankruptcy petitions filed after October 22, 1994, the issuance of a statutory notice of deficiency is necessary in order for the bankruptcy stay to suspend the period of time for assessment, the Alpha Code KK should only be input by those employees managing the inventory of returns held in Bankruptcy Suspend status.

Where a bankruptcy petition was filed before October 22, 1994, the statute is suspended during the period of time the bankruptcy stay is in effect, plus 60 days, as the IRS was prohibited from making an assessment. Where a bankruptcy petition is filed on, or after October 22, 1994, the statute is suspended during the period of time the bankruptcy stay is in effect if a valid statutory notice of deficiency has been issued and no waiver of restriction on assessment is received.

Where a bankruptcy petition is filed on, or after October 17, 2005, in the case of an individual taxpayer, the assessment statute is suspended from running on the pre-petition tax periods once the notice of deficiency is issued and during the period of time the bankruptcy stay prescribed in 11 USC 362 is in effect. Post bankruptcy

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petition tax periods should not be placed in bankruptcy suspense and Alpha Coded KK as the assessment statute is not suspended from running by the bankruptcy stay.

In the case of corporate taxpayers, the bankruptcy stay generally applies to liabilities that arise before the confirmation of the Chapter 11 plan. Therefore, the tax period for which a statutory notice was issued, and to which the stay is in effect should be Alpha Coded KK and placed in bankruptcy suspense.

When the bankruptcy stay is lifted, a new statute expiration date must be determined. Then the Alpha Code KK statute will be replaced by the recomputed assessment statute expiration date.

LL - Third-Party Summons

Alpha Code LL is used when the statute of limitations on assessment (but not collection) under IRC 6501, Limitation on Assessment and Collection, or the statute of limitations on criminal prosecution under IRC 6531, Periods of Limitation on Criminal Prosecutions, is suspended by operation of IRC 7609(e)(1), Suspension of Statute of Limitations - Subsection (b) Action, or IRC 7609(e)(2), Suspension of Statute of Limitations - Suspension After 6 Months of Service of Summons. The suspension provisions operate as follows:

- IRC 7609(e)(1) suspends the statutes of limitations under circumstances where a third party is served with a summons that is subject to the notice requirement of IRC 7609(a), and the taxpayer (whose liability is being investigated by that summons) either intervenes in a suit to enforce the summons or files a petition to quash the summons. Under these circumstances, the taxpayer's statutes of limitations (for the tax periods which are the subject of the summons) are suspended for the period during which a proceeding, and appeals therein, are pending.
- IRC 7609(e)(2) suspends the statutes of limitations under circumstances where a recipient of a John Doe summons issued under IRC 7609(f), or where a recipient of a third-party summons that is subject to the notice requirement of IRC 7609(a), fails to comply with the summons for more than 6 months after the summons was served. Under these circumstances, the taxpayer's statutes of limitations (for the tax periods which are the subject of the summons) are suspended for the period beginning 6 months after the date the summons was served and ending on the date the summoned party finally resolves their response to the summons.

IRC 7609(e)(1) and IRC 7609(e)(2) should generally be relied upon to extend the period for assessment only in those instances when the ASED has otherwise expired. The ASED may be Alpha Coded LL when it has been determined that IRC 7609(e)(1) or IRC 7609(e)(2) is applicable and the normal three-year assessment statute applicable to the return may be allowed to expire if:

1. A consent to extend the assessment statute for the return cannot be obtained after timely and proper solicitation,
2. The case file is documented with adequate justification for letting the assessment statute applicable to the return expire in reliance on IRC 7609(e)(1) or IRC 7609(e)(2), and
3. Written Territory Manager approval is obtained in advance of the normal three-year assessment statute expiration date.

Note: When the suspension of the assessment statute has ended, a new calendar date ASED must be determined and entered on AIMS and Master File. It is extremely important to thoroughly document the case file as to how the assessment statute suspension period was determined both as to how the beginning date and the ending date were determined and the case file must set forth the calculation of the new ASED resulting from the suspension. It is very important to act and to reflect the fact in the case file that the IRS acted in a reasonable fashion in taking action to resolve an unresolved summons situation and made a factually correct determination when determining the date the response to the summons was finally resolved if the suspension of the assessment statute is pursuant to IRC 7609(e)(2). For suspen-

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sions of the assessment statute pursuant to IRC 7609(e)(1), the date that the period for judicial appeals ended must be accurately determined and documented in the case file.

MM - IRC Section 183(e)(4): Activities Not Engaged in for Profit

Alpha Code MM is used when a taxpayer makes the election under IRC 183(e), Special Rule, by filing Form 5213, Election to Postpone Determination as to Whether the Presumption Applies That an Activity is Engaged in for Profit, to postpone a determination as to whether the profit motive presumption applies to an activity until the close of the fifth year (or seventh year in certain circumstances) in which the taxpayer engages in the activity. This election extends the statute of limitations on assessment for all years in this five-year or seven-year presumption period until two years after the due date (determined without extensions) for filing the return for the last taxable year in the presumption period.

The month and year accompanying the Alpha Code MM will be the date determined under IRC 183(e)(4), Time for Assessing Deficiency Attributable to Activity. For example: if the due date for the final year involved in a IRC 183 determination is April 15, 2015, the alpha code designation for the tax years held open by the IRC 183(e) election would be 04/MM/2017.

NN - IRC 6501(e): Substantial Omission of Items

Alpha Code NN indicates the IRS is relying on a substantial omission of items meeting the requirements of either IRC 6501(e)(1), Income Taxes, IRC 6501(e)(2), Estate and Gift Taxes, or IRC 6501(e)(3), Excise Taxes, as the exception to the normal three-year period of time for assessment of tax. The tax may be assessed within 6 years after the date the original return was filed or due, whichever is later, if the taxpayer omits:

- More than 25 percent of the gross income reported on the original income tax return. See IRM 25.1.4.3.8.1, IRC 6501(e), Six-Year Statute, for items included in the computation of gross income.
- More than \$5,000 in income attributable to foreign financial assets to include those tax periods upon which the period of time for assessment was open on March 18, 2010, the date of enactment of the Hiring Incentives to Restore Employment (HIRE) Act, or for returns filed after that date. See IRC 6038D, Information with Respect to Foreign Financial Assets; IRC 1471, Withholdable Payments to Foreign Financial Institutions, and IRC 1473, Definitions for definitions pertaining to foreign financial assets. See Exhibit 25.6.23-5, for examples.
- More than 25 percent of tax on original Form 720, Quarterly Federal Excise Tax Return.
- Includable items in excess of 25 percent of the gross estate reported on original Form 706, U.S. Estate Tax Return.
- Gifts in excess of 25 percent of the total gifts reported on original Form 709, United States Gift (and Generation - Skipping Transfer) Tax Return.

Note: If any partnership omits from gross income an amount in excess of 25 percent of the amount of gross income stated on its return, the IRC 6229(a), Period of Limitations for Making Assessments, statute is extended from three to six years for all partners. See IRM 4.31.2.5.9, Omission of Income by a TEFRA Entity.

The burden of proving omission of items is on the government. The ultimate test is did the taxpayer adequately apprise the IRS of the nature and amount of the item by disclosing it in the return or in a statement attached to the return. Therefore, as a general rule, the IRS relies on IRC 6501(e) to keep the statute open only in situations where the normal three-year statute has otherwise expired.

The ASED may be coded Alpha Code NN when it has been decided that reliance on IRC 6501(e) is warranted and the normal three-year assessment statute applicable to the return may be allowed to expire if:

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1. A consent to extend the assessment statute for the return cannot be obtained after timely and proper solicitation,
2. The case file is documented with adequate justification for allowing the assessment statute applicable to the return expire in reliance on IRC 6501(e), and
3. Written Territory Manager approval is obtained in advance of the normal three-year assessment statute expiration date.

Caution: Care should be exercised when calculating the percentage of omitted income, especially if a return contains income from a pass-through entity. It is recommended that Counsel approve computations prior to expiration of the normal three-year assessment statute if any uncertainty exists.

The six-year statute, provided for in IRC 6501(e), may apply when a joint investigation case is returned to Examination for assessment of tax after the three-year statute has been allowed to expire.

The six-year limitations period applies to assess deficiencies and additional taxes with respect to the taxpayer's entire return, *Colestock v Commissioner*, 102 TC 380 (1994).

The assessment period will be extended even if the taxpayer files an amended return, **after the return due date**, which includes part of the income omitted from original return so that omission on the amended return was not over 25 percent, See *Goldring v Commissioner*, 20 TC 79 (1953), *Houston v Commissioner*, 38 TC 486 (1962) (applying the five-year statute extension that was in effect at the time).

Reminder: Once it has been determined IRC 6501(e) applies, the ASED should be updated to the applicable numeric six-year statute date. While the Alpha Code NN is being used in the ASED, the year (YYYY) accompanying the NN alpha code will be that of the six-year expiration date. The computation of 25 percent omission of gross receipts that supports the use of the IRC 6501(e) six-year statute, either as an Alpha Code NN or as a numeric six-year statute date, should be attached to the back of the first page of the tax return to which it applies. A copy should also be attached to the Form 895 or other statute control record.

Caution: The Alpha Code NN ASED is a **live** six-year statute. Examiners and managers must be aware of, and protect, the live statute.

Reminder: Cases should not be closed from the examination group with an Alpha Code NN. The statute should be updated as early as possible in the examination to reflect the correct numeric six-year statute date.

If it is ultimately determined the provisions of IRC 6501(e) are unsupported and there is no exception to the normal ASED, then replace the Alpha Code NN ASED with the actual statute expiration date. If the ASED has in fact expired and an assessment cannot be made, refer to IRM 25.6.1.13, Barred Assessments/Barred Statute Cases, (or other procedures required by your organizational component) for the procedures for preparing and submitting a Form 3999, Statute Expiration Report, or other form prescribed by your organization.

OO - IRC 6501(c)(1): False Return (taxpayer not under joint investigation)

Alpha Code OO is used when the IRS is relying on the provisions of IRC 6501(c)(1), False Return, relating to the filing of a false or fraudulent return with the intent to evade tax, to keep the statute open. If fraud is proven, there is no limit on the period for assessment making the ASED opened indefinitely. Also, the taxpayer cannot alter their fraudulent intent relating to the original return by filing a non-fraudulent amended return, *Badaracco v. Commissioner*, 464 U.S. 386 (1984). So, if the original return is fraudulent, an increase in the tax liability can be assessed at any time. The IRS has the burden of proof with respect to fraud.

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Instructions for Updating the Statute on AIMS

Exception: If the return is under joint investigation, Alpha Code CC should be used rather than Alpha Code OO. The Alpha Code OO may be used when the government pursues civil fraud **and** the statute for the entire return is not kept open by any other provision of the law.

As a general rule, the IRS relies on IRC 6501(c)(1) to keep the statute open only in situations where the normal three-year statute has otherwise expired.

The ASED may be coded Alpha Code OO and the normal three-year assessment statute allowed to expire when it has been determined IRC 6501(c)(1) is applicable, and:

1. A consent to extend the assessment statute for the return cannot be obtained after timely and proper solicitation,
2. The case file is documented with adequate justification for allowing the assessment statute applicable to the return to expire in reliance on IRC 6501(c)(1), and
3. Written Territory Manager (TM) approval is obtained in advance of the normal three-year assessment statute expiration date.

Also, Alpha Code OO may be used to alpha code the AIMS ASED when the normal three-year ASED has expired before the start of an examination when it has been determined IRC 6501(c)(1) will be the reliance to make an assessment upon conclusion of the examination. Case file documentation must reflect adequate justification for examination of the return **and** written territory manager approval is required for use of the Alpha Code OO statute when case controls are established after the normal assessment statute has expired.

Alpha Code OO can also be used when the IRS is relying on the fraudulent acts and intent to evade tax on the part of the return preparer to keep the assessment statute open on the returns of the preparer's clients. See *Allen v. Commissioner*, 128 T.C. 37 (2007).

When a case is closed agreed from the group to CCP for assessment where IRC 6501(c)(1) has been relied upon to extend the assessment statute for a particular tax period, flag the case file with a Form 3198, Special Handling Notice for Examination Case Processing, and enter in the statute information section, proximate to the applicable tax period, the AIMS ASED as Month/OO/Year, (format: MM/OO/YYYY). In the Special Features, Other Instructions section enter: "IRC 6501(c)(1) assessment can be made at any time". If the case is closed as unagreed for issuance of a statutory notice of deficiency or for routing to Appeals, then the Alpha Code OO should be reflected in the DD of the ASED field.

If ultimately determined the provisions of IRC 6501(c)(1) are unsupported and there is no exception to the normal ASED, then replace the Alpha Code OO ASED with the actual statute expiration date. If the ASED has in fact expired and an assessment cannot be made, refer to IRM 25.6.1.13, Barred Assessments/Barred Statute Cases, (or other procedures required by your organizational component) for the procedures to prepare and submit a Form 3999, Statute Expiration Report, or other form prescribed by your organization.

The month (MM) and year (YYYY) entries accompanying the Alpha Code OO are the month and year the statute would expire if the return was not false or fraudulent.

Reminder: Group managers should conduct periodic reviews of all cases carrying an Alpha Code OO statute within their inventory to ensure the use of the alpha statute is still appropriate and cases are actively worked.

Alpha Code OO can also be used when the taxpayer submits and is accepted into the **Voluntary Disclosure Practice (VDP)**, evidenced by Project Codes 0997 or 1140. Project Code 0997 is for VDP cases received **before** September 28, 2018 and Project Code 1140 is for VDP cases received **after** September 28, 2018. In 2009, the IRS offered the first of several Offshore Voluntary Disclosure Programs (OVDP). OVDP was officially closed on September 28, 2018; however, the IRS maintains the traditional Voluntary Disclosure Practice (VDP).

Exhibit 25.6.23-3 (Cont. 21) (02-17-2021)**Instructions for Updating the Statute on AIMS**

IRM 9.5.11.9, Voluntary Disclosure Practice, will continue to serve as the basis for determining taxpayer eligibility. Interim Guidance Memorandum LB&I-09-1118-014 is the current guidance for VDP until the IRM is updated.

Reminder: For VDP cases, TM approval must still be secured when allowing the **live** statute to expire after examination controls are established.

Exception: If the normal ASED has expired before examination controls are established, TM approval is **NOT** required to use the Alpha Code OO statute because the taxpayer applied and was accepted into the VDP.

Example: If you have a 2018 tax year with a normal IRC 6501(a) statute of 04/15/2022, and examination controls are not established until June 30, 2022, TM approval is not required to use Alpha Code OO because the normal ASED is expired. See caution below regarding 25 percent omission, if applicable.

Caution: All standard alpha code exceptions must be considered in VDP cases. "Nonfiled" returns established under VDP Project Codes 0997 or 1140 should not use Alpha Code OO. These nonfiled years should be controlled under Alpha Code EE until a return is filed by the taxpayer, at which point the statute must be updated to the **live** statute based on the filing date. All VDP case years should be reviewed for a 25 percent omission and updated to the live 6-year statute if the exception under IRC 6501(e) applies. If the VDP case involves offshore attributes, Alpha Codes UU or YY should be used instead of Alpha Code OO. Alpha Code UU code should be considered if there is an identifiable IRC 6501(c)(8) statute exception. Alpha Code YY is used to establish years with barred statutes or years where the IRS makes a decision to allow the statute to expire. See IRM Exhibit 25.6.23-3, specifically Alpha Codes EE, NN, UU and YY for further details.

Note: VDP cases closed with a Form 906, Closing Agreement on Final Determination Covering Specific Matters, will be closed to Technical Services with Alpha Code OO. Technical Services will update to Alpha Code AB after Technical Services executes the closing agreement. See "AB - Assessment Statute of Limitations Waived by Properly Executed Closing Agreement" above for additional detail. If a closing agreement is not secured, and the fraud statute cannot be supported, reference the instructions below for closing a case when no exception to the normal ASED exists.

Caution: VDP cases should not be closed to CCP using the Alpha Code OO statute. The statute must be updated to the live statute even if it is expired, or another applicable alpha code to close the case to CCP.

PP - Non-taxable TE/GE Return

Alpha Code PP is used for non-taxable returns under examination in TE/GE. Tax returns in Employee Plans (EP) and Exempt Organizations (EO) are initially controlled using actual statute expiration dates. The Alpha Code PP may be used when it is determined with certainty the non-taxable return will **not** be converted to a taxable return.

The month (MM) and year (YYYY) accompanying the Alpha Code PP will be the date of statute expiration as if it were a taxable return.

QQ - Docketed Case

Alpha Code QQ is used by Appeals and Counsel for cases docketed for trial in the United States Tax Court and by Technical Services for docketed cases which Appeals/Counsel has asked Technical Services to temporarily hold in inventory rather than transferring to Appeals.

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Instructions for Updating the Statute on AIMS

RR - IRCs that Override IRC 6501(a)

Examples of IRCs overriding IRC 6501(a), Limitations on Assessment and Collection - General Rule, normal three-year period for assessment, under certain circumstances—not otherwise covered by a separately designated alpha code.

Code Section	Description
IRC 45 H	Credit for Production of Low Sulfur Diesel Fuel
IRC 118	Contributions to the Capital of a Corporation
IRC 302	Distributions in Redemption of Stock
IRC 303	Distributions in Redemption of Stock to Pay Death Taxes
IRC 354	Exchanges of Stock and Securities in Certain Reorganizations
IRC 355	Distribution of Stock and Securities of a Controlled Corporation
IRC 409	Qualifications for Tax Credit Employee Stock Ownership Plans
IRC 451	General Rule for Taxable Year of Inclusion
IRC 547	Personal Holding Companies-Deduction for Deficiency Dividends
IRC 617	Deduction and Recapture of Certain Mining Exploration Expenditures
IRC 815	Distributions to Shareholders from Pre-1984 Policyholders Surplus Account
IRC 860	Provisions which Apply to Both Regulated Investment Companies and Real Estate Investment Trusts-Deduction for Deficiency Dividends
IRC 905	Foreign Tax Credits—Applicable Rules
IRC 965	Treatment of Deferred Foreign Income Upon Transition to Participation Exemption System of Taxation
IRC 982	Admissibility of Documentation Maintained in Foreign Countries
IRC 1033	Involuntary Conversions
IRC 1042	Sales of Stock to Employee Stock Ownership Plans or Certain Cooperatives
IRC 1233	Gains and Losses from Short Sales
IRC 1359	Election to Determine Corporate Tax on Certain International Shipping Activities Using Per Ton Rate-Disposition of Qualifying Vessels
IRC 2016	Estates of Citizens or Residents-Recovery of Taxes Claimed as Credit
IRC 2032 A	Estates of Citizens or Residents-Valuation of Certain Farm, etc., Real Property
IRC 3121	Employment Taxes - Definitions
IRC 4979 A	Miscellaneous Excise Taxes-Tax on Certain Prohibited Allocations of Qualified Securities
IRC 6038 A	Information With Respect to Certain Foreign-Owned Corporations

Exhibit 25.6.23-3 (Cont. 23) (02-17-2021)**Instructions for Updating the Statute on AIMS**

Code Section	Description
IRC 6234	Declaratory Judgment Relating to Treatment of Items Other Than Partnership Items with Respect to an Oversheltered Return
IRC 6255	Treatment of Electing Large Partnerships-Definitions and Special Rules
IRC 6501	Limitations on Assessment and Collection (if not otherwise covered by a separate ASED alpha code)
IRC 6503	Suspension of Running of Period of Limitation (if not otherwise covered by a separate ASED alpha code)
IRC 6861	Jeopardy Assessments of Income, Estate, Gift, and Certain Excise Taxes
IRC 6872	Jeopardy, Receiverships, Etc. -Suspension of Period on Assessment
IRC 6901	Transferees and Fiduciaries-Transferred Assets
IRC 7507	Exemption of Insolvent Banks from Tax
IRC 7508	Time for Performing Certain Acts Postponed by Reason of Service in Combat Zone or Contingency Operation
IRC 7508 A	Authority to Postpone Certain Deadlines by Reason of Presidentially Declared Disaster or Terroristic or Military Action (suspension of assessment of tax must be specially stated in an IRS announcement/notice in order to suspend the period for assessment)
IRC 7611	Restrictions on Church Tax Inquiries and Examinations
IRC 7811	Taxpayer Assistance Orders
IRC 7874	Rules Relating to Expatriated Entities and Their Foreign Parents

Alpha Code RR is used when another code section overrides IRC 6501(a), Limitation on Assessment and Collection - General Rule, and the special statute condition is not otherwise designated by another alpha code. If Alpha Code RR is used, the Form 895 must reflect which particular IRC section applies and why.

An example of an IRC section which overrides IRC 6501(a) is IRC 1033(a)(2)(C), Involuntary Conversions, under which a taxpayer whose property is involuntarily converted may elect to recognize only the gain that exceeds the cost of the replacement property acquired within a limited period of time. The Alpha Code RR indicates the statutory period for assessment is extended due to the IRC 1033 election. In this example, Alpha Code RR may be used as long as the taxpayer has not notified the IRS, in the manner prescribed in the relevant regulations, regarding replacement of the property. After the taxpayer notifies the IRS that the converted property has been replaced or will not be replaced, a new statute expiration date will be determined, taking into account the suspension of the statute under IRC 1033, and the Alpha Code RR code will be replaced with the calendar date ASED.

In the above example, the statute for assessment is kept open **only** for tax attributable to gain on the involuntary conversion so a determination must be made that the involuntary conversion is the only issue of tax consequence before the extended assessment statute of IRC 1033 is relied upon to allow the ASED for the entire return to expire and Alpha Code RR is applied to the ASED. In this example, the month (MM) and year (YYYY) entries accompanying the Alpha Code RR are the month and year the statute would expire if there was no involuntary conversion to consider in determining the ASED.

Exhibit 25.6.23-3 (Cont. 24) (02-17-2021)**Instructions for Updating the Statute on AIMS**

Alpha Code RR may be used for IRC 965(k), Extension of Limitation on Assessment, six-year statute for assessment that is limited to the net tax liability under IRC 965. Generally, IRC 965 applies to the 2017 and/or 2018 tax years. For returns classified for examination for the IRC 965 for Individuals Campaign, or the IRC 965 Campaign, PSP will update AIMS to reflect the Alpha Code RR statute if the returns have not been delivered to the Field at least 180 days prior to the expiration of the IRC 6501(a) statute of limitations. Examiners assigned to the IRC 965 Individuals Campaign, or the IRC 965 Campaign, or cases with IRC 965 issues can use Alpha Code RR when the assessment is **limited to the net tax liability under IRC 965**. Once it is determined that IRC 965(k) applies, the ASED should be updated to the applicable numeric six-year statute date. While the Alpha Code RR is used under the provisions of IRC 965, the year (YYYY) accompanying the Alpha Code RR will be the six-year expiration date.

SS - Financial Disability

Alpha Code SS is used when a claim is received after the normal statute of limitations, for filing a claim for credit or refund of tax has expired, and the person signing the claim for credit or refund indicates the taxpayer, an individual, is claiming financial disability. IRC 6511(h), Running of Periods of Limitation Suspended While Taxpayer is Unable to Manage Financial Affairs Due to Disability, which was added by the IRS Restructuring and Reform Act of 1998, suspends the statute of limitations period for filing a claim for credit or refund in certain situations. See Rev. Proc. 99–21, 1999-1 C.B. 960, for specifics on the proper application of this provision.

For example, an individual taxpayer timely filed his or her 2012 tax return. For the entire year of 2015 the taxpayer experienced a financial disability, as defined in IRC 6511(h). In December of 2016 the taxpayer filed a claim for refund of taxes paid for 2012. The normal statute of limitations for credit or refund would have expired 04/15/2016. However, due to the taxpayer's financial disability, running of the statute of limitations period for filing a claim for credit or refund is suspended for the period when the taxpayer was financially disabled (in this example, one year)—provided the procedures in Rev. Proc. 99–21 are followed. The ASED would be entered as 04/SS/2016, the date the ASED expires, to denote the claim filed based on IRC 6511(h).

Reminder: Do not use Alpha Code AA for claims filed under the provisions of IRC 6511(h). Also, keep in mind this provision does not extend the ASED but would extend the Refund Statute Expiration Date (RSED).

TT - Mitigation

Under IRC 1311, Correction of Error, the IRS is allowed to correct the effect of an erroneous treatment of an item in a taxable year which is closed by the statute of limitations under certain specific circumstances. These mitigation provisions apply only in seven specific circumstances (see description in IRC 1312, Circumstances of Adjustment, and Treas. Reg. 1.1312-1 (see 26 CFR 1312-1) through 1.1312-8 (see 26 CFR 1312-8)). In general, 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.) Until a determination (as defined in IRC 1313, Definitions) is made, Alpha Code TT should be used to identify the otherwise statute-barred year as a year coming within the mitigation provisions of IRC 1311 - IRC 1314. The month (MM) and year (YYYY) entries accompanying the Alpha Code TT are the month and year of the normal three-year statute expiration date. Once the determination is made, the ASED must be updated to the new one-year statute expiration date, which is one year from the determination date – IRC 1314(b), Amount and Method of Adjustment.

UU - Failure to Notify Secretary of Foreign Transfers

Alpha Code UU is used to indicate that, under IRC 6501(c)(8), Failure to Notify Secretary of Certain Foreign Transfers, any information which is required to be reported under IRC 1295(b), Qualified Electing Fund; IRC 1298(f), Reporting Requirement; IRC 6038, Information Reporting with Respect to Certain Foreign Corporations

Exhibit 25.6.23-3 (Cont. 25) (02-17-2021)**Instructions for Updating the Statute on AIMS**

and Partnerships; IRC 6038A, Information with Respect to Certain Foreign-Owned Corporations; IRC 6038B, Notice of Certain Transfers to Foreign Persons; IRC 6038D, Information with Respect to Foreign Financial Assets; IRC 6046, Returns as to Organization or Reorganization of Foreign Corporations and as to Acquisitions of Their Stock; IRC 6046A, Returns as to Interests in Foreign Partnerships or IRC 6048, Information with Respect to Certain Foreign Trusts, the period for assessment of any tax with respect to any tax return, event, or period to which the information relates will, not expire before a date which is three years after such information is furnished. However, if the failure to furnish the information is due to reasonable cause and not willful neglect, then the extension of the period for assessment applies only to the item or items related to such failure, rather than to any tax with respect to any tax return, event, or period. Other exceptions to the three-year period for assessment of tax under IRC 6501(a), General Rule, may also apply as described in IRC 6501(c), Exceptions.

The information to be furnished relates to a transaction, event, or period, of the type required to be reported by the above code sections, and regulations thereunder, on the currently prescribed forms (listed below) or as encompassed in applicable future form revisions and form number re-designations and is generally applicable to information the reporting of which is due after August 5, 1997 and under the Hiring Incentives to Restore Employment (HIRE) Act enacted on March 18, 2010. Prior to amendment in 1997, the IRC 6501(c)(8) exception only applied to information required to be provided under IRC 6038B with respect to IRC 367, Foreign Corporations, exchanges and distributions.

Reporting forms, listed by applicable IRC section, include:

- IRC 1295, Qualified Electing Fund -Form 8621, Information Return by a Shareholder of a Passive Foreign Investment Co. or Qualified Electing Fund.
- IRC 1298(f), Reporting Requirement, as amended by the HIRE Act-Form 8621, Information Return by a Shareholder of a Passive Foreign Investment Co. or Qualified Electing Fund.
- IRC 6038, Information Reporting with Respect to Certain Foreign Corporations and Partnerships-Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations; Form 8858, Information Return of U.S. Persons With Respect to Foreign Disregarded Entities (FDEs) and Foreign Branches (FBs) (if attached to a Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, or Form 8865, Return of U.S. Persons with Respect to Certain Foreign Partnerships) and Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships.
- IRC 6038A, Information with Respect to Certain Foreign-Owned Corporations-Form 5472, Information Return of a Foreign Owned Corporation.
- IRC 6038B, Notice of Certain Transfers to Foreign Persons-Form 926, Return by a U. S. Transferor of Property to a Foreign Corporation; Form 8865-O, Transfer of Property to a Foreign Partnership; Form 8838, Consent to Extend the Time to Assess Tax Under 367 - Gain Recognition Agreement; Form 8838-P, Consent to Extend the Time to Assess Tax Under Section 721(c), Gain Deferred Method.

Note: Unlike the other listed forms, Form 8838 and Form 8838-P are not returns; however, the forms require disclosure of the details of the transfer, and therefore, are forms that report information required by IRC 6038B. The failure to file initial documentation required under IRC 367, Foreign Corporations, for example, a gain recognition agreement, or failure to comply with the requirements of the IRC 367 regulations and the failure to file statements under, or failure to comply with the requirements of, the gain deferral method under the IRC 721(c) regulations may result in penalties under IRC 6038B.

- IRC 6038D, Information with Respect to Foreign Financial Assets, enacted on March 18, 2010 - Form 8938, Statement of Foreign Financial Assets (see Notice 2011-552011-2 C.B. 532011-29 I.R.B. 53, with respect to the delay in publishing the Form 8938 and how and when the taxpayer is to report the required information as a result of the delay).
- IRC 6046, Returns as to Organization or Reorganization of Foreign Corporations and as to Acquisitions of Their Stock-Form 5471.

Exhibit 25.6.23-3 (Cont. 26) (02-17-2021)**Instructions for Updating the Statute on AIMS**

- IRC 6046A, Returns as to Interests in Foreign Partnerships-Form 8865-P, Acquisitions, Dispositions and Changes of Interests in a Foreign Partnership.
- IRC 6048, Information with Respect to Certain Foreign Trusts, Form 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, and Form 3520-A, Annual Return of Foreign Trust With a U.S. Owner (under section 6048(b)).

Under IRC 6501(c)(8), as amended by the HIRE Act, the failure by the taxpayer to report the information required by new IRC 6038D will serve to extend the period of time for assessment to three years after the date the taxpayer provides the required information.

The HIRE Act amended IRC 6501(c)(8) to clarify that this statutory exception to the period of time for assessment, if applicable, applies to the entire return, not just those tax liabilities associated with the information not reported. If, however, the failure to furnish information required to be reported is due to reasonable cause and not willful neglect, the IRC 6501(c)(8) extended time for assessment applies only to the item or items associated with such failure. The clarifying amendment is not limited to information required to be reported under new IRC 6038D as IRC 6501(c)(8) also applies to information required to be reported by IRC 1295(b), IRC 1298(f), IRC 6038, IRC 6038A, IRC 6038B, IRC 6046, IRC 6046A and IRC 6048. The clarification applies to all returns filed after March 18, 2010, and all returns filed on or before such date as long as the period of time (determined without regard to the IRC 6501(c)(8) amendments referenced above) for assessment of taxes had not expired as of March 18, 2010. See Exhibit 25.6.23-6, IRC 6501(c)(8), Failure to Notify Secretary of Certain Foreign Transfers, Example - Clarifying Amendment, for example.

The ASED may be coded Alpha Code UU when it has been determined that IRC 6501(c)(8) is applicable and the normal three-year assessment statute applicable to the entire return may be allowed to expire if:

1. A consent to extend the assessment statute for the entire return cannot be obtained after timely and proper solicitation,
2. The case file is documented with adequate justification for letting the assessment statute applicable to the entire return expire in reliance on IRC 6501(c)(8), and
3. Written Territory Manager approval is obtained in advance of the normal three-year assessment statute expiration date.

Once the required information is furnished so that the ASED can be determined **and** either the ASED on the entire return has otherwise expired or the Territory Manager has approved reliance on IRC 6501(c)(8) in advance of the expiration of the statute on the entire return in accordance with the above procedures, update the ASED to the date determined under IRC 6501(c)(8) and enter an "R" indicator, which indicates, in this instance, the restrictions applicable to the IRC 6501(c)(8) exception. The ASED determined under IRC 6501(c)(8) is three years after the date the required information is furnished.

The ASED determined under IRC 6501(c)(8) can be extended by consent agreement but the examiner needs to bear in mind that consent agreements to extend the IRC 6501(c)(8) ASED only apply to the period for assessing the tax liability related to the transaction/event for which information was required to be furnished if failure to furnish the required information is due to reasonable cause.

VV - Gifts Not Adequately Disclosed on Return

Alpha Code VV is used to indicate the period for assessment of the tax imposed by Chapter 12 on gifts not adequately disclosed on the return (or in a statement attached to the return) may be assessed at any time. This exception to the normal three-year period for assessment is provided for in IRC 6501(c)(9), Gift Tax on Certain Gifts Not Shown on Return, which was originally added to the Code by P.L. 101-508, effective for gifts made after October 8, 1990.

Exhibit 25.6.23-3 (Cont. 27) (02-17-2021)**Instructions for Updating the Statute on AIMS**

Generally, IRC 6501(c)(9) should only be relied upon to extend the assessment statute if the normal three-year assessment period has otherwise expired, since this exception to the normal three-year period for assessment only applies to the ASER for assessing tax with respect to the inadequately disclosed gifts and not the ASER for the entire return.

IRC 6501(a) requires the IRS to assess a gift tax liability within three years after the filing date (or due date, if later) of the gift tax return. However, IRC 6501(c)(9) provides that if a gift is not shown on a gift tax return in a manner adequate to apprise the Secretary of the nature of the gift, then gift tax may be assessed at any time with respect to that gift. IRM 4.25.1, Estate and Gift Tax Examinations.

A gift may be inadequately disclosed if it is:

- a. Omitted completely from the return, or
- b. Shown on the return, but the manner in which it is shown is not adequate to apprise the Secretary of the nature of the gift.

If an examiner determines that a gift is inadequately disclosed on a gift tax return and the three year statute of limitations has not expired on the return on which the gift should be shown, the examiner must secure a consent to extend the statute of limitations on the entire return in order to protect the government's interest.

If the examiner is unable to secure a consent, the examiner may allow the three-year statute to expire on that gift tax return and rely on IRC 6501(c)(9) after the examiner takes the following actions:

- a. **In cases in which a gift is omitted from a gift tax return:** Document the case file with adequate justification for permitting the assessment statute applicable to the entire return expire in reliance on IRC 6501(c)(9), and obtain written approval from the Manager in advance of the normal three-year assessment statute expiration date.
- b. **In cases in which a gift is disclosed on a gift tax return:** Document the case file with adequate justification for allowing the assessment statute applicable to the entire return expire in reliance on IRC 6501(c)(9), **and** obtain written approval from the Territory Manager in advance of the normal three-year assessment statute expiration date.

For gifts made after October 8, 1990, and before January 1, 1997, the following Code provision is applicable: IRC 6501(c)(9)-Gift tax on certain gifts not shown on return. If any gift of property the value of which is determined under IRC 2701, Special Valuation Rules in Case of Transfers of Certain Interests in Corporations or Partnerships, or IRC 2702, Special Valuation Rules in Case of Transfers of Interests in Trusts, (or any increase in taxable gifts required under IRC 2701(d), Transfer Tax Treatment of Cumulative But Unpaid Distributions) is required to be shown on a return of tax imposed by chapter 12 (without regard to IRC 2503(b), Exclusions from Gifts), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may begin without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.

For gifts made after December 31, 1996, the following code provision is applicable: IRC 6501(c)(9)-"Gift tax on certain gifts not shown on return. If any gift of property the value of which (or any increase in taxable gifts required under IRC 2701(d)) which is required to be shown on a return of tax imposed by chapter 12 (without regard to IRC 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item."

Exhibit 25.6.23-3 (Cont. 28) (02-17-2021)**Instructions for Updating the Statute on AIMS**

In deciding whether or not a gift was adequately shown/disclosed on the return, see Treas. Reg. 301.6501(c)-1(e) (see 26 CFR 6501(c)-1(e)), Gifts Subject To Chapter 14 Of The Internal Revenue Code Not Adequately Disclosed On The Return, and Treas. Reg. 301.6501(c)-1(f) (see 26 CFR 6501(c)(1) (f)), Gifts Made After December 31, 1996, Not Adequately Disclosed On The Return--.

WW - Failure to Provide Information with Respect to “Listed Transactions” (does not apply to taxable years with respect to which the period for assessing a deficiency expired before October 22, 2004, the date of enactment of American Jobs Creation Act (AJCA))

Alpha Code WW is used to indicate that, per IRC 6501(c)(10), Listed Transactions, the period for assessment of tax with respect to a “listed transaction” that the taxpayer failed to disclose as required under IRC 6011, General Requirement of Return, Statement or List, will not expire before one year after the earlier of either the date the taxpayer discloses the transaction in accordance with prescribed procedures (see Rev. Proc. 2005-26, 2005-17 I.R.B. 965 (April 25, 2005), or subsequently published guidance) or the date a “material advisor” meets the requirements of IRC 6112, Material Advisors of Reportable Transactions Must Keep Lists Of Advisees, Etc., with respect to a request by the Secretary under IRC 6112 relating to the transaction.

If neither the taxpayer nor the “material advisor” disclose the required information, the period of time for assessment of any tax with respect to the “listed transaction” is unlimited. Other exceptions to the normal statutory period for assessment of tax may also apply to the tax return in question and, of course, IRC 6501(c)(10) does not shorten any other applicable period for assessment, such as the general three-year period prescribed by IRC 6501(a).

The American Jobs Creation Act of 2004 (AJCA), Public Law 108-357, amended IRC 6501(c) by adding a new exception, IRC 6501(c)(10) to the normal three-year period for tax assessment in those instances when the taxpayer does not provide information with respect to a “listed transaction” as required under IRC 6011. IRC 6707A(c)(2), Penalty for Failure to Include Reportable Transaction Information with Return, which was added by the AJCA, defines a “listed transaction” as a transaction that is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction. Treas. Reg. 1.6011-4(b)(2) (see 26 CFR 1.6011-4(b)(2)) also defines “listed transactions.”

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 the date by which the taxpayer is required to disclose the transaction.

Unlike some of the other exceptions contained in IRC 6501(c), this exception only applies to the tax liability related to the “listed transaction” and not to the ASED for the entire return; therefore, IRC 6501(c)(10) should generally be relied upon to extend the period for assessment only in those instances when the ASED for the entire return has otherwise expired.

The ASED may be coded Alpha Code WW when it has been determined that IRC 6501(c)(10) is applicable and the normal three-year assessment statute applicable to the entire return may be allowed to expire if:

1. A consent to extend the assessment statute for the entire return cannot be obtained after timely and proper solicitation,
2. The case file is documented with adequate justification for letting the assessment statute applicable to the entire return expire in reliance on IRC 6501(c)(10), and
3. Written Territory Manager approval is obtained in advance of the normal three-year assessment statute expiration date.

Exhibit 25.6.23-3 (Cont. 29) (02-17-2021)**Instructions for Updating the Statute on AIMS**

In order to determine if the one-year period under IRC 6501(c)(10) has started to run, the examiner should consult Rev. Proc. 2005-26, or subsequently published guidance, to determine if the taxpayer or “material advisor” has complied with the requirements contained in the applicable published guidance.

The IRC 6011 regulations and section 4 of the revenue procedure require disclosure also be provided by the taxpayer to the Office of Tax Shelter Analysis (OTSA), even when the taxpayer provided the required information with the return filing. The one year limitations period on assessment under IRC 6501(c)(10) will not begin until the original disclosure is received by the appropriate Service Center and a copy of the disclosure is received by OTSA. A process has been established to determine whether or not, and the date, this requirement to provide OTSA with the disclosure has been met. Contact OTSA by telephone at (866) 775-7474 or by fax at (844) 201-5535, or by email at: *irs.tax.shelter.hotline@irs.gov* to ascertain whether the taxpayer filed the required disclosure with OTSA.

If the requirements of Rev. Proc. 2005-26 have not been satisfied by the taxpayer or the “material advisor,” update the ASED for the tax period using Alpha Code WW in the DD position of the AIMS ASED field.

Caution: Since one examiner may be examining the taxpayer’s return(s) and a different examiner may be examining the “material advisor,” coordination is required between the relevant employees to determine the ASED for the tax period(s) being considered.

Once the required information is furnished so that the ASED can be determined and either the ASED on the entire return has otherwise expired or the Territory Manager has approved reliance on IRC 6501(c)(10) in advance of the expiration of the statute on the entire return in accordance with the above procedures, update the ASED to the date determined under IRC 6501(c)(10) and enter an “R” indicator, which indicates, in this instance, the restrictions applicable to the IRC 6501(c)(10) exception. The ASED is one year after the earlier of the date the taxpayer discloses the transaction, as discussed in the above-referenced revenue procedure, or the date that a “material advisor” meets the requirements of IRC 6112 with respect to a request by the Secretary under IRC 6112 relating to the transaction.

The ASED determined under IRC 6501(c)(10) can be extended by consent agreement but the examiner needs to bear in mind that consent agreements to extend the IRC 6501(c)(10) ASED only apply to the period for assessing the tax liability related to the “listed transaction.” See Notice 2009-59 for identifying listed transactions.

Note: If a transaction is “listed” after the taxpayer filed the taxpayer’s return (or an amended return) for a taxable year during which the taxpayer participated in the transaction, then IRC 6501(c)(10) may apply if the period for assessment is still open both: (a) on the date the transaction is “listed” and (b) on the date IRC 6011 (including regulatory and other forms of guidance issued pursuant to that section’s authority) requires the taxpayer to disclose the transaction. Therefore, if the transaction is not “listed” before the ASED expires or the taxpayer is not required to disclose before the ASED expires for the taxable year(s) under consideration, then IRC 6501(c)(10) would not apply to the tax liability attributable to the transaction for those taxable years.

Note: Currently, the regulations under IRC 6011 require a taxpayer to disclose these subsequently-listed transactions by submitting a completed Form 8886, Reportable Transaction Disclosure Statement, to the Office of Tax Shelter Analysis within 90 calendar days after the date on which the transaction became a listed transaction. The Commissioner may determine the time for disclosure of listed transactions in the published guidance identifying the transaction per Treas. Reg. 1.6011-4(e)(2)(i), Listed transactions and transactions of interest (see 26 CFR 1.6011-4(e)(2)(i)). Therefore, because IRC 6501(c)(10) is triggered by a taxpayer’s failure to disclose a listed transaction, if the 90 calendar day period for filing the disclosure statement ends after the general period of limitations expires with regard to a year where the taxpayer participated in the listed transaction, then IRC 6501(c)(10) would not apply because the

Exhibit 25.6.23-3 (Cont. 30) (02-17-2021)**Instructions for Updating the Statute on AIMS**

taxpayer would not have failed to disclose the transaction within the normal period of limitations and IRC 6501(c)(10) cannot reopen an already closed period of limitations. The examiner must check applicability of the requirement when considering the issue.

XX - Return Preparer, Promoter, Aiding/Abetting Penalties and Certain Penalties for Failure to Report Foreign Transaction/Ownership Information (Only Used For ERCS Controls, not an AIMS entry)

Alpha Code XX is used on ERCS to designate that a return preparer penalty under IRC 6694(b), Understatement of Taxpayer's Liability by Tax Return Preparer, may be assessed at any time. However, return preparer penalty controls for penalties under IRC 6694(a) and IRC 6695, Other Assessable Penalties with Respect to the Preparation of Tax Returns for Other Persons, are to reflect a date three years after either the due date of the return (without regard to an extension of time to file) or the date the return was filed, whichever is later. If the penalty case is open for the sole purpose of addressing a claim for refund of a penalty assessed under IRC 6694(a) or IRC 6695 that has already been paid, and the normal three year assessment date has expired, then Alpha Code AA should be used. Alpha Code XX can be used to designate that a return preparer penalty under IRC 6713, Disclosure or Use of Information by Preparers of Returns, for preparer's unauthorized disclosure or use of taxpayer information may be assessed at any time.

Alpha Code XX can also be used to designate that penalties under IRC 6700, Promoting Abusive Tax Shelters, Etc., and IRC 6701, Penalties for Aiding and Abetting Understatement of Tax Liability, for promoting abusive tax shelters and aiding and abetting understatement of the tax liability, respectively, may be assessed against the tax return preparer at any time. See IRM 20.1.6, Penalty Handbook-Preparer, Promoter, Material Advisor Penalties.

To designate that the penalties under IRC 6038(b), Information Reporting with Respect to Certain Foreign Corporations and Partnerships; IRC 6038A(d), Penalty for Failure to Furnish Information or Maintain Records; IRC 6038B(c), Penalty for Failure to Furnish Information; IRC 6038C(c), Information with Respect to Foreign Corporations Engaged in U.S. Business; IRC 6038D, Information with Respect to Foreign Financial Assets; IRC 6039E, Information Concerning Resident Status; IRC 6039F(c)(1)(B), Notice of Large Gifts Received from Foreign Persons and IRC 6039G, Information on Individuals Losing United States Citizenship, for failure to report certain foreign-related transaction/ownership information may be assessed at any time if the applicable information is not reported. See IRM 20.1.9, International Penalties.

YY - Participation in Abusive Offshore Arrangements—Returns generally controlled under Project Codes 0971, Offshore Private Banking Initiative - CIP; 1222, Swiss Bank Project; 1194, 2014 Streamlined Compliance Filtered Work; Various OVDI Project Codes as well as returns controlled under any projects pertaining to abusive offshore arrangements subsequently approved by headquarters

Alpha Code YY is used when the decision is made to allow the normal statute of limitations to expire on the offshore project returns involving participation in abusive offshore arrangements, (Offshore Credit Card Project (OCCP), Offshore Voluntary Compliance Initiative, Broker Initiative, or participants identified pursuant to a promoter investigation which involves tax avoidance/evasion tactics based on offshore arrangements) and the decision to allow the normal assessment statute to expire has been timely and properly documented, including approval by the Territory Manager. The documentation requirement to support the determination that special conditions exist will be satisfied by including a statement such as, "as a part of the OCCP (or Broker Initiative, or promoter investigation involving tax avoidance/evasion tactics based on offshore arrangements), it has been determined that there is a likelihood in this case that one or a combination of the following conditions exists: (1) the tax return is false/fraudulent; (2) a sufficiently large omission of gross income to rely on the six-year assessment statute; or, (3) failure to notify the Secretary of foreign transfers (IRC 6501(c)(8))."

Exhibit 25.6.23-3 (Cont. 31) (02-17-2021)**Instructions for Updating the Statute on AIMS**

Generally, the Alpha Code YY ASED should only be used for tax returns filed by participants in abusive offshore arrangements where it has yet to be determined whether or not a specific statutory exception to the normal three-year period of time for assessment of tax applies.

Alpha Code YY may also be used to alpha code the AIMS ASED when the normal three-year period of time for assessment of tax has already expired before commencement of the examination of a return for a tax period which involves abusive offshore arrangements and it has yet to be determined whether or not a specific statutory exception to the normal three-year period of time for assessment of tax applies.

If it is determined some exception to the normal period for assessment applies, update the ASED to the applicable alpha code, for example, NN for IRC 6501(e), Substantial Omission of Items, or OO for IRC 6501(c)(1), False Return, or UU for the IRC 6501(c)(8), Failure to Notify Secretary of Certain Foreign Transfers, exception.

The month (MM) and year (YYYY) entries accompanying the Alpha Code YY are the month and year the normal three-year statute expires.

If it is ultimately determined there is no exception to the normal ASED, then replace the Alpha Code YY ASED with the actual statute expiration date. If the ASED has in fact expired and an assessment cannot be made, refer to IRM 25.6.1.13, Barred Assessments/Barred Statute Cases, (or other procedures required by your particular organizational component) for the procedures for preparing and submitting a Form 3999, Statute Expiration Report, or other form prescribed by your organization.

Examinations carrying project codes which qualify as abusive offshore arrangements should not be closed prior to the proper development of the case which can include multiple years. Examiners should prepare a risk analysis to document potential losses to the Government should the statute be allowed to expire during the completion of the examination to evaluate the risks accordingly.

Note: The potential Form 3999 requirement is **not** considered a risk to the Government and should not be considered as part of the risk analysis noted here.

Note: Since there is currently a limitation on AIMS of only one project code, Alpha Code YY may be used for the ASED, as long as the return meets one of the offshore project code definitions, even if AIMS properly reflects some other approved project code, rather than an approved offshore project code. If the return is not project coded on AIMS, the return should be project coded with the appropriate offshore project code, either before, or simultaneously with the input of Alpha Code YY.

ZZ - Transfer of AIMS Database

Alpha Code ZZ is used to update the AIMS ASED temporarily to allow the transfer of the AIMS data base. The terminal will not accept a transfer (Disposal Code 30) if the statute of limitations has expired or will expire within the times prescribed in IRM 4.4.33.2, Transfer Restrictions, unless certain other conditions specified in IRM 4.4.33.2, Transfer Restrictions, are met.

Approval must be received from the receiving (gaining) unit before Alpha Code ZZ can be input. The receiving unit must change the AIMS ASED, which has been Alpha Coded ZZ, to the correct ASED upon receipt of the case file and AIMS data base. See IRM 4.4.33.2, Transfer Restrictions.

Exhibit 25.6.23-4 (03-23-2015)**Tables 4.0 and 4.1, Returns With Statute Date Pending****1. Data in AIMS Table 4.0 and AIMS Table 4.1:**

Column Number	Description
Column (1):	Name of Taxpayer
Column (2):	Taxpayer Identification Number and Filing Status
Column (3):	Master File Tax Code
Column (4):	Tax Period
Column (5):	Name Control/Check Digit
Column (6):	Activity Code
Column (7):	Organization Code
Column (8):	Statute Expiration Date
Column (9):	Source Code/Project Code/Partnership Investor Control File (PICF) Code/ Organization Code Change/Repeat Indicator
Column (10):	Status Code (Table 4.1) and Date
Column (11):	Comments

2. Data in Table SC 4.0:

Column Number	Description
Column (1):	Name of Taxpayer
Column (2):	Taxpayer Identification Number and Filing Status
Column (3):	Master File Tax Code
Column (4):	Tax Period
Column (5):	Name Control/Check Digit
Column (6):	Activity Code
Column (7):	Status Date
Column (8):	Statute Expiration Date
Column (9):	Source Code/Project Code/PICF Code/Repeat
Column (10):	Comments

Exhibit 25.6.23-5 (03-23-2015)**IRC 6501(e)(1)(A)(ii), Substantial Omission of Items, Examples – More Than \$5,000.00 Omission of Income Attributable to Foreign Financial Assets**

IRC 6501, Limitations on Assessment and Collection, was amended by the Hiring Incentives to Restore Employment Act, Public Law No. 111-147, on March 18, 2010, IRC 6501(c), and IRC 6501(e), and further amended by the Education Jobs and Medicaid Assistance Act, Public Law No. 111-226, on August 10, 2010, (IRC 6501(c)).

In each example below, assume the taxpayer failed to report taxable interest income in the amount of \$6,000, earned on a bank account, maintained at a foreign financial institution:

Example: Taxpayer filed their 2006 federal income tax return on, or before April 15, 2007. Since the three-year statute of limitations on assessment had not expired on March 18, 2010, the six-year statute of limitations under IRC 6501(e) will not expire before April 15, 2013.

Example: Taxpayer timely filed their 2005 federal income tax return on, or before April 15, 2006. Unless the statute of limitations remains open on March 18, 2010, under some other exception to the three-year statute of limitations on assessment, IRC 6501(e)(1)(A)(ii) does not apply since the statute of limitations will have expired prior to March 18, 2010.

Example: Taxpayer filed their 2005 federal income tax return on, or before April 15, 2006. On December 31, 2008, the taxpayer consents to extend the statute of limitations on assessment to April 15, 2010. Since the extended statute of limitations on assessment had not expired on March 18, 2010, the six-year statute of limitations will not expire before April 15, 2012.

Example: Taxpayer late-filed their 2005 federal income tax return on December 1, 2007. Since the three-year statute of limitations on assessment had not expired on March 18, 2010, it will not expire before December 1, 2013.

Example: Taxpayer late-filed their 2005 federal income tax return on December 1, 2006. Since the three-year statute of limitations on assessment expired before March 18, 2010, the six-year statute of limitations does not apply, unless some other exception to the normal three-year statute of limitations keeps the statute open until March 18, 2010.

Example: Taxpayer filed their 2005 federal income tax return on or before April 15, 2006. The return contains a “more-than-25-percent” omission of income, including an omission of more than \$5,000 of income attributable to a foreign financial asset. Because the statute of limitations is six years from the filing date of the return for both the “more-than-25-percent omission of income” and the “omission of more than \$5,000 of income attributable to a foreign financial asset”, the statute of limitations will not expire before April 15, 2012, and will not be further extended even though the statute remained open on March 18, 2010.

Exhibit 25.6.23-6 (03-23-2015)**IRC 6501(c)(8), Failure to Notify Secretary of Certain Foreign Transfers, Example-Clarifying Amendment**

The amendments to IRC 6501(c)(8) are not limited to information required to be reported under new IRC 6038D, Information with Respect to Foreign Financial Assets, because IRC 6501(c)(8) also applies to information required to be reported by IRC 1295(b), Qualified Electing Fund-Election; IRC 1298(f), Special Rules—Reporting Requirements; IRC 6038, Information Reporting with Respect to Certain Foreign Corporations and Partnerships; IRC 6038A, Information With Respect to Certain Foreign-Owned Corporations; IRC 6038B, Notice of Certain Transfers to Foreign Persons; IRC 6046, Returns as to Organization or Reorganization of Foreign Corporations and as to Acquisitions of Their Stock; IRC 6046A, Returns as to Interests in Foreign Partnerships and IRC 6048, Information With Respect to Certain Foreign Trusts.

For failures to report under IRC 6038, IRC 6038A, IRC 6038B, IRC 6046, IRC 6046A or IRC 6048:

- a. If the assessment period of limitations was open on March 10, 2010, then the limitations period is extended for three years from the date the missing information is provided. This extension applies to the whole return, unless the taxpayer has reasonable cause, in which case the extension applies only to items related to the unreported information **or**
- b. If the period of limitations was closed on March 10, 2010, then the limitations period is extended for three years from the date the missing information is provided only for items related to the unreported information.

For failures to report under IRC 1295(b):

- a. If the period of limitations was open on March 10, 2010 other than with respect to the failure to report under IRC 1295(b), then the limitation period is extended for three years from the date the missing information is provided. This extension applies to the whole return, unless the taxpayer has reasonable cause, **or**
- b. If the period of limitations was closed on March 10, 2010, then the three-year extension does not apply.

For failures to report under IRC 6038D or IRC 1298(f):

- a. If the failure to report is for a tax year beginning after March 18, 2010, then the limitation period is extended for three years from the date the missing information is provided. This extension applies to the whole return, unless the taxpayer has reasonable cause, **or**
- b. If the failure to report is for a tax year beginning on or before March 18, 2010, then the three-year extension does not apply.

Example: The taxpayer filed the 200712 Form 1120, U.S. Corporation Income Tax Return, on March 15, 2008. During the taxable year 2007, the taxpayer acquired more than 10 percent of the outstanding stock of a foreign corporation, but failed to file a Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations, as required to be filed to report the stock acquisition as prescribed by IRC 6046. Normally, the period of time for assessment would have expired on March 15, 2011. Since the taxpayer failed to report the information required to be reported by IRC 6046, the period of time for assessment would not expire on March 15, 2011, but would expire three years after the required information is actually reported by the taxpayer. The clarifying amendment to IRC 6501(c)(8) makes it clear that the open assessment statute applies to the entire return and not only to the tax deficiency attributable to the information which was not reported, unless the failure to provide the required information is due to reasonable cause and not willful neglect. If it is determined that reasonable cause for failing to report the information exists, the period of time for assessment is only open for the deficiency attributable to the information not reported under IRC 6046.

Exhibit 25.6.23-7 (02-17-2021)**Acronyms and Definitions**

The following table lists common acronyms and their definitions as used throughout this IRM.

Acronym	Definition
AD	Area Director
AIMS	Audit Information Management System
AJCA	American Jobs Creation Act
ASED	Assessment Statute Expiration Date
BBA	Bipartisan Budget Act of 2015
BIG	Built In Gain
BMF	Business Master File
CPF	Campus Pass-Through
CCP	Centralized Case Processing
CEAS	Correspondence Examination Automation System
CFOL	Computer Files On Line
CI	Criminal Investigation
COVID-19	Coronavirus Disease 2019
CSED	Collection Statute Expiration Date
DFO	Director Filed Operations
DSUE	Deceased Spousal Unused Exclusion
DVD	Domestic Voluntary Disclosure
EGC	Employee Group Code
EIN	Employer Identification Number
EO	Exempt Organizations
EP	Employee Plans
ERCS	Exam Return Control System
FORT	Field Office Resource Team
FPAA	Final Partnership Administrative Adjustment
HIRE	Hiring Incentives to Restore Employment
IDRS	Integrated Data Retrieval System
ILSC	Investor Level Statute Control
IMF	Individual Master File
IRB	Internal Revenue Bulletin

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Exhibit 25.6.23-7 (Cont. 1) (02-17-2021)

Acronyms and Definitions

Acronym	Definition
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
ITIN	Individual Taxpayer Identification Number
LB&I	Large Business & International
LIFO	Last In First Out
MFT	Master File Tax
NBAP	Notice of Beginning of Administrative Proceeding
NOL	Net Operating Loss
OCCP	Offshore Credit Card Program
OIC	Offer In Compromise
OIC-DATL	Offer In Compromise - Doubt As To Liability
OTSA	Office of Tax Shelter Analysis
PPA/NOPPA	Proposed Partnership Adjustment/Notice of Proposed Partnership Adjustment
PCS	Partnership Control System
PDF	Portable Document Format
PFIC	Passive Foreign Investment Corporation
PICF	Partnership Investor Control File
PTE	Pass-through Entities
RFSCDT	Refund Statute Control Date
RSED	Refund Statute Expiration Date
SAC	Special Agent in Charge
SB/SE	Small Business/Self Employed
SEID	Standard Employee Identifier
SFR	Substitute For Return
SNOD	Statutory Notice Of Deficiency
SRP	Shared Responsibility Payment
SSIVL	Statistical Sampling Inventory Validation Listing
SSN	Social Security Number
TC	Transaction Code
TE/GE	Tax Exempt/Government Entities

Exhibit 25.6.23-7 (Cont. 2) (02-17-2021)**Acronyms and Definitions**

Acronym	Definition
TEFRA	Tax Equity and Fiscal Responsibility Act
TIN	Taxpayer Identification Number
TIPRA	Tax Increase Prevention and Reconciliation Act
TMP	Tax Matters Partner
VDP	Voluntary Disclosure Practice
W&I	Wage & Investment

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Exhibit 25.6.23-8 (02-17-2021)

Related Resources

The following table contains related IRMs which cover additional processes and procedures that examiners may use and are referenced throughout this IRM.

IRM	Title
IRM 4.4.9	AIMS Procedures and Processing Instructions, Delinquent and Substitute for Return Processing
IRM 4.4.25	AIMS Procedures and Processing Instructions, Quick Assessments
IRM 4.4.27.5	AIMS Reports Generated at the Campuses
IRM 4.4.33.2	AIMS Procedures and Processing Instructions, Transfer Restrictions
IRM 4.4.34	Updating/Correcting AIMS Data Base
IRM 4.7.3	Examination Returns Control System (ERCS), Statute of Limitations
IRM 4.7.6	Examination Returns Control System (ERCS), Reports
IRM 4.8.9.9.2.1	Technical Services, Statutory Notice of Deficiency, Mandatory Area Counsel Review Criteria
IRM 4.10.8.9.7	Inviting Claims in Overassessment Cases
IRM 4.10.11.4.2	Refund Statute Expiration Date (RSED) - Consideration and Examiner's Responsibilities.
IRM 4.23.7.8	Employment Tax, Statute of Limitations for Tip Examinations
IRM 4.25.1	Estate and Gift Tax Examinations
IRM 4.31.2.5	Pass-Through Entity Handbook, TEFRA Examinations, Field Office Procedures, Statutes
IRM 4.31.3	Pass-Through Entity Handbook, TEFRA Examinations - CPF Procedures
IRM 4.31.5	Pass-Through Entity Handbook, Investor Level Statute Control (ILSC) Examinations - Field Office Procedures
IRM 4.31.9	Centralized Partnership Audit Regime (BBA) Field Examination Procedures
IRM 5.1.19	Collection Statute Expiration
IRM 5.8.10.8	Offer in Compromise, Effects of Previous Offers on Assessment Statute Expiration Date
IRM 20.1	Penalty Handbook
IRM 20.1.6	Preparer, Promoter, Material Advisor Penalties
IRM 20.1.9	International Penalties
IRM 21.2.4.3.3	Customer Account Services, Master File Accounts Maintenance, Civil Penalty Modules
IRM 21.4.5	Erroneous Refunds

Exhibit 25.6.23-8 (Cont. 1) (02-17-2021)**Related Resources**

IRM	Title
IRM 25.1.4.3.8	Fraud Handbook, Administrative Joint Investigation, Statute Protection
IRM 25.6.1	Statute of Limitations Processes and Procedures
IRM 25.6.22	Extension of Assessment Statute of Limitations By Consent
IRM 25.23.2.7.2.3	MFT 32 - Overview
IRM 25.25.6.7	MFT 32 Procedures