



LARGE BUSINESS AND
INTERNATIONAL DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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Affected IRMs: 4.46.3, 4.10.11, 4.1.1

MEMORANDUM FOR: ALL LB&I EMPLOYEES
SB/SE DIRECTOR, FIELD EXAMINATION

FROM: Ronald H. Hodge II /s/ *Ronald H. Hodge II*
Assistant Deputy Commissioner Compliance Integration
Large Business and International (LB&I) Division

SUBJECT: Updated Interim Guidance on Claims for Refund that Include a
Claim for Credit for Increasing Research Activities and
Extension of Transition Period

Purpose: The purpose of this memorandum is to combine the recent changes to the guidance on validating research credit claims with the extension of the 45-day transition period for perfecting research credit claims. This memorandum supersedes Interim Guidance Memorandum LB&I-04-1024-0012, Updated Procedures for Determining the Validity of Refund Claims that Include a Claim for the Credit for Increasing Research Activities. It also updates and supersedes LB&I-04-1222-0026, Updated Interim Guidance on Claims for Refund that Include a Claim for Credit for Increasing Research Activities with respect to IRM 4.10.11 and IRM 4.1.1. Please ensure this information is distributed to all affected employees within your organization.

Background/Source(s) of Authority: The [IRS previously announced](#) that effective for claims postmarked as of June 18, 2024, it was waiving the requirement that taxpayers provide the following two items of information with their refund claim involving the Research Credit:

1. The names of the individuals who performed each research activity and
2. The information each individual sought to discover.

In addition, on November 25, 2024, the IRS announced that the transition period during which taxpayers are provided 45 days to perfect a deficient research credit claim for refund prior to IRS's final determination on the claim is extended through January 10, 2026.

Procedural Change: The following IRM sections are updated for the changed requirements and the extension of the transition period through January 10, 2026 (changed text shown in ***bold italic*** font) as shown in the attachments.

- [Attachment 1](#) – Revisions to IRM 4.46.3, LB&I Examination Process – Planning the Examination
- [Attachment 2](#) – Revisions to IRM 4.10.11, Examination of Returns – Claims for Refund, Requests for Abatement, and Audit Reconsiderations.
- [Attachment 3](#) – Revisions to IRM 4.1.1, Planning and Special Programs – Planning, Monitoring, and Coordination (SB/SE only)

Effect on Other Documents: This memo supersedes Interim Guidance Memorandum LB&I-04-1024-0012, Updated Procedures for Determining the Validity of Refund Claims that Include a Claim for the Credit for Increasing Research Activities and LB&I-04-1222-0026, Updated Interim Guidance on Claims for Refund that Include a Claim for Credit for Increasing Research Activities. This guidance will be incorporated into the IRMs listed by a date not to exceed two years from the date of this memorandum.

Effective Date: This guidance is effective for all claims that include a claim for research credit filed on or after January 10, 2022.

Contact: For LB&I questions or comments, contact the LB&I Policy Office through the LB&I Policy Gateway and Create a Request. For SB/SE questions or comments, submit questions through the Exam Procedures Knowledge Base and select Contact an Expert.

Attachments (3)

Distribution: www.irs.gov

Attachment 1 – Revisions to IRM 4.46.3, LB&I Examination Process – Planning the Examination

The following changes are hereby effective June 18, 2024 for IRM 4.46.3.7.6:

IRM 4.46.3.7.6 (06-18-2024)

Determining the Validity of Refund Claims that Include a Claim for the Credit for Increasing Research Activities

- (1) Treas. Reg. 301.6402-2(b)(1) requires taxpayers that are filing a refund claim to apprise the Commissioner of the exact basis for the claim. To satisfy Treas. Reg. 301.6402-2(b)(1), taxpayers filing a claim for refund that includes a claim for the IRC 41 Credit for Increasing Research Activities "research credit claim" must provide, at a minimum, **three** items of information.

Item #	Information Needed	Description
1	Identify all the business components that form the factual basis of the research credit claim for the claim year.	Business components, as defined in IRC 41(d)(2)(B) must be identified.
2	All research activities performed by business component.	This must include a description of what the taxpayer did, and how they did it, by business component. It does not need to describe the four-part test under IRC 41(d)(1) in detail. Language that simply restates the requirements under the Code or Treasury Regulations is insufficient.
	[removed]	
	[removed]	
3	The total qualified <ol style="list-style-type: none">1. employee wage expenses2. supply expenses, and3. contract research expenses.	The claim should provide the total amount of each of these expense types. If the Form 6765 or its equivalent is properly completed, that will satisfy this item.

- (2) In addition to the **three** items of information listed above, a declaration signed under penalties of perjury verifying that the facts provided are accurate is required. In most cases, the signature on Form 1040-X or Form 1120-X serves this function.
- (3) For claims postmarked prior to June 18, 2024, two additional items of information were required to be included with the refund claim:
 - a. The names of the individuals who performed each research activity.
 - b. The information each individual sought to discover.

This information may be requested if a refund claim involving the research credit is selected for examination.

4.46.3.7.6.1 (11-25-2024) **Transition Period and Time to Perfect**

- (1) On **November 25, 2024**, the IRS announced an extension (through **January 10, 2026**) of the transition period during which taxpayer are provided 45 days to perfect a research credit claim for refund prior to IRS's final determination on the claim.
- (2) For research credit claims filed January 10, 2022 through **January 10, 2026** (the transition period) taxpayers will be given 45 days to perfect the research credit claim that is timely filed but does not provide the **three** items of information listed in [IRM 4.46.3.7.6](#).
- (3) Regarding timeliness, IRC 6511(a) provides the general rule that a claim for credit or refund must be filed within 3 years from the time the return was filed or 2 years from the time the tax was paid, whichever is later. IRM 25.6.1.6.15 provides guidance on when a document is treated as filed under the Internal Revenue Code.
- (4) During the transition period, a research credit claim that would otherwise be considered timely pursuant to IRC 6511(a) but does not meet the requirements of IRM 4.46.3.7.6, will be considered timely filed if perfected within the 45-day timeframe. Taxpayers that fail to provide the **three** items of information as listed in IRM 4.46.3.7.6 will be notified with Letter 6428, Claim for Credit for Increasing Research Credit Activities - Additional Information Required. The 45-day perfect period will start from the date Letter 6428 is issued. All research credit claims filed on or after **January 11, 2026**, will be subject to the general rules of IRC 6511(a).
- (5) Subsequent submissions of facts and statements to perfect a research credit claim must be accompanied by another written declaration regarding the accuracy of the information provided and signed under the penalties of perjury.

4.46.3.7.6.2 (11-25-2024) **Claims Filed During the Transition Period**

- (1) For research credit claims filed January 10, 2022 through **January 10, 2026** that are routed to the field due to an open examination indicator, LB&I examiners will apply the following procedures for these claims, which are filed within the transition period and provide an opportunity to perfect deficient claims:

- a) Evaluate the research credit claim for the **three** items of information as listed in [IRM 4.46.3.7.6](#) and verify that it is signed under penalties of perjury to determine validity and document the results of the evaluation in the case file. This determination should generally be completed within 30 days after received in the field examination team.
- b) If the research credit claim is determined to be valid, examiners will follow appropriate risking procedures and determine if an examination of the claim is warranted.
- c) If a research credit claim is determined to be deficient, examiners will first issue Letter 6428, Claim for Credit for Increasing Research Credit Activities - Additional Information Required, allowing 45 days to perfect. If the **three** items of information as listed in [IRM 4.46.3.7.6](#) are received within the 45 days provided, the examiner will continue under normal risking procedures. If sufficient information to perfect the claim is not received pursuant to the process set forth in the letter, the claim will be considered deficient, and taxpayers will be issued Letter 6430, No Consideration, Section 41 Claim. Management (i.e., Territory Manager) and Counsel must concur that the claim does include the **three** items of information as listed in IRM 4.46.3.7.6 prior to issuing Letter 6430.
- d) If the research credit claim is deficient, do not consider the claim issues or include claim language in a report. In addition to providing the taxpayer Letter 6430, a Form 3870, Request for Adjustment, is required to reverse the transaction code posted to the master file and to remove freeze code "-A." Submit Form 3870 to Centralized Case Processing (CCP) to input a TC 290 for zero to release the freeze code. See CCP Exam EEFax Numbers for submission instructions. See also [IRM 21.5.6.4.2, -A Freeze](#).

4.46.3.7.6.3 (11-25-2024)

Claims Filed After the Transition Period Ends

- (1) Research credit claims that are filed after the transition period ends do not have the opportunity to perfect. LB&I examiners will apply the following procedures for research credit claims filed on or after **January 11, 2026** that are routed to the field due to an open examination:
 - a) Evaluate the research credit claim for the **three** items of information as listed in [IRM 4.46.3.7.6](#) and verify that it is signed under penalties of perjury to determine validity and document the results of the evaluation in the case file. This determination should generally be completed within 30 days after received in the field examination team.
 - b) If the research credit claim is determined to be valid, examiners will follow appropriate risking procedures and determine if an examination of the claim is warranted.
 - c) If the research credit claim is determined to be deficient, examiners will issue Letter 6430, No Consideration, Section 41 Claim to the taxpayer. Management (i.e., Territory Manager) and Counsel must concur that the claim

does not meet the criteria outlined in IRM 4.46.3.7.6 prior to issuing Letter 6430.

- d) If the research credit claim is deficient, do not consider the claim issues or include claim language in a report. In addition to providing the taxpayer Letter 6430, a Form 3870, Request for Adjustment, is required to reverse the transaction code posted to the master file and to remove freeze code "-A." Submit Form 3870 to CCP to input a TC 290 for zero to release the freeze code. See CCP Exam EEFax Numbers for submission instructions. See also [IRM 21.5.6.4.2, -A Freeze](#).

Attachment 2 – Revisions to IRM 4.10.11, Examination of Returns – Claims for Refund, Requests for Abatement and Audit Reconsiderations

4.10.11.2.1.1.1 (11-25-2024)

Claims for Refund – Required Form and Content – Research Credit Claims

(1) This subsection contains additional guidance specific to the required form and content of research credit claims for refund which include a claim for increasing research activities under IRC §41 (“research credit claims”) filed after January 10, 2022.

Note: For research credit claims filed January 10, 2022 through **January 10, 2026**, taxpayers will be given an opportunity to submit additional documentation to perfect deficient claims.

(2) [Field Advice 20214101F](#) clarified what information taxpayers must provide for a research credit claim to be valid under Treas. Reg. § 301.6402-2(b)(1). See [IRM 4.46.3.7.6](#), Determining the Validity of Claims for Increasing Research Activities, for the five items of information a taxpayer must submit (at a minimum) for a research credit claim to be considered valid.

(3) Generally, research credit claims filed after January 10, 2022 are screened at the campus to determine if the claim is valid under Treas. Reg. § 301.6402-2(b)(1). Research credit claims that have been classified and selected for examination by the campus should be considered valid. In some instances, research credit claims bypass campus classification; for example, a Form 1040X given directly to an examiner during an audit, or a research credit claim filed with the campus but routed directly to the group because of an open AIMS status (see IRM Exhibit 21.5.3-1, Claim Processing with Examination Involvement).

- a. If an LB&I examination group receives a research credit claim that bypassed campus classification, they must follow the procedures in [IRM 4.46.3.7.6](#) to determine if the claim is valid (prior to examining the claim).
- b. If an SB/SE examination group receives a research credit claim that bypassed campus classification, prior to examining the claim, they must follow the guidance in the table below to coordinate with their Area Planning and Special Programs (PSP) and have the claim screened for validity. PSP will determine if the claim is valid or deficient (deficient determinations require Management (i.e., PSP section chief) and Counsel concurrence). See [IRM 4.1.1.6.5.1.1](#), Claims Coordinator –Research Credit Cases, for PSP guidance.

Steps to determine research credit claim validity (SB/SE)	Additional Instructions
Step 1 – Email the request to PSP.	<p>The group manager or examiner (with a copy to the manager) emails an electronic copy of the research credit claim to their Area PSP section chief.</p> <p>Note: All case controls remain with the group.</p>
Step 2 – Receive and document PSP’s determination of the claim’s validity.	<p>PSP evaluates the research credit claim and emails the determination to the group manager or examiner (with a copy to the group manager).</p> <p>Note: Generally, this should be completed within 30 days.</p>
Step 3 – For a valid claim, STOP. Do not complete remaining steps below.	<p>Examiners follow the procedures in this IRM to survey or examine the research credit claim. (To survey a claim before assignment, group managers follow IRM 1.4.40.4.6.3.2.3, Survey Before Assignment - Claims for Refund and Requests for Abatement.)</p>
<p>Step 4 – For a deficient research credit claim filed January 10, 2022 through January 10, 2026, the taxpayer is given an opportunity to perfect the deficient claim.</p> <p>Note: For a research credit claim filed after January 10, 2026, skip to Step 5.</p>	<p>Examiners (group managers if the case is in ST10 Unassigned) issue Letter 6428, Claim for Credit for Increasing Research Credit Activities - Additional Information Required, requesting additional information and allowing the taxpayer 45 days to respond. (See IRM 4.10.1.3.6, Use of Fax Machine or Enterprise e-Fax (EEFax) for Taxpayer Communications if the taxpayer wants to provide information by fax.)</p> <ul style="list-style-type: none"> • If information is received within the 45-day period, repeat Steps 1 and 2, emailing the research credit claim and the additional information to PSP to determine if the information provided is sufficient to perfect the claim. • If no information is received within the 45-day period, or PSP determines the additional information is not sufficient to perfect the claim, proceed to Step 5.

Steps to determine research credit claim validity (SB/SE)	Additional Instructions
<p>Step 5 – If information sufficient to perfect the research credit claim is not received within the 45-day period OR the deficient claim was filed after January 10, 2026, do not consider the claim.</p>	<ul style="list-style-type: none"> • Ensure the PSP section chief and Counsel concurred with the deficient determination and include documentation in the case file. • Issue Letter 6430, No Consideration, Section 41 Claim – No Response or Insufficient Information, informing the taxpayer the claim cannot be processed. (This is NOT a claim disallowance.) Caution: Do not consider the research credit claim issues or include claim disallowance language in a report. • Ensure PSP removed the “-A” freeze (if it was present on IDRS) for the deficient research credit claim. If necessary, email PSP to request they prepare and EEFax Form 3870, Request for Adjustment, to CCP to input a TC 290 for zero to release the freeze code. • See IRM 4.10.11.2.1.4, Claims for Refund - Deficient, for additional information.

**4.10.11.2.1.4
Claims for Refund – Deficient**

(1) A claim for refund that does not meet all claim requirements in IRM 4.10.11.2.1, is deficient.

(2) The procedures for handling a deficient claim for refund depend on whether the taxpayer has been contacted regarding the examination.

- a. If an examiner is assigned a claim for refund, but determines during the pre-contact analysis the claim is not valid, see IRM 4.10.11.2.4(4) for guidance on handling deficient claims.
- b. If during an examination, the taxpayer submits a deficient claim for refund or raises an affirmative issue that does not meet the criteria for a claim for refund, examiners should advise the taxpayer to file a valid claim for refund (before the RSED expires) if they want to protect their opportunity to recover a refund related to the issue. LB&I examiners must refer to IRM 4.46.3.7.2.2, Claims Not Meeting the Standards of Treas. Reg. 301.6402-2. SB/SE examiners may generally consider the issues in a deficient claim.

Exception: For a deficient research credit claim, the claim issues must **not** be considered. See [IRM 4.10.11.2.1.1.1](#) and [IRM 4.46.3.7.6](#) for additional information.

(3) Examiners must not use claim letters or claim for refund language in reports (e.g., references to “disallowing the claim”) for examinations where a deficient claim was raised; such language could be deemed as waiving the defects of the deficient claim.

Attachment 3 – Revisions to IRM 4.1.1, Planning and Special Programs, Planning, Monitoring and Coordination

IRM 4.1.1.6.5.1.1 (11-25-2024)

Claims Coordinator – Research Credit Cases

- (1) For SB/SE cases, PSP claims coordinators are responsible to determine the validity of research credit claims for refund that include claims for increasing research activities under IRC §41 (“research credit claims”) that bypassed campus classification.
- (2) Prior to examining the research credit claim, examiners or group managers will email a copy of the claim to the PSP section chief to request screening when a research credit claim bypassed the normal campus screening because it was given directly to an examiner by the taxpayer during an audit, or it was filed with the campus but routed directly to the group because of an open AIMS status (see [IRM 4.10.11.2.1.1.1](#), Claims for Refund – Required Form and Content – Research Credit Claims).

Note: The examination group maintains all case controls.
- (3) To be valid, a research credit claim must meet the general requirements in IRM 4.10.11.2.1, Claims for Refund – General Requirements. In addition, a Field Advice clarified what information taxpayers must provide for a research credit claim to be valid under Treas. Regulation §301.6402-2(b)(1). See IRM 4.46.3.7.6, Determining the Validity of Claims for Increasing Research Activities, for the **three** items of information a taxpayer must submit (at a minimum) for a research credit claim to be considered valid.
- (4) The claims coordinator will apply the following procedures to determine the validity of research credit claims:
 - a. Evaluate the research credit claim for the criteria outlined in [IRM 4.46.3.7.6](#). Generally, this should be completed within 30 days of the request. Notify the group of the determination by email (copy the group manager).
 - b. If a research credit claim filed January 10, 2022 through **January 10, 2026**, is determined deficient, notify the examination group of the reason(s). The taxpayer is given an opportunity to perfect the deficient claim. If the examination group receives additional information within the specified timeframes, they will return the research credit claim and new information to PSP to redetermine the claim’s validity. If information to perfect the research credit claim is not received, notify the examination group of the deficient determination. Deficient determinations require the PSP claim coordinator’s section chief and Counsel concurrence.

- c. If a research credit claim filed after **January 10, 2026**, is determined deficient, obtain PSP section chief and Counsel concurrence and notify the examination group.
- d. If the research credit claim is deficient (after allowing an opportunity to perfect if applicable), PSP must also prepare and Eefax Form 3870, Request for Adjustment, to CCP to request a TC 290 for zero to remove freeze code "-A" (if present).

Note: Claims given directly to an examiner will not have a "-A" freeze.