

IRM PROCEDURAL UPDATE

DATE: 07/29/2024

NUMBER: ts-21-0724-0877

SUBJECT: Identifying Carryback and Carryforward Issues; Tent Exam Referrals; Tentative Refund Applications - Period of Limitations for Credit or Refund on Loss Year Is Imminent or Expired; 6417B Credits

AFFECTED IRM(s)/SUBSECTION(s): 21.5.9

CHANGE(s):

IRM 21.5.9.2.1 Added new subsection that provides guidance for identifying carryback applications and claims. Included instructions for determining the correct carryback category code and priority code.

Identifying Carryback Applications and Claims

(1) Taxpayers can file an application for tentative refund or an amended return to request an adjustment to tax or taxable income due to a:

- Net operating loss (NOL)
- Net capital loss (NCL) - corporations only
- Section 1256 contract loss - individuals only
- Unused general business credits
- Claim-of-right - Form 1045 (Line 33) or Form 1139 (Line 29) only

Note: Claim-of-right is not a carryback issue but may be filed on Form 1045 or Form 1139 for expedited processing. If the claim-of-right is filed on an amended return (e.g., Form 1040-X, *Amended U.S. Individual Income Tax Return*, or Form 1120-X, *Amended U.S. Corporation Income Tax Return*), it should **NOT** be reassigned to the Carryback holding numbers.

(2) Tentative carryback applications are filed on Form 1045, *Application for Tentative Refund* (individuals, estates and trusts), or Form 1139, *Corporation Application for Tentative Refund* (corporations). Form 1045 and Form 1139 are worked under category codes TENT (IMF/BMF domestic) or ITCB (IMF/BMF international). Cases under these category codes are controlled on the loss year in IDRS.

(3) Carryback claims are filed on an amended return (e.g., Form 1040-X or Form 1120-X). Carryback claims are worked under category codes RINT (IMF/BMF domestic), MEFC (IMF electronically filed, domestic), IRNT (IMF/BMF international), and MEFR (IMF electronically filed, international). Cases under these category

codes are controlled on the gain year in IDRS, which is the year the loss is being carried to.

(4) Cases in CII that include Form 1045 Schedule A - NOL (or an equivalent NOL computation) and Form 1045 Schedule B - NOL Carryover (if the NOL is not fully absorbed in first carryback year) attached to a Form 1040-X or amended Form 1041 are worked under the category codes in paragraph 3 above.

Note: Individuals filing Form 1040-X, *Amended U.S. Individual Income Tax Return*, and Estates and Trusts filing an amended Form 1041, *U.S. Income Tax Return for Estates and Trusts*, are required to include Form 1045 Schedule A - NOL computation (or an equivalent NOL computation) and Form 1045 Schedule B - NOL Carryover (if the NOL is not fully absorbed in first carryback year), when filing a tentative carryback application or carryback claim on an amended return.

Caution: Form 1045 Schedule A and Form 1045 Schedule B - NOL Carryover can also be attached to carryforward claims. Refer to IRM 21.5.9.2.2, *Identifying Carryforward Claims*, to determine if the case should be reassigned.

(5) Accounts Management non-carryback trained employees will reassign carryback cases using AM Site Specialization Temporary Holding Numbers. Thoroughly review the amended return and explanation to confirm the adjustment requested by the taxpayer meets one of the carryback criteria listed above.

Reminder: Secure manager or lead approval **before** reassigning the case to the carryback team. The manager or lead **must** review the reassignment for accuracy and **leave a case note on CII** showing the approval. Refer to IRM 21.5.1.5.2(13), *Cases Currently Assigned in CII*, for additional information.

Exception: Amended returns reporting an increase or decrease to an NOL with **no adjustment to tax** should be worked following normal procedures.

Example: The taxpayer checks one of the carryback boxes on Form 1040-X Line 1 or Line 7. The amended return shows only a change to income from wages. Form 1040 Schedule 1 Line 8a or Line 8z (other income - NOL) do not show an NOL, or the NOL on the original return is not changing, and NOL carryback is not mentioned in the amended return explanation. **Do not** reassign the case to the carryback holding number. Process the Form 1040-X following normal procedures.

Note: Foreign Tax Credit (FTC) carryback cases must be reassigned to International in CII. Update the category code using the table below **before** reassigning. IMF Foreign Tax Credit carryback claims should be reassigned to the Philadelphia Campus, and BMF Foreign Tax Credit carryback claims should be reassigned to the Ogden Campus.

(6) Update the **category code** and **priority code** in CII **before** reassigning the case to the carryback holding number.

Use the table below to determine the correct category code:

If the Carryback is filed on	Then update the category code to
Form 1139	TENT (domestic) or ITCB (international)
Form 1045	TENT (domestic) or ITCB (international)
Form 1040-X - paper	RINT (domestic) or IRNT (international)
Form 1040-X - electronic	MEFC (domestic) or MEFR (international)
Form 1041, Form 1120-X, or Form 990-T	RINT (domestic) or IRNT (international)

Priority codes for carryback applications and claims are determined by the total dollar amount of the refund requested. Refer to IRM 21.5.1.5.2(15), *Cases Currently Assigned in CII*, for additional information. For Form 1045 and Form 1139, combine all tax decrease amounts for each year on the application.

Use the table below to determine the priority code:

If the total refund is	Then update the priority code in CII to
\$1 million or more	1
\$100,000 - \$999,999	2
\$5,000 - \$99,999	3
\$0 - \$4,999	4

IRM 21.5.9.2.2 Added new subsection that provides guidance for identifying carryforward claims worked by the carryback teams and elections to forgo or waive the carryback period. Included examples of common carryforward issues that are processed following normal procedures.

Identifying Carryforward Claims

(1) Certain taxpayers eligible to carryback a Net Operating Loss (NOL) may elect to forgo the carryback period and carry the entire NOL forward. Refer to IRM 21.5.9.5.2, *Carryback/Carryforward Election*, for additional information. Excess general business credits may also be carried forward.

(2) Corporations only: Unused net capital losses (NCLs) may be carried back three years and forward five years. Losses not deducted in the carryback and carryforward years are forfeited.

(3) Carryback teams work the following carryforward issues:

- Net operating loss (NOL) carryforward
- Net capital loss (NCL) carryforward - corporations only
- Excess general business credit carryforward
- Elections to forgo or waive the carryback period

(4) Carryforward claims are filed on an amended return such as Form 1040-X, *Amended U.S. Individual Income Tax Return*, or Form 1120-X, *Amended U.S. Corporation Income Tax Return*. Carryforward claims are worked under category codes CFWD (IMF/BMF domestic - paper or electronically filed), ICFD (IMF/BMF international - paper or electronically filed), and are controlled on the year the loss is being carried to (gain year) on IDRS. Non-carryback trained employees will reassign carryforward cases using AM Site Specialization Temporary Holding Numbers Update the category code **prior** to reassigning. Carryforward cases are **not** assigned a priority code in CII.

(5) Certain taxpayers eligible to carryback an NOL may elect to forgo or waive the carryback period and carry the entire NOL forward to future tax periods until it is exhausted. For individuals, estates and trusts, and corporations filing a consolidated return, an election to forgo or waive the carryback period must be made in writing and attached to the loss year return. Certain Form 1120 series returns include an option to elect to forgo or waive the carryback period and carryforward an NOL by checking a box on a schedule. See IRM 21.5.9.5.2, *Carryback/Carryforward Election*, for additional information. Carryback teams work elections to forgo or waive the carryback period.

Note: For electronically filed returns, the election will be included as a Portable Document Format (.pdf) attachment to the loss year return.

(6) The carryforward issues in the table below should be reassigned to the carryforward specialized holding number.

If the Carryforward issue is an	And the amended return contains a change to	Then
Election to forgo or waive the carryback period included with correspondence or an amended return	N/A	Reassign
NOL carryforward - individuals	Form 1040 Schedule 1, <i>Additional Income and Adjustments to Income</i> , Line 8a or Line 8z (other income - NOL)	Reassign
NOL carryforward – Form 1041 and corporations	Form 1120, <i>U.S. Corporation Income Tax Return</i> – Line 29a Form 1041, <i>U.S. Income Tax Return for Estates and Trusts</i> – Line 15b	Reassign
NCL carryforward – corporations only	Form 1120 – Line 8	Reassign
General business credit carryforward	Form 3800, <i>General Business Credit</i> , (2023 and subsequent) – Part I Line 4, Part II Line 34, or there is a change to a credit amount in Part IV column (f) or (g) Form 3800, (2022 and prior) - Part I Line	Reassign

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	4, Part II Line 34, or Part III box C or G is checked and there is a change to a credit amount in column (c)	
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(7) The term **carryforward** is also associated with certain credits that can be applied to future tax years. The carryforward issues in the table below **should not** be reassigned to the carryforward specialized holding numbers.

If the Carryforward is	Then	IRM Reference
NCL carryforward – loss that exceeds the \$3,000 loss limit - individuals, estates, and trusts Form 1040 Schedule D, or Form 1041 Schedule D, <i>Capital Gains and Losses</i>	Do not reassign	IRM 21.6.4.4.5, <i>Taxes on Dividends and Capital Gains</i>
Income changes reported on Form 1040 Schedule C, <i>Profit or Loss From Business (Sole Proprietorship)</i> , Form 1040 Schedule E, <i>Supplemental Income and Loss</i> , or Form 8582, <i>Passive Activity Loss Limitations</i>	Do not reassign	IRM 21.6.7.4, <i>Adjusting Individual Tax Accounts Procedures</i>
Gifts to Charity carryover – individuals Form 1040 Schedule A, <i>Itemized Deductions</i>	Do not reassign	IRM 21.6.4.4.1, <i>Itemized Deductions</i> Pub 526, <i>Charitable Contributions</i>
Minimum tax credit carryforward – individuals, estates, and trusts Form 8801, <i>Credit for Prior Year Minimum Tax</i>	Do not reassign	IRM 21.6.3.4.1.23, <i>Form 8801, Credit for Prior Year Minimum Tax - Individuals, Estates, and Trusts</i>
Residential Energy Credit carryforward – individuals Form 5695, <i>Residential Energy Credits</i>	Do not reassign	IRM 21.6.3.4.1.27, <i>Form 5695, Residential Energy Credits</i>
Qualified Business Income Deduction changes Form 8995, <i>Qualified Business Income Deduction Simplified Computation</i> , or Form 8995-A, <i>Qualified Business Income Deduction</i>	Do not reassign	IRM 21.6.7.4.18.1, <i>Adjusting the Qualified Business Income Deduction</i> IRM 21.7.4.4.27.1, <i>Amended Returns Claiming Section 199A - Qualified Business income Deduction (QBID)</i>
Mortgage Interest Credit carryforward – individuals Form 8396, <i>Mortgage Interest Credit</i>	Do not reassign	IRM 21.6.3.4.1.26, <i>Form 8396, Mortgage Interest Credit</i>
Qualified Adoption Expenses	Do not	IRM 21.6.3.4.1.25, <i>Form 8839,</i>

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carryforward – individuals Form 8839, <i>Qualified Adoption Expenses</i>	reassign	<i>Qualified Adoption Expenses</i>
Form 8859, <i>Carryforward of the District of Columbia First-Time Homebuyer Credit - Individuals</i>	Do not reassign	IRM 21.6.3.4.1, <i>Nonrefundable Credits Procedures</i>
Carryforward of an overpayment (credit elect issues)	Do not reassign	IRM 21.4.1.5.6, <i>Credit Elect Problems</i>

IRM 21.5.9.4.1(1)(e) Corrected IRM references linking to statute of limitations information.

(1) If taxpayer files a carryback application/claim, follow these research procedures:

- a. Verify the forms are complete and, contain all necessary information needed to process.
- b. Verify the carryback has been applied to the earliest available gain year.
- c. Review CFOL (Corporate Files Online)/IDRS to validate data on the form.
- d. Math verify the carryback amount (Net Operating Loss, Net Capital Loss, Unused Credits, Claim of Right).
- e. Determine if the statute for credit or refund is open. The adjusting year (gain year) does not necessarily have to be within the normal statute of limitations period. The statute for carryback purposes is generally determined by the loss or unused credit year return. For example, a claim for credit or refund based on the carryback of a Net Operating Loss or a Capital Loss may be filed within the three-year period from the due date of the loss year return plus the period granted for any extension of time to file. The three-year period runs from the extended return due date regardless of when the return is actually filed. For more information on researching carryback statute processing, see IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, IRM 25.6.1.10.3.4.2, *Business Credit Carryback*, and IRM 25.6.1.10.3.4.3, *Bad Debts and Worthless Securities*.

Reminder: For purposes of determining the availability of an NOL carryover for a taxable year, NOL carryovers that were required to be carried to a preceding taxable year are deemed to have been allowed in such year to the extent that they would have been allowed if a claim had been timely filed, regardless of whether such a claim was in fact timely filed. Accordingly, an NOL carryover is allowed for a year only to the extent of the amount of the NOL reduced by amounts required to be carried to preceding taxable years, whether or not claimed.

Note: The Refund Statute Expiration Date (RSED) does not necessarily need to be open on the loss year in order for a claim for refund or credit based on an NOL carryback to be timely filed. The claim may also be considered timely

filed if the RSED is open on the adjusting year (gain year). See IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, for additional information.

- f. When working a carryback case via the Correspondence Imaging Inventory (CII), search prior claims, applications, or responses.

Note: Refer to IDRS Command Code Job Aid, Job Aid for IRM Part 21, Document 6209, IRM 2.3, *IDRS Terminal Responses*, or IRM 2.4, *IDRS Terminal Input*, for additional information.

IRM 21.5.9.4.2 Corrected IRM title for IRM 21.5.1.4.2.3, Clerical Function for the Image Control Team (ICT) Correspondence Imaging Inventory (CII) and corrected IRM reference linking to statute of limitations information. Other editorial changes.

(1) To ensure carryback cases were prioritized accurately on the Correspondence Imaging Inventory (CII), refer to IRM 21.5.1.4.2.3, *Clerical Function for the Image Control Team (ICT) Correspondence Imaging Inventory (CII)*.

(2) Processable applications/claims must include the following:

Caution: The Tax Cuts and Jobs Act (TCJA) of 2017 restricted the carryback of net operating losses (NOLs) to NOLs of non-life insurance companies and to the portion of an NOL attributable to a farming loss. These restrictions applied to NOLs incurred in taxable years ending after December 31, 2017. Complying with the TCJA, the IRS rejected carryback applications and/or claims filed by entities other than farmers or non-life insurance companies back to the taxpayer using the appropriate carryback letter. Carryback applications and/or claims from farmers were analyzed to make sure the NOL being carried back is attributable to a farming loss. However, the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 retroactively reverses TCJA and requires all taxpayers to carry back NOLs arising in tax years beginning in 2018, 2019, and 2020 five years. Unless the taxpayer specifically elects to relinquish the carryback period, the five-year carryback is mandatory. See IRM 21.5.9.5.10.8, *Coronavirus Aid, Relief, and Economic Security Act of 2020 (PL 116-136, Section 2303, Section 2304, and 2305) Overview - Net Operating Losses*, and subsections for additional information.

- Posting of the loss and gain year returns for RINTs.
- **Filing** of the loss year return for TENTs (the return may not have posted yet) and posting of the gain year return(s).

Note: While it is not necessary for the loss year return to be posted to Master File at the time the TENT is processed, it must have been filed on or before the date the TENT was filed, per IRC 6411(a). However, a TENT application filed prior to the date on which the return for the taxable year of the loss or

unused credit is filed (including a superseding return) is considered to be filed on the date such return is filed. First check to see if the loss year return has posted or there is evidence it is in-house. If the return is not found, check the date on Line 2b of Form 1139 or Form 1045. If Line 2b is blank contact the taxpayer and advise them that the TENT cannot be processed until the loss year return has been filed.

Caution: Be aware that the original loss year return may have been scanned to CII with the TENT and may need to be printed and forwarded for processing.

Caution: For BMF, if RICS indicators post to the account **after** a carryback application (TENT) has been processed, see IRM 21.5.9.5.20.3(10), *Carryback RINTs and TENTs Involving BMF RICS Filters Processing*, for additional guidance.

Reminder: Exempt Organizations (Form 990-T) are only permitted to file a claim for a carryback.

- Authorized signature(s) - A faxed signature on a carryback claim/application is acceptable if this is the only missing information. Contact the taxpayer/authorized representative by phone, request that the first page of the signed Form 1139 or Form 1045 be faxed within 5 business days in order to continue processing the carryback application. Advise the taxpayer that the faxed signature will be treated as the taxpayer's signature and will become a permanent part of the application. Document CII that the taxpayer/representative was advised. See IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*, (1) and (2) for additional information.

Caution: See IRM 21.5.9.4.2.1, *Carryback Applications/Claims from Financial Institutions in Receivership - Form 56-F Filed*, if the carryback is filed by a financial institution, and the tax module (the loss year or any gain year) has a TC 971 with AC 076 (-W freeze).

- Copies of pages 1 and 2 of the original and any amended or related return from the year creating the loss (loss year) and Schedules A, D, and J (Form 1040), if applicable, unless this information is available on CFOL/IDRS.

Note: For Form 1120-F (foreign) filers, pages 1 and 3 of the loss year are to be included. Also, since Taxable Income (TXI) is not shown on Command Code (CC) TXMOD for a Form 1120-F, you can verify the income/loss from CC BRTVU.

- All other forms and schedules from which a carryback results (loss year), such as Schedule C or F (Form 1040); Form 3800, *General Business Credit*; Form 6781, *Gains and Losses From Section 1256 Contracts and*

Straddles, Schedule D (Form 1120) etc., unless this information is available on CC RTVUE/BRTVU.

- All Schedules K-1 received from partnerships, S corporations, estates, or trusts that contribute to the carryback (loss year), unless the amounts of income or loss are available on CC RTVUE or TRDBV.
- The Net Operating Loss (NOL) computation or Net Capital Loss (NCL), and/or any forms supporting the credit computation for the loss year and the year to which the loss is applied (gain year), unless this information is available on CFOL/IDRS. See the instructions for Form 1045/Form 1139 or for Form 1040-X/Form 1120-X.
- Any forms supporting the tax calculation for the gain years, including, but not limited to, Schedule D and Alternative Minimum Tax, unless this information is easily computed by the employee assigned to process the case.

Note: A "loss" can be a net operating loss (NOL) or a net capital loss (NCL). Taxpayer can also claim unused credits in a gain year.

- Correct name, address, and Taxpayer Identification Number (TIN), (check Command Code (CC) ENMOD).

Caution: See IRM 21.5.9.4.2.1, *Carryback Applications/Claims from Financial Institutions in Receivership - Form 56-F*, if the carryback is filed by a financial institution, and the tax module (the loss year or any gain year) has a TC 971 with AC 076 (-W freeze).

- Correct gain year (Check CFOL/IDRS).
- For applications or claims involving a Net Capital Loss (NCL) refer to IRM 21.5.9.5.11, *Net Capital Loss Carryback*.
- For applications or claims involving the carryback of released credits refer to IRM 21.5.9.5.12, *Carryback of Released Credits*.
- The NOL is applied to the earliest available gain year, generally two years prior to the year of the loss, five years for net operating losses sustained in taxable years beginning after Dec. 31, 2017 and before Jan. 1, 2021 (beginning in 2018, 2019, and 2020) as per the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. The carryback periods are mandatory unless the taxpayer elects to forgo the entire carryback period. Refer to IRM 21.5.9.5.2, *Carryback/Carryforward Election*.

Note: For purposes of determining the availability of an NOL carryover for a taxable year, NOL carryovers that were required to be carried to a preceding taxable year are deemed to have been allowed in such year to the extent that they would have been allowed if a claim had been timely filed, regardless of whether such a claim was in fact timely filed. Accordingly, an NOL carryover is allowed for a year only to the extent of the amount of the NOL reduced by amounts required to be carried to preceding taxable years, whether or not claimed.

Reminder: A claim for credit or refund based on the carryback of an NOL or a Capital Loss may be filed within the three-year period from the due date of the loss year return plus the period granted for any extension of time to file. The three-year period runs from the extended return due date regardless of when the return is actually filed. See IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, for additional information.

- Allocation Schedule if there is a filing status change between a gain year and a loss year. See Exhibit 21.5.9-2, *Allocation Requirements for Non Community Property States*.

(3) All other applications/claims are unprocessable. See IRM 21.5.9.4.3, *Rejecting Unprocessable Carryback Applications/Claims*.

Caution: Review CII to verify the missing information has not been previously provided.

IRM 21.5.9.4.3(2) Added a note to refer to IRM 21.5.9.5.16.6, Carryback Tentative Refund Applications and Statute Consideration, to resolve tentative refund applications where the period of limitation for credit or refund based on the loss year is imminent (180 days or less) or expired. Changed CIS to CII where needed.

(2) If the issue is not one that can be resolved by having the taxpayer fax in information (e.g., incorrect number of years carried back, time expired for filing a carryback application, etc.) or you are unable to contact by telephone, reject/no consider the claim as follows:

- Tentative Refunds (TENTs) - Letter 216C is used to reject the tentative carryback application and request missing information (copies of loss year return, revised gain year schedules or forms, signature, etc.). Letter 2364C is used to request a missing carryback allocation. Generally, one of these two letters will be used when corresponding with the taxpayer regarding a tentative carryback application.

Note: Follow the instructions in IRM 21.5.9.5.16.6, Carryback Tentative Refund Applications and Statute Consideration, to resolve tentative refund applications where the period of limitation for credit or refund based on the loss year is imminent (180 days or less) or expired.

- Carryback claims (RINTs) - Unprocessable RINTs are rejected using Letter 4734C or Letter 2364C.

Caution: Do not reject an incomplete carryback claim if the loss year Refund Statute Expiration Date (RSED) is within 180 days of expiring.

Follow the instructions in IRM 21.5.3.4.3, *Tax Decrease and Statute Consideration*, to request the missing information.

IRM 21.5.9.5.3 Added special carryback/carryforward period for IRC 6417(b) unused general business credits. Included a reference to IRM 21.7.4.4.8.3.1.1, Carryforward of Investment Credit, which contains additional guidance for Form 3468, Investment Credit, carryforward requests. Clarified the carryback periods for farming losses affected by legislative changes.

(1) Types of taxpayer losses or specific unused credits determine the carryback periods. The following types have special carryback-carryforward rules:

Note: The Tax Cuts and Jobs Act of 2017 (TCJA), Section 13302, repealed the two-year and other specified carryback provisions. (The exceptions are certain NOLs that are farming losses and NOLs of non-life insurance companies.) Additionally, Section 13302 allows for an indefinite carryforward of NOLs for all entities with the exception of non-life insurance companies who are restricted to a 20-year NOL carryforward.

Note: The Coronavirus Aid, Relief, and Economic Security Act of 2020, Section 2303, amended IRC 172(b)(1) of the Internal Revenue Code to provide relief from changes made by the Tax Cuts and Jobs Act (TCJA) for tax years 2018, 2019, and 2020. Net operating losses incurred in 2018, 2019, and 2020 must be carried back five years unless the taxpayers properly elect to relinquish the carryback period. Fiscal year 2018 filers are eligible for pre-TCJA carryback periods. See the August 22, 2018 revision of IRM 21.5.9 for pre-TCJA guidance.

Type of Loss	Carryback or Carryforward Options	Special Rules
Foreign Expropriation Capital Losses	Net Capital Loss (NCL)	Carryforward 10 years
Regulated Investment Company (RIC)	NCL	Carryforward indefinitely for tax years beginning on or after December 23, 2010. (For tax years beginning on or before December 22, 2010, carryforward eight years.)
Biofuel Producer Credit (Form 6478)	Unused general business credits	Not available for Carryback, Carryforward limited to 3 years from the tax year when the credit component terminates
Credit for Oil and Gas Production From Marginal Wells (Form 8904)	Unused general business credits	Unused credit for oil and gas production from marginal wells are carried back 5 years and forward 20 years applicable for tax years beginning in 2016.
IRC 6417(b) Credits:	Unused general	Unused credits listed in IRC 6417(b)

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<ul style="list-style-type: none"> • Alternative Fuel Vehicle Refueling Property Credit (Form 8911 Part II) Section 30C • Renewable Energy Production Credit (Form 8835) Section 45(a) • Carbon Oxide Sequestration Credit (Form 8933) Section 45Q(a) • Zero-emission Nuclear Power Production Credit (Form 7213 Part II) Section 45U(a) • Clean Hydrogen Production Credit (Form 7210) Section 45V(a) • Qualified Commercial Clean Vehicle Credit (Form 8936 Part V) Section 45W • Advanced Manufacturing Production Credit (Form 7207) Section 45X(a) • Clean Electricity Production Credit Section 45Y(a) • Clean Fuel Production Credit Section 45Z(a) • Energy Credit Under Section 	<p>business credits</p>	<p>may be carried back 3 years and forward 20 years.</p> <p>Note: IRC 6417(b) credits may be carried back to years before the credit was first allowable. See Form 3800 Instructions.</p> <p>Form 3468, Investment Credit, Carryforward: If the taxpayer is carrying forward an investment credit, refer to IRM 21.7.4.4.8.3.1.1, <i>Carryforward of Investment Credit</i>.</p>
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<p>48 (Form 3468 Part VI) Section 48</p> <ul style="list-style-type: none"> • Qualifying Advanced Energy Project Credit Under Section 48C (Form 3468 Part III) Section 48C • Clean Electricity Investment Credit (Form 3468 Part V) Section 48E 		
Real Estate Investment Trust (REIT)	Net Operating Loss (NOL) sustained by a REIT	Not Available for Carryback
Commercial Banks	Portion of NOL attributable to bad debt deduction	<p>Carryback 10 years, five years Carryforward (For taxable years beginning after December 31, 1986, and before January 1, 1994)</p> <p>For tax periods ending after December 31, 2017, a Commercial Bank is not eligible for a carryback of NOL but can be carried forward indefinitely.</p>
Thrift Institutions	NOLs	<p>Carryback 10 years, eight years Carryforward (For tax years beginning after December 31, 1981, and before January 1, 1986)</p> <p>For tax periods ending after December 31, 2017 a Thrift Institution is not eligible for a carryback of NOL but can be carried forward indefinitely.</p>
Specified Liability Losses (Product Liability)	NOLs	<p>For tax periods ending prior to January 1, 2018 - Carryback 10 years</p> <p>For tax periods ending after December 31, 2017, a specified liability loss is not eligible for a carryback but can be carried forward indefinitely.</p>
Specified Liability Losses (Portion attributable to decommissioning of a	NOLs	For tax periods ending prior to January 1, 2018 - Carryback 10 years or carryback to each taxable year

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nuclear power plant)		beginning with the taxable year in which such plant was placed in service (but not to a taxable year beginning before January 1, 1984) For tax periods ending after December 31, 2017, a specified liability loss attributable to the decommissioning of a nuclear power plant is not eligible for a carryback but can be carried forward indefinitely.
Life Insurance Company	For tax periods beginning prior to January 1, 2018 - Operations Loss Deduction For tax periods beginning after December 31, 2017 - NOLs	For tax periods ending prior to January 1, 2018 - Carryback three years For tax periods ending after December 31, 2017, a Life Insurance Company is not eligible for a carryback of NOL but can be carried forward indefinitely.
Farming Loss	Portion of NOL that consists of income and deductions attributable to a farming business	For tax periods beginning prior to January 1, 2018 - Carryback five years (Taxpayer may make an irrevocable election to disregard the special five-year carryback rule and use the normal two-year carryback period.) For tax years beginning in 2018, 2019, and 2020 - Carryback five years unless the taxpayer makes a timely election to use the two-year carryback period. See Rev. Proc. 2021-14. For tax periods beginning after December 31, 2020 - Carryback the portion of an NOL that arose from the trade or business of farming two years.
Eligible Losses	An "Eligible Loss" is any part of an NOL that: <ul style="list-style-type: none"> For an individual - ls from a fire, storm, shipwreck, or other casualty, or 	For tax periods ending prior to January 1, 2018 - Carryback three years. Note: An Eligible Loss does not include: <ol style="list-style-type: none"> a farming loss, a qualified disaster loss (National Disaster Relief Act), a qualified Gulf Opportunity (GO) Zone loss,

	<ul style="list-style-type: none"> • from theft • For a qualified small business - Is attributable to a federally declared disaster • For a taxpayer engaged in the trade or business of farming – Is attributable to a federally declared disaster, 	<ul style="list-style-type: none"> d. a qualified recovery assistance loss (Kansas Storms), e. a qualified disaster recovery assistance loss (Midwest Disasters), f. an "eligible small business" loss for which a taxpayer elects a three, four, or five-year carryback period (ARRA 2009, Section 1211), or g. a loss for which a taxpayer elects a three, four or five-year carryback period (WHBAA 2009, Section 13). For tax periods ending after December 31, 2017, these eligible losses are not eligible for an NOL carryback and must be carried forward indefinitely, except to the extent the losses qualify as farming losses.
Non-life insurance companies	NOL	TCJA, Section 13302, as amended by the CARES Act, requires a two-year carryback of net operating losses and a 20 -year carryforward for NOLs sustained in taxable years beginning after 2020.

Reminder: A carryback is mandatory unless the taxpayer timely elects to forgo the carryback period. See IRM 21.5.9.5.2, *Carryback/Carryforward Election*, for additional information.

(2) In addition to the special rules in Paragraph (1) above, legislative provisions have been enacted for targeted events and time periods, such as the GO Zone Provisions, Kansas Storms, Midwest Disasters, National Disasters, the extended carryback provisions contained in the American Recovery and Reinvestment Act of 2009, Section 1211, the Worker, Homeownership, and Business Assistance Act of 2009, Section 13 and most recently the TCJA, Section 13302, and the CARES Act section 2203.

IRM 21.5.9.5.5(1) Added clarification that the AGI should not be adjusted for any year in the carryback period where no NOL can be absorbed.

(1) Follow the guidelines in the table below for input of TC 295/TC 299 adjustment. Also, review the following IRM sections before making a carryback adjustment.

- See IRM 21.5.9.5.17.1, *Carryback Claim Processing and Filing Requirements*, for information on transaction codes and blocking series for RINTs.
- See IRM 21.5.9.5.16.2, *Carryback Application Transaction codes, Blocking Series, and CII Requirements*, for information on transaction codes and blocking series for TENTs.
- See IRM 21.5.9.4.7, *Carryback Tolerances - Master File Verification, Math Verification, TENT/RINT Processing, Push Codes*, for information on tolerances, math verification, Master File verification, and loss year posting requirements for TENTs and RINTs.

Caution: See IRM 21.5.9.5.7.1, *Carryback Interest - Actions to Take on All Carryback Cases when Computer-Generated Refund will be Issued within 45 Days*, before inputting a carryback adjustment.

If	Then
Change to Adjusted Gross Income (AGI) is different from the change to Taxable Income (TXI)	Input both Reference Numbers 888 (AGI) and 886 (TXI). Note: For IMF Accounts, the AGI may be reduced below zero but the TXI is never reduced below zero.
Change to the AGI and TXI are identical	Input Reference Number 888 only.
Change only affects the AGI	Input Reference Number 888, and if needed, Reference Number 886 for zero.
Change to AGI will reduce the TXI to zero or less	Input Reference Number 888 only. (886 will be automatically updated to reduce the TXI to zero.)

Reminder: TC 888, AGI Item Reference Number, is only valid for IMF (Individual Master File) adjustments.

If	Then
Net Operating Loss (NOL) is not fully absorbed	<ul style="list-style-type: none"> • Taxpayers are instructed to reduce AGI by the entire amount of NOL available for that gain/carryback year, and recompute any income or deduction based on, or limited to, a percentage of the AGI. The appropriate amount should be shown on line 1 of the Form 1045, Schedule B, per IRC 172. • The recomputed AGI is further reduced by deductions and exemptions to determine the recomputed TXI. • AGI after carryback is shown on Form 1045, line 11. TXI after carryback is shown on Form 1045, line 15. The adjustment amounts are for the difference between the before and after carryback amounts.

	<ul style="list-style-type: none"> • Only the TXI is adjusted on BMF (Business Master File) Accounts. The TXI after carryback is shown on Form 1139, line 15. • The portion of the NOL that is not absorbed in the earliest year is then carried to the next carryback year, the AGI and TXI are recomputed, and so forth until the NOL is fully absorbed. If any NOL remains, it can generally be carried forward for up to 20 years. <p>Caution: Do not adjust the AGI for any year in the carryback period where no NOL can be absorbed.</p> <p>Note: For IMF accounts, the AGI (TC 888 input) may be reduced below zero, but an attempt to reduce the TXI (TC 886 input) below zero will result in an unpostable condition.</p>
NOL is fully absorbed	Taxpayers are instructed to subtract the NOL deduction from the AGI and recompute any income or deduction based on, or limited to, a percentage of the AGI. Reduce the AGI and TXI by the total change. Do not reduce the TXI below zero.

Caution: When using Reference Number 886, do not reduce taxable income to less than zero.

IRM 21.5.9.5.6(2) Corrected the IRM number and title to IRM 25.6.1.10.3.1.7, Offsetting the Amount of a Refund with a Timely Refund Claim with a Time-barred Adjustment.

(2) If action results in a carryback allowance (tax decrease) and a general tax assessment (tax increase), process them as separate adjustments. See IRM 25.6, *Statute of Limitations*, for statutes applicable to each adjustment.

Reminder: The Assessment Statute Expiration date (ASED) for the general tax assessment is based on the **gain** year.

If	Then
The statute for assessment is open in the Gain Year	<p>a. The general tax increase can be input with no limitation. Input TC 29X with blocking series 05 for IMF (Individual Master File), blocking series 15 for BMF (Business Master file), and 17 for Form 1041. Interest on the general adjustment is assessed and collected pursuant to IRC 6601(a) and (g).</p> <p>Caution: If the statute for assessment (ASED) for the regular adjustment is within 90 days of expiring, do not input a TC 290. You must route the case to the Statute Unit for assessment. See IRM 25.6.1.9.9, <i>Procedures for Processing Amended Returns - in General</i>.</p>

	<p>b. Input TC 295/TC 299 blocking series 91/blocking series 92 for the carryback adjustment. Use Hold Code "1" if money needs to be held, otherwise use Hold Code "0." The posting delay code is not necessary because the regular adjustment will post first and Master File won't post two adjustments in the same cycle.</p> <p>Note: Allow both adjustment notices to generate. The first adjustment notice will generate to Notice Review, due to the pending second adjustment. Notice Review will apply a label to the first notice advising the taxpayer that an adjustment is being made to the account and a separate notice will be sent. See IRM 3.14.1.6.18.1.4, <i>Pending (PN, RS, or UP) Doc Code 54 or 47 Transactions for all notices.</i></p> <p>Reminder: Issue a manual refund if the posting delay code will cause the carryback adjustment to post after the 45-day interest-free period, and the refund is above tolerance.</p>
<p>The statute is NOT open on the Gain Year</p>	<p>The general tax increase cannot be input as a Transaction Code (TC) 290 because the ASSED has expired. However, the IRS can offset the carryback overpayment against both the unassessed statute barred tax and the accrued unassessed interest on that tax.</p> <p>Note: A taxpayer is not entitled to a refund of tax for a particular taxable year unless the taxpayer has actually overpaid their taxes for that year. If a carryback results in a claim for refund of income tax, the IRS may offset that claim against other income taxes that the taxpayer owes for that same taxable year, even if those taxes can no longer be assessed because of the statute of limitations. IRC 6601(e)(1) states that interest is to be treated in the same manner as tax, and IRC 6601(g) provides that interest may be assessed and collected at any time during which the related tax may be collected. Accordingly, the IRS is also permitted to offset against a carryback refund unassessed interest that accrued on a tax underpayment and the assessment of which is barred.</p> <p>Follow the steps below to net the adjustments. See IRM 25.6.1.10.3.1.7, <i>Offsetting the Amount of a Refund with a Timely Refund Claim with a Time-barred Adjustment</i>, for additional information.</p> <ol style="list-style-type: none"> 1. Input the carryback adjustment for the full amount, using Hold Code (HC) 1 or 4. 2. Manually compute (but do not assess) the interest on the

	<p>unassessed general tax increase. (associate the interest computation with the carryback adjustment document once posted)</p> <p>3. Prepare Form 8758, <i>Excess Collections File Addition</i>, to send the overpayment amount that is equal to the statute-expired general tax increase and the manually computed interest to Excess Collections. See IRM 21.2.4.3.10.1, <i>Excess Collection file (XSF) and Unidentified Remittance File (URF) for AMRH</i>, for instructions.</p> <p>4. Issue a manual refund for the remainder, if any.</p> <p>5. Document CII with the statute barred tax increase amount and manually computed interest.</p> <p>Example: On April 20, 2018, a taxpayer files an amended individual return which includes a general tax increase of \$1,000 for 201312. The ASER expired for 2013 on 4/15/2017. The taxpayer also files an amended individual return to claim an NOL carryback from 201512 to 201312 for \$2,000. Input TC 299 for \$2,000. Compute interest on the \$1,000 general tax increase from 04/15/2014 to 04/15/2016. Send \$1,000 plus the amount of interest computed to Excess Collections via 8758. Issue a manual refund for any remaining overpayment on the 201312 tax account.</p> <p>Caution: Netting/offsetting of tax increases and decreases can only be done on the same tax year. A tax increase on one tax year cannot be netted with a tax decrease on a different tax year.</p>
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IRM 21.5.9.5.10.4(7) New paragraph 7 adds clarification that the manual refund should be issued in the name of the taxpayer that filed the carryback claim. Explained that a brief justification is required in the Remarks section of the manual refund form when the name or address differs from the information on Master File. Subsequent paragraph renumbered.

(7) Issue a manual refund in the name of the taxpayer that filed the carryback claim. See Title 26 Code of Federal Regulations (CFR) 301.6402-2 and Rev. Rul. 80-8, 1980-1 C.B 298.

- a. Use the appropriate Hold Code on the adjustment.
- b. Input TC 971, Action Code 037, to cross-reference the spouse receiving the refund. See IRM 21.4.4.6, *Other Manual Refund Requirements*.
- c. Include a brief justification in the Remarks section of the manual refund form to support the name line and/or address.

IRM 21.5.9.5.12(2) Added reference to 6417(b) credits.

(2) See IRM 21.5.9.5.3, *Special Carryback/Carryforward Periods*, for guidance regarding special rules specific to the carryback of unused Biofuel Producer Credit, Credit for Oil and Gas Production from Marginal Wells, and credits defined in section 6417(b).

IRM 21.5.9.5.12.2(1) Clarified unused general business credits are carried to the first preceding tax year before being carried forward. Added carryback/carryforward periods for unused credits for oil and gas production from marginal wells and IRC 6417(b) credits. Included a link to IRM 21.5.9.5.3, Special Carryback/Carryforward Periods, which lists each specific credit.

(1) In general, the carryback period for unused general business credits is one year (carried to the first preceding year), and the carryforward period is 20 years. Unused applicable credits listed in IRC 6417(b) may be carried back 3 years and forward 20 years. Unused credits for oil and gas production from marginal wells (Form 8904), are carried back 5 years and forward 20 years. See IRM 21.5.9.5.3, *Special Carryback/Carryforward Periods*, for a list of specific credits.

IRM 21.5.9.5.12.3 Removed paragraph 2 NOTE and relocated the content to paragraphs 3 and 4. Added information about the period of limitation for credit or refund for general business credits released by the carryback of an NOL or NCL to new paragraph 3. Included transaction code and interest computation date instructions for adjustments, added a reminder of the mandatory carryback period of one year under IRC 39(a), and added an example. Added a link to IRM 21.5.9.5.7, Carryback Interest, to new paragraph 4. Subsequent paragraphs renumbered. Clarified the start of the carryforward period for released business credits. Specified that the period of limitation for credit or refund is governed by the year of the NOL or NCL that caused the release of the credit.

(1) A Net Operating Loss (NOL) or Net Capital Loss (NCL) carryback reduces taxable income and tax liability. General business credits no longer needed after application of the carryback to reduce the liability for a tax year are "released." The released credits are now available to carryback one year/carryforward 20 years.

(2) The taxpayer can carry back the released general business credit on the same application showing the NOL or NCL that created the released credit, with the following exceptions. The taxpayer must use Form 1040-X or Form 1120-X when:

- Foreign tax credits are released.
- Carrying back to years that have a section 965(a) inclusion.
- A prior year minimum tax credit is released.

- A prior year general business credit is released because of the release of foreign tax credit.
- An NOL for a year for which a corporation has a section 965(a) inclusion.

The taxpayer can also file a separate application or claim carrying back the released credits.

(3) The period of limitations for credit or refund is governed by the year of the NOL or NCL that caused the release of the credit. See IRC 6511(d)(2)(A) . Use the appropriate transaction code (TC 295/TC 299) and the same Interest Computation Date (INTCMP-DT) as was used with the NOL or NCL carryback adjustment.

Reminder: IRC 39(a) requires unused general business credits to be carried back one year. Any remaining unused credit can then be carried forward 20 years.

Example: Taxpayer carries a 2020 NOL back to tax year 2015. The carryback of the 2020 NOL to 2015 releases a general business credit. The taxpayer then files amended returns to carry the general business credit released by the 2020 NOL back one year to 2014 and then forward to tax year 2016. Use a TC 299 and the same INTCMP-DT as was used with the NOL or NCL carryback adjustment.

(4) If additional refundable credits are allowed and a systemic refund will be issued, interest must be manually computed on the gain year. Refer to IRM 21.5.9.5.7, *Carryback Interest*, for additional information.

(5) Correspond with the taxpayer concerning released credits not carried back. Letter 662C can be used. Advise taxpayer to file a separate claim or application to carry back the released credits, if statutory filing time permits. For additional information regarding the statutory requirements for released credits see IRM 25.6.1.7, *Credits and Payments*, or IRM 25.6.1.10.3.4.4, *Foreign Tax Credit*.

(6) See IRM 21.5.9.5.10.8.9, *Form 1139 Requesting Refundable Credit for Prior Year Minimum Tax Credit (MTC) for Corporations - CARES Act*, for processing guidance specific to the 100 percent corporate refundable MTC reported on Form 8827.

(7) The carryforward period for the released business credit is based on the year the credit was originally determined. If the released credit is from a previous carryback or carryforward, carry it forward according to the original credit year.

IRM 21.5.9.5.16.1 Added new paragraph 4 clarifying that a tentative refund application may be rejected, in whole or in part, if there are any material omissions, math errors that cannot be corrected within the 90-day period, or the application includes a released credit required to be filed on Form 1040-X or Form 1120-X. Updated paragraph 5 explaining if the application is not processable it must be rejected and the taxpayer must file an amended return

to claim the carryback before the period of limitations expires. Subsequent paragraphs renumbered.

(4) An application for a tentative refund is **not** treated as a claim for credit or refund. It may be rejected, in whole or in part, if there are any material omissions, math errors that cannot be corrected within the 90-day period, or the application includes a released credit required to be filed on Form 1040-X or Form 1120-X. See IRM 21.5.9.5.12.3(2), *Released Credits Available for Carryback/Carryforward*. If the application is rejected in whole or in part, no suit challenging the rejection may be brought in any court.

(5) If an application is not processable and the 90-day period has expired or will expire shortly, the application must be rejected. If a processable application is not received within 12 months from the end of the loss year, the taxpayer must file an amended return (e.g., Form 1040-X or Form 1120-X) before the period of limitation expires, to claim the carryback. See IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, for additional information about the period of limitations for carryback claims.

IRM 21.5.9.5.16.4 Clarified that an application for tentative refund is not treated as a claim for credit or refund. Removed reference to IRM 21.5.3-2 in paragraph 2 and updated Examination referral criteria for carryback applications. Removed paragraph 5 which contained guidance to forward subsidiary applications to the campus where the parent corporation filed their return. Subsequent paragraphs renumbered.

(1) Process Form 1045 and Form 1139 and allow the refund(s) **prior** to routing TENTs with CAT-A criteria.

Reminder: In addition to the guidance in (1), a Form 1139 requesting only the 100 percent refundable corporate minimum tax credit is processed and refund(s) allowed prior to routing to CAT-A.

Caution: Do **not** input a TC 971 AC 013 on any of the carryback-related tax modules prior to forwarding the TENT to Examination. The TC 971 AC 013 sets the - A freeze and indicates there is an unprocessed claim or amended return being forwarded. This is not the case with a TENT where the carryback application has already been processed and paid prior to referral.

Note: When preparing Form 5792, *Request for IDRS Generated Refund (IGR)* or Form 3753, *Manual Refund Posting Voucher*, include a citation of IRM 21.5.9.5.16.4 on Form 5792 and Form 3753 Section II, 1d, to ensure Accounting is aware of the IRM requirements for processing carryback tentative applications.

(2) An application for a tentative refund is **not** treated as a claim for credit or refund. Unless otherwise specified, follow the guidelines in paragraph 3 below when

referring carryback applications to CAT-A. The following CAT-A criteria are specific to carryback applications filed on Form 1045 and Form 1139:

- Joint Committee Cases (JCC) - Carryback aggregate adjustment(s) resulting in a combined IMF (Form 1040) or BMF (Form 1041) **refund(s)** totaling \$2,000,000 or BMF (Form 1120 series) C-Corp **refund(s)** totaling \$5,000,000 or more. Select JCC as the secondary referral reason and include remarks if necessary.
- Form 1040 (IMF) or Form 1041 (BMF) tentative aggregate tax decrease(s) totaling # [REDACTED] # . (Do not send as JCC.)
- Form 1120 series (BMF) tentative aggregate tax decrease(s) totaling # [REDACTED] # .
- **TC 520, TC 576 (-Q Freeze), or TC 420** with an AIMS status **greater than 08** in the carryback gain or loss year tax periods.
- Consolidated corporate return loss years for which affected gain years were filed under a different EIN
- Any Form 1139 filed for an # [REDACTED]

When referring these tentative applications in CII, select **HQ Reserved 5** as the **primary reason** from the Reason Referred drop down menu. Refer to IRM 21.5.9.4.2.1, *Carryback Applications/Claims from Financial Institutions in Receivership - Form 56-F Filed*, for additional information.

Note: The Tax Cuts and Jobs Act (TCJA) of 2017 restricted the carryback of net operating losses (NOLs) to non-life insurance companies and to the portion of an NOL attributable to a farming loss. Insolvent Financial Institutions can no longer carryback NOLs under the TCJA. The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, Section 2303, amended IRC 172(b)(1) of the Internal Revenue Code to provide relief from changes made by the Tax Cuts and Jobs Act (TCJA) for tax years 2018, 2019, and 2020. The information for Insolvent Financial Institutions above is applicable only to NOLs carried back under the CARES Act.

- **BMF ONLY - IRC 847 Insurance Companies:** Suspend using CII if any of the following are indicated, "Special Estimated Tax Payments (SETP)", "Special Estimated Tax Deposits", "Special Estimated Tax Account", "Special Loss Discount Account (SLDA)", or "8816". # [REDACTED]

[REDACTED]

Reminder: The Tax Cuts and Jobs Act of 2017, Section 13516, repealed the special estimated tax payment for insurance companies. The information in the chart above is applicable to tax years beginning prior to January 1, 2018.

(3) When referring Carryback cases to CAT-A select the primary reason for referral as listed below:

- **IMF/IMF International:** To refer cases to CAT-A, select NOL Carryback/Carryforward as primary referral reason from the drop down listing on CII. Select the appropriate secondary referral reason specific to the case and include remarks if necessary.
- **BMF/BMF International:** To refer cases to CAT-A, select Carryback/Carryforward TENT as primary referral reason from the drop down listing on CII. Select the appropriate secondary referral reason specific to the case and include remarks if necessary.

(4) Always review the TENT for freeze codes to be addressed prior to processing the case as per IRM 21.5.9.4.6, *Carryback Freeze Conditions*. Exercise caution when working with a Department of Justice (DOJ) case. Do **not** process a TENT prior to reviewing the account for the following indicators:

- If an account with any module in status 72 and/or with an unreversed TC 520 with a closing code (cc) of 70, 75, 80 or 82 identified, follow the guidance in IRM 21.5.6.4.46, *-W Freeze*.
- If an account with any module that includes a TC 550 and definer 04 (judgment) identified, follow the guidance in IRM 21.5.6.4.44(3), *-V Freeze*.

Caution: Actions on cases where the DOJ is litigating or has secured a judgment, without DOJ concurrence/approval, may have a negative serious impact on the ongoing litigation or secured judgment.

(5) If taxpayer checked "yes" to the question, "Have you filed a petition in tax court for the year or years to which the carryback is to be applied?," process the TENT and notify the Appeals Office. Contact information for Appeals can be found by selecting, Appeals Case Routing, under the Who/Where tax on SERP.

(6) All large dollar and Joint Committee Cases must be expedited due to interest considerations. Refer to IRM 21.4.4.6, *Other Manual Refund Requirements*, for additional information on million dollar or more refunds.

IRM 21.5.9.5.16.6 Added new IRM subsection that provides guidance for resolving tentative refund applications where the period of limitation for credit or refund based on the loss year is imminent (180 days or less) or expired.

Carryback Tentative Refund Applications and Statute Consideration

(1) Follow the instructions in this subsection to resolve tentative refund applications where the period of limitation for credit or refund based on the loss year is imminent (180 days or less) or expired.

(2) An application for tentative refund filed on Form 1045 and Form 1139 is **not** treated as a claim for credit or refund. It may be rejected, in whole or in part, if there are any material omissions, math errors that cannot be corrected within the 90-day period, or the application includes a released credit required to be filed on Form 1040-X or Form 1120-X. If the application is rejected in whole or in part, no suit challenging the rejection may be brought in any court. The taxpayer does not have appeal rights under law for any rejected or unprocessed tentative refund application.

(3) If the taxpayer timely files a Form 1045 or Form 1139 tentative refund application and the application is rejected or the tentative refund is not processed for any reason, the taxpayer must file a claim for credit or refund using Form 1040-X, Form 1041, or Form 1120-X on or before the period of limitations for credit or refund expires. The tentative refund application **cannot** be processed after the period of limitation for credit or refund has expired.

Note: A claim for credit or refund based on the carryback of an NOL or a Capital Loss must be filed within the three-year period from the due date of the loss year return plus the period granted for any extension of time to file. The three-year period runs from the extended return due date regardless of when the return is actually filed. See IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, for additional information.

(4) If the tentative refund application was timely filed, processable, and the period of limitations for credit or refund for the loss year is **not expired**, process the application following normal procedures. If the timely filed application is not processable and the period of limitation for credit or refund is **imminent or expired**, continue processing per paragraph 6 below.

(5) Research the current open TENT case and prior closed TENT cases in CII to determine if the taxpayer submitted amended returns for the carryback gain years.

If	And	Then
Amended returns for some or all of the carryback gain years are part of the documentation scanned with the current active TENT case or a prior closed TENT case in CII	<ul style="list-style-type: none"> • The tentative refund application was not timely filed or is not processable, and • The amended returns were received before the Assessment Statute Expiration Date (ASED) or the 	<ol style="list-style-type: none"> 1. Print the amended return for the carryback gain year to PDF. 2. Create a new CII case for each carryback gain year using category code RINT. 3. Link each new CII RINT case to the TENT case. 4. Send Letter 216C rejecting the tentative refund application and advise the taxpayer we will consider their carryback request for tax years (specify the tax years) using the amended returns filed.

	<p>extended carryback claim due date for the loss year (3 years from the extended due date of the loss year return).</p>	<ol style="list-style-type: none"> 5. Attach a PDF copy of the 216C letter to the case in CII. 6. Close the TENT case to the linked RINT cases. 7. Review each carryback gain year amended return and supporting documentation. 8. If required information is missing, determine if the additional information was provided with the documentation attached to the current or a prior case in CII. 9. If the supporting documentation was provided and the claim is complete, process the claim. 10. If additional information is needed to process the amended return(s): <ul style="list-style-type: none"> ○ Make two telephone attempts to reach the taxpayer or authorized representative. ○ Document all phone attempts fully on CII. ○ If contact is unsuccessful, follow the guidelines in IRM 21.5.3.4.3, <i>Tax Decrease and Statute Consideration</i>, paragraphs 3 through 6.
<p>Amended returns for some or all of the carryback gain years are not part of the documentation scanned with the current active TENT case or a prior closed TENT case in CII</p>	<ul style="list-style-type: none"> • The tentative refund application was not timely filed or is not processable. 	<ol style="list-style-type: none"> 1. Continue processing per paragraph 6 below.

(6) Thoroughly research **all** CII images, EUP, and IDRS to determine if the taxpayer previously filed an amended return for each carryback gain year, then follow the guidance in the table below.

If	And	Then
<p>Amended returns for some or all of the carryback gain years were previously filed</p>	<ul style="list-style-type: none"> • The tentative refund application was not timely filed or is not processable, and • The amended return was received before the ASED or extended carryback claim due date for the loss year, and • The amended return was not processed, and • The ASED or extended carryback claim due date for the loss year is 180 days or less (but not expired), and • A Letter 105C disallowance letter for the carryback gain year amended return has not been issued. 	<ol style="list-style-type: none"> 1. If the amended return is located on a closed case in CII: <ul style="list-style-type: none"> ○ Print the amended return for the carryback gain year to PDF. ○ Create a new CII case for each carryback gain year using category code RINT. ○ Link each new RINT case to the TENT case, or <p>If the amended return is located on an open case in CII:</p> <ul style="list-style-type: none"> ○ Link the open RINT case to the TENT case. 2. Send Letter 216C rejecting the tentative refund application and advise the taxpayer we will consider their carryback request for tax years (specify the tax years) using the amended returns filed. <p>Note: For any tax year where an amended return was not located, follow the guidance in the section below.</p> <ol style="list-style-type: none"> 3. Attach a PDF copy of the 216C letter to the case in CII. 4. Close the TENT case to the linked RINT case(s). 5. Review each carryback gain year amended return and supporting documentation. 6. If required information is missing, determine if the additional information was provided with the documentation attached to the current or a prior case in CII. 7. If the supporting documentation was provided and the claim is complete, process the claim.

		<p>8. If additional information is needed to process the amended return(s):</p> <ul style="list-style-type: none"> ○ Make two telephone attempts to reach the taxpayer or authorized representative. ○ Document all phone attempts fully on CII. ○ If contact is unsuccessful, follow the guidelines in IRM 21.5.3.4.3, <i>Tax Decrease and Statute Consideration</i>, paragraphs 3 through 6.
Amended returns for some or all of the carryback gain years were not located through CII/EUP/IDRS research	<ul style="list-style-type: none"> • The tentative refund application was not timely filed or is not processable, and • The ASED or extended carryback claim due date for the loss year is 180 days or less (but not expired) 	<ol style="list-style-type: none"> 1. Send Letter 216C rejecting the tentative refund application and advise the taxpayer an amended return for tax year(s) (specify the tax year(s)) is required to claim the carryback. 2. Provide the due date for filing the amended return(s) (Loss year ASED or extended carryback claim due date for the loss year). 3. Attach a PDF copy of the 216C letter to the TENT case in CII. 4. Close the TENT case.

(7) If the ASED or extended carryback claim due date is **expired** and an amended return was **not** previously **filed** or was **not located** through CII/EUP/IDRS research for any carryback gain year, issue Letter 216C, *Tentative Carryback Application Adjustment Request*, with opening paragraph "B" and the three open paragraphs below:

Paragraph 1: Form (insert 1045 or 1139) is valid for 12 months from the end of the loss year. An application for tentative refund is not treated as claim for credit or refund. A claim for credit or refund must be filed on an amended return before the period of limitations for credit or refund expires. The period of limitations to file a claim for credit or refund for loss year (insert loss year) expired on (insert ASED or extended carryback claim due date for the loss year).

Paragraph 2: If a tentative refund application is rejected in whole or in part or is not processed by the IRS for any reason, no suit challenging the rejection may be

brought in any court and you do not have appeal rights under law.

Paragraph 3: Net Operating Losses (NOLs) that were required to be carried back are deemed to have been carried back, regardless of whether such a claim was in fact timely filed. An NOL carryforward is allowed only to the extent of the amount of the NOL reduced by amounts required to be carried back to preceding taxable years.

(8) Employees should **not** be using the procedures in IRM 21.5.3.4.3, *Tax Decrease and Statute Consideration*, paragraphs 3 through 6, to disallow tentative refund applications (TENTs). If a Letter 105C, *Claim Disallowed*, was issued **for a tentative refund application**, send Letter 216C following paragraph 7 above and issue a Letter 544C *Apology for IRS Error*, with the open paragraph below:

We incorrectly sent you Letter 105C, Claim Disallowed, for your Form (insert 1045 or 1139) filed for loss year (insert loss year). Please disregard the letter you received. We'll mail you a Letter 216C, Tentative Carryback Application Adjustment Request.

(9) If the taxpayer included a **copy** of a **previously filed** tentative refund application with a request to appeal a Letter 105C and research shows the Letter 105C was issued **based on an amended return** (e.g., Form 1040-X or Form 1120-X), follow the procedures in IRM 21.5.3.4.6.2, *Appeals and Responses to Letter 105C and Letter 106C*.

IRM 21.5.9.5.17.3 Removed references to application and replaced with claim. Removed caution for claims received prior to the due date of the loss year return. Updated the received date in the first example demonstrating procedures for determining the interest start date for a late filed loss year return.

(1) RINT adjustments require an input of the interest computation date (INTCMP-DT) and carryback received date (TCB-DT):

- INTCMP-DT provides the date overpayment interest on the overpayment begins and the credit availability date for purposes of computing underpayment interest.

Note: The INTCMP-DT is generally the loss year return due date (determined **without** regard to any extension of time for filing, and **without** regard to the extension for COVID-19).

Exception: Use the current date for the INTCMP-DT if the claim is received in processable form **prior** to the loss year return due date and the Net Operating Loss (NOL) adjustment is **input prior** to the loss year return due date.

- TCB-DT determines the expiration date of the 45-day interest-free period.

Note: The TCB-DT is generally the TENT received date, TENT processable date, loss year return due date (determined **without** regard to any extension of time for filing, and **without** regard to the extension for COVID-19), or loss year return processable date (whichever is later).

Exception: Use loss year return due date for the TCB-DT (determined **without** regard to any extension of time for filing, and **without** regard to the extension for COVID-19), if the claim is received in processable form **prior** to the loss year return due date and the Net Operating Loss (NOL) adjustment is **input prior** to the loss year return due date.

Reminder: You **must** manually compute overpayment interest if a systemic refund is being issued and the **loss year return was not timely filed** or **additional refundable credits are allowed**. See IRM 21.5.9.5.7(5), *Carryback Interest*, for more information.

Caution: Do **not** include an AMD-CLMS-DT on these adjustments.

(2) When the 45-day interest-free period is missed, the INTCMP-DT is used by the computer when determining the start date of overpayment interest on the overpayment.

Reminder: The due date for a timely filed Form 1040-NR that includes wages that are **not** subject to U.S. withholding is five and a half months after the end of the taxable year. For calendar year Form 1040-NR filers the date would be June 15.

Note: In the table below, the loss year return due date is determined **without** regard to any extension of time of filing, and **without** regard to the extension for COVID-19.

If a Processable Amended Return/Claim (RINT) is Received	And	Then input
Prior to the loss year return due date	The NOL adjustment is input prior to the loss year return due date	<ul style="list-style-type: none"> • TCB-DT - Use the loss year return due date • INTCMP-DT - Use the current date • Override code "C" <p>Caution: For underpayment interest purposes, the NOL credit is not available until the loss year return due date.</p>

		<p>Note: Overpayment interest is not paid in this situation. The 45-day count for issuing the interest-free refund does not begin until the loss year return due date.</p>
<p>Prior to the loss year return due date</p>	<p>The NOL adjustment is input on or after the loss year return due date</p>	<ul style="list-style-type: none"> • TCB-DT - Use the loss year return due date • INTCMP-DT - Use the loss year return due date • No override code <p>Note: The 45-day count for issuing an interest-free refund in this situation does not begin until the loss year return due date or processable date (the TCB date). If the refund is not issued within 45 days of the later of these dates, overpayment interest is paid beginning on the loss year due date.</p>
<p>On or after the loss year return due date</p>	<p>The loss year return was timely filed (received on or before its due date, extended due date, or the due date provided by the COVID-19 emergency declaration).</p> <p>Example: Taxpayer files extension until 10/15/2019 for his 201812 Form 1120. The processable loss year return for 2018 is received 08/20/2019. The IRS receives a RINT from the taxpayer on 11/14/2019.</p> <p>Example: The COVID-19 emergency declaration extended the due date for the taxpayer's 201912 Form 1040 to 07/15/2020. The processable loss year return for 2019 is received on 06/01/2020. The IRS receives a RINT/TENT from the taxpayer on 06/29/2020.</p>	<ul style="list-style-type: none"> • TCB-DT - Use the RINT received date, RINT processable date or loss year return processable date (whichever is later) • INTCMP-DT - Use the loss year return due date • No override code <p>Example: In the first example, since the IRS received a processable RINT on 11/14/2019, the IRS has 45 days from 11/14/2019 (the TCB-DT) to issue a refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on the loss year due date (04/15/2019 - the INTCMP-DT) because the loss year return was timely filed.</p> <p>Example: In the second example, since the IRS received a</p>

		<p>processable RINT on 6/29/2020, we have 45 days from 6/29/2020 (the TCB-DT) to issue a manual refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on the loss year return due date (4/15/2020 - the INTCMP-DT) because the loss year return was timely filed on or before the due date provided by COVID-19 emergency declaration (7/15/2020).</p>
<p>On or after the loss year return due date</p>	<p>The loss year return was not timely filed (received after its due date, extended due date, or the due date provided by the COVID-19 emergency declaration).</p> <p>Example: Taxpayer filed an extension for his/her 201812 Form 1120 to 10/15/2019. The processable loss year return for 2018 is received 10/29/2019. The loss year return is late filed. The IRS receives a RINT from the taxpayer on 11/14/2019.</p> <p>Example: The COVID-19 emergency declaration extended the due date for the taxpayer's 201912 Form 1040 to 07/15/2020. The processable return for 2019 is received on 08/10/2020. The return is late filed. The IRS receives a RINT/TENT from the taxpayer on 08/31/2020.</p>	<ul style="list-style-type: none"> • TCB-DT - Use the RINT received date, RINT processable date, delinquent loss year return received date, or loss year return processable date (whichever is later) • INTCMP-DT - Use the loss year return due date <p>Note: The delinquent return received date is not input in the INTCMP-DT field because the carryback is available on the normal loss year return due date</p> <ul style="list-style-type: none"> • No override code <p>Reminder: If the adjustment results in an overpayment, use TC 770 to manually address/compute overpayment interest. Use TC 770 .00 if no interest is due.</p> <p>For overpayment interest purposes, the delinquent loss year return received date (or loss year return processable date, whichever is later) is considered when determining the overpayment interest period. See IRM 20.2.9.2, <i>Determining the Overpayment Interest Period</i>, for the appropriate interest start date.</p> <p>Exception: If issuing a manual</p>

		<p>refund, it is not necessary to input a TC 770 for zero (.00) with the adjustment. The interest will be manually computed and input as a TC 770 with the manual refund whether for zero or for a money amount.</p> <p>Example: In the first example, since the IRS received a processable RINT on 11/14/2019, we have 45 days from 11/14/2019 (the TCB date) to issue a refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on 10/29/2019 (the received date of the late-filed loss year return). You must manually compute the interest and input with TC 770. Otherwise, Master File will calculate the interest from the loss year return due date (the INTCMP-DT) generating more interest than the taxpayer is entitled to.</p> <p>Example: In the second example, since the IRS received a processable RINT on 8/31/2020, we have 45 days from 8/31/2020 (the TCB date) to issue a refund without interest. If the refund is not issued within that 45-day timeframe, interest is paid beginning on 8/10/2020 (the received date of the late filed loss year return). Interest must be manually computed and input with TC 770.00. Otherwise, Master file will calculate the interest from the normal return due date (the INTCMP-DT of 4/15/2020), generating more interest than the taxpayer is entitled to.</p>
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Note: The loss and gain year returns must be posted before a RINT can be processed.

(3) See IRM 21.5.9.5.7, *Carryback Interest*, IRM 20.2.9.2, *Determining the Overpayment Interest Period*, and IRM 20.2.4.8.1, *Systemic Refunds*, for additional information and exceptions.

IRM 21.5.9.5.17.5 Corrected IRM references linking to statute of limitations information.

(1) Fully or partially disallowed carryback claims require detailed explanations. See IRM 21.5.3.4.6, *No Consideration and Disallowance of Claims and Amended Returns*, for specific requirements. The letter must include appeal rights and the right to file suit, as well as indication of the loss and gain year.

(2) See IRM 21.5.3.4.6.2, *Appeals and Responses to Letters 105C/106C*, for specific instructions in handling responses to fully and partially disallowed carryback claims.

(3) Use blocking series 00/blocking series 15 for BMF and 91/blocking series 92 for IMF (Individual Master File) partially disallowed claims. Send Letter 106C.

(4) Use blocking series 98/blocking series 99 for IMF and BMF (Business Master File) fully disallowed claims. Send Letter 105C.

(5) The refund statute of limitations on a carryback is determined by the loss year. See IRM 25.6.1.10.3.4.1, *Net Operating Loss (NOL) Carryback or Capital Loss Carryback*, and IRM 25.6.1.10.3.4.2, *Business Credit Carryback*.

IRM 21.5.9.5.20.3 Specified which carryback letter to issue for TENTs and RINTs. Added language to the open paragraph for carryback applications that clarifies if the application is not resubmitted within one year from the end of the loss year, an amended return must be filed to claim the carryback. Removed broken link to RICS Fraud Referral Program and updated the link to the IRM reference containing FRP Point of Contact Information.

(1) # [REDACTED]
See IRM 25.23.11.6.3, *BMF Returns Selected for RICS Review*, for additional information.

(2) These returns can be identified by the following:

- a. No TC 150 posted
- b. At least one TC 971 AC 711
- c. TC 973 which suspends the return in question

Note: A TC 973 may not be present on accounts where Submission Processing deemed the return is unprocessable.

d. Issuance of Letter 6042C or 5263C

Note: Only RICS employees have the authority to determine if the return in question is RICS BMF IDT or not.

(3) Review the RICS RIVO IDRS control activity to determine if information requested in Letters 6042C or 5263C have been received. The IDRS control will include:

- FXMMDDYYYY for faxed response received
- CRMMDDYYYY for paper response received

Note: The date included in the IDRS control activity is the date the response was received. See IRM 25.25.1.3.1, *Establishing Case*, for additional information.

(4) If the RICS RIVO IDRS control activity indicates a response has been received but has not been processed, fax a Form 4442, *Inquiry Referral*, to RICS at 844-201-5531. Indicate in Section B this is a request for processing of the response to Letter 6042C or 5263C on a carryback case.

(5) Carryback Applications - If a review of RICS RIVO IDRS control activity indicates a response has not been received for a carryback application, reject the case. IRM 21.5.9.4.2, *Identifying Processing and Unprocessable Carryback Applications/Claims*, states a carryback tentative application can be processed prior to the posting of the loss year return. However, if either the loss year or gain year includes a tax period with RICS BMF IDT indicators discussed above, **do not** process the carryback tentative application. Reject the case using carryback Letter 216C and include the following paragraphs:

Our records show Letter (choose 5263C or 6042C, whichever is applicable) dated (enter date the letter was issued per ENMOD +7 calendar days - Example: ENMOD shows Letter 6042C generated on 12042018, the printed letter date you enter here would be 12/11/2018) was issued to you. Before the IRS can process your carryback request you must respond to that letter using the address or fax number provided on that letter to avoid additional delays in the processing of your tax return. For additional information, visit our website at www.irs.gov/Understanding Your Letter 5263C, 6042C, or 6217C.

Once your (enter tax period of return(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can resubmit your carryback application to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return. If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.

Note: If any of the indicators in paragraph 2 above post to the account **after** a carryback application (TENT) has been processed and more than 20 weeks have passed since the loss year return was sent for original processing, follow paragraph 10 below.

(6) Carryback Claims - If a review of RICS RIVO IDRS control activity indicates a response has not been received for a carryback claim, reject the case. Use carryback Letter 4734C and include the following paragraphs:

Our records show Letter (choose 5263C or 6042C, whichever is applicable) dated (enter date the letter was issued per ENMOD + 7 calendar days - Example: ENMOD shows Letter 6042C generated on 12042018, the printed letter date you enter here would be 12/11/2018) was issued to you. Before the IRS can process your carryback request you must respond to that letter using the address or fax number provided on that letter to avoid additional delays in the processing of your tax return. For additional information, visit our website at [www.irs.gov/Understanding Your Letter 5263C, 6042C, or 6217C](http://www.irs.gov/Understanding>Your%20Letter%205263C,%206042C,%20or%206217C).

Once your (enter tax period of return(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can resubmit your carryback claim to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return.

(7) If the taxpayer responded to Letter 5263C or 6042C and the return in question has been determined not to be BMF ID theft, RICS will input a TC 971 AC 712, TC 971 AC 713, or TC 972 AC 711 on the tax period to reverse the TC 971 AC 711 and the return will be processed. Take the following actions:

- a. If a T 971 AC 712 or TC 972 AC 711 posted resulting in a posted TC 150 without any freeze conditions, process the carryback tentative application or claim.
- b. If a TC 971 AC 713 posted resulting in a posted TC 150 but there is an unreversed TC 570 present on the account, contact Frivolous Return Program (FRP) before proceeding with processing the case. Refer to in IRM 25.25.10.19.5 *FRP Point of Contact Information*, to locate the appropriate FRP POC under the FRP Campus Contacts link. See IRM 25.25.10.3, *Referrals to Frivolous Return Program*, for more information.

(8) If ENMOD does not indicate that either a Letter 5263C or 6042C was issued to the taxpayer but the account has an unreversed TC 971 AC 712 or TC 971 AC 713 posted, send a Form 4442, *Inquiry Referral*, to RICS requesting the letter be reissued. See IRM 25.23.11.6.3, *BMF Returns Selected for RICS Review*, (10) and (11) for additional information.

- a. Reject the carryback tentative application or claim back to the taxpayer with the appropriate carryback letter (Letter 216C for TENT/ITCB or Letter 4734C for RINT/IRNT). Include the following paragraphs:

For TENT/ITCB Cases:

A review of your account indicates there is an issue with processing your tax return. You will receive Letter 6042C requesting information you need to provide to avoid additional delays in processing your Form (enter form number) for tax period(s) (include tax periods with RICS Indicators on account).

Once your (enter tax period(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can resubmit your request for a carryback to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return. If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.

For RINT/IRNT Cases:

A review of your account indicates there is an issue with processing your tax return. You will receive Letter 6042C requesting information you need to provide to avoid additional delays in processing your Form (enter form number) for tax period(s) (include tax periods with RICS indicators on account - ex. Dec. 31, 2017).

Once your tax return(s) have been processed you may resubmit your amended return requesting a carryback to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return.

(9) If a carryback claim or application is resubmitted after notifying the taxpayer of the RICS filters issue, includes the response to Letter 6042C or 5263C and there is no indication on the affected account the response has been received or processed by RICS RIVO, fax a Form 4442, *Inquiry Referral*, to RICS at 844-201-5531 with the Letter 6042C or 5263C response attached. Indicate in Section B of the Form 4442 that Letter 6042C or 5263C response was received with a carryback application/claim. Monitor the account, pending actions taken by RICS based on their case determination or a response from the Form 4442 from RICS with guidance for next actions on the carryback case.

(10) If any of the indicators in paragraph 2 above post to the account **after** a carryback application (TENT) has been processed and 20 weeks or more have passed since the loss year return was sent for original processing, review ENMOD to determine if a Letter 6042C or 5263C was issued to the taxpayer and take the following actions:

If	And	Then
Letter 6042C or 5263C was issued to the taxpayer	A review of RICS RIVO IDRS control activity indicates a	<ol style="list-style-type: none">1. Reassess the tentative refund adjustment following IRM 21.5.9.5.16.5(3), <i>Reassessing Carryback Applications</i>. Explain the change to the taxpayer.2. Issue carryback Letter 216C and include the

	<p>response has not been received</p>	<p>following paragraphs:</p> <p><i>Our records show Letter (choose 5263C or 6042C, whichever is applicable) dated (enter date the letter was issued per ENMOD +7 calendar days - Example: ENMOD shows Letter 6042C generated on 12042018, the printed letter date you enter here would be 12/11/2018) was issued to you. You must respond to that letter using the address or fax number provided on that letter to avoid additional delays in the processing of your tax return. For additional information, visit our website at www.irs.gov/Understanding Your Letter 5263C, 6042C, or 6217C.</i></p> <p><i>Once your (enter tax period of return(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can resubmit an amended return for (list each affected gain year) to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return. If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.</i></p>
<p>ENMOD does not indicate Letter 6042C or 5263C was issued to the taxpayer</p>	<p>The tax period contains an unreversed TC 973, TC 971 AC 711, and/or TC 971 AC 713</p>	<ol style="list-style-type: none"> 1. Fax a Form 4442, <i>Inquiry Referral</i>, to RICS at 844-201-5531 requesting the letter be reissued. 2. Reassess the tentative refund adjustment following IRM 21.5.9.5.16.5(3), <i>Reassessing Carryback Applications</i>. Explain the change to the taxpayer. 3. Issue carryback Letter 216C and include the following paragraphs: <p><i>A review of your account indicates there is an issue with processing your tax return. You will receive Letter 6042C requesting information you need to provide to avoid additional delays in processing your Form (enter form number) for tax period(s) (include tax periods with RICS Indicators on account). Once your (enter tax period of return(s) with RICS indicators - ex. Dec. 31, 2017) return(s) have been processed you can</i></p>

		<p>resubmit an amended return for (list each affected gain year) to the Internal Revenue Service Center where you live as shown in the instructions for your income tax return. If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.</p>
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IRM 21.5.9.5.20.4 Specified which carryback letter to issue for TENTs and RINTs. Added language to the open paragraph for carryback applications that clarifies if the application is not resubmitted within one year from the end of the loss year, an amended return must be filed to claim the carryback. Corrected titles to linked IRM references where needed.

(1) When processing a carryback application or claim, you must review the account when IMF Return Integrity and Compliance Services (RICS) filters select a return as potential identity theft under the Taxpayer Protection Program (TPP). Review the following IRM guidance for assistance identifying carryback applications or claims with RICS filters:

- IRM 21.5.1.4.4.1, *Unresolved Taxpayer Protection Program (TPP) Issues for Correspondence and Loose Forms*
- IRM 25.23.2.3, *Identity Theft Claims - General Guidelines*
- IRM 25.23.2.4.1, *Tracking and Reporting Identity Theft Cases - Identity Theft Indicators*
- IRM 25.23.2.4.2, *Tracking IMF Tax-Related Identity Theft Inventory*
- IRM 25.25.6.3, *Taxpayer Protection Program (TPP) Basic Authentication and Research*

(2) Accounts with returns selected for TPP/RICS are identified by the posting of a TC 971 AC 12X and the issuance of correspondex Letter 4883C, Letter 5071C, Letter 5447C, Letter 5747C. See IRM 25.25.6.1.7, *Taxpayer Protection Program Overview*, for additional information.

(3) Review IRM 25.25.6.1.7, *Taxpayer Protection Program Overview*, (2) for specific information utilized to identify returns selected for the TPP/RICS program.

Note: Only RICS employees have the authority to determine if the return in question is IMF RICS IDT or not.

(4) If the taxpayer provided a response to the TPP/RICS correspondence, TPP inputs a TC 972 AC 12X when the issue is resolved. See IRM 25.25.6-6, *Transaction Code TC 972 Action Code AC 121, Action Code AC 124, or Action Code AC 129 Input Screen*, for additional information.

(5) Follow guidance in IRM 25.25.6.2, *Written/Faxed Responses to Letter 4883C, Letter 5071C, Letter 5447C, Letter 5747C, Letter 6167C, or Letter 5216*, (1-3) when a carryback application or claim is submitted after the taxpayer has been notified of the TPP/RICS issues, includes a response to the TPP/RICS letter, and there is no indication on the affected account the response has been received or processed. Monitor the account, pending actions taken by TPP/RICS based on their case determination.

(6) If a TPP/RICS letter was issued but there is no record from the taxpayer, reject the RINT or TENT utilizing the appropriate Carryback letter (Letter 216C for TENT/ITCB or Letter 4734C for RINT/IRNT) and include the following paragraph:

Our records show Letter (4883C, 5447C, 5747C, 5071C, or 6167C whichever is applicable) dated (enter date the letter was issued + seven days) was issued to you. Before the IRS can process your carryback (application or claim, whichever is applicable), you must respond to that letter using the address or fax number provided on that letter to avoid additional delays in the processing of your tax return or you may call 800-830-5084 to authenticate your identity over the phone.

Include the following paragraph if the taxpayer **filed a carryback application (TENT):**

If the application is not resubmitted within one year from the end of the loss year, you must file an amended return to claim the carryback.

Note: Review command code (CC) TXMOD/IMFOLT for the TC 971 AC 123 MISC field to determine if and when a Letter 4883C, Letter 5071C, Letter 5447C, or Letter 5216 has been issued. Review CC ENMOD to determine if and when Letter 6167C has been issued. When determining the letter date, enter the date the letter was issued + seven days.

Example 1: ENMOD shows Letter 6167C generated on 1/15/2020; the printed letter date you enter here would be 1/22/2020.

Example 2: TXMOD/IMFOLT shows a TC 971 AC 123 indicating a 4883C was issued on 1/15/2020; the printed letter date you enter here would be 1/22/2020.

Exhibit 21.5.9-1 Added carryback/carryforward periods for IRC 6417(b) credits and included a link to IRM 21.5.9.5.3, Special Carryback/Carryforward Periods, which lists each specific credit. Corrected the link to the instructions for Form 3800, General Business Credit. Specified which issues should be reassigned to the Carryback team.

In general, the carryback period for general business credits is one year, and the carryforward period is 20 years. For a complete listing of general business credits, and additional information, see Form 3800, *General Business Credit*, and Instructions for Form 3800. For additional information about specific non-refundable credits see IRM 21.5.9.5.12.7, *Carryback of Excess Foreign Tax Credit*

(FTC), IRM 21.6.3.4.1, *Non-Refundable Credits Procedures*, (Individual Master File), and IRM 21.7.4.4.8.3, *Information on Specific Non-Refundable Credits*.

The table below lists the availability of non-refundable credits, other than general business credits, for carryback/carryforward. Non-carryback trained employees will reassign the issues worked by the carryback team using AM Site Specialization Temporary Holding Numbers.

Other Credits	Carry Back	Carry Forward	Reassign to Carryback Team
Child and Dependent Care Credit Form 2441	No	No	No
Credit for the Elderly or Permanently and Totally Disabled Schedule R	No	No	No
Child Tax Credit	No	No	No
Education Credits Form 8863	No	No	No
Mortgage Interest Form 8396	No	three years	No
Adoption Credit Form 8839	No	five years	No
District of Columbia First-Time Homebuyer Credit (DC Residents Only) Form 8859	No	Unlimited (until used)	No
Residential Clean Energy Credit Form 5695 Part I	No	Unlimited (until used)	No
FOREIGN TAX CREDIT - Individuals, Estates, and Trusts Form 1116 Carryback of excess taxes arising in tax years beginning prior to October 23, 2004; carryover of excess taxes carried to tax years ending prior to October 23, 2004 Note: Excess Foreign Tax Credits can only be carried to a year in which there was foreign income subject to U.S. tax.	one year	10 years	Yes

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<p>FOREIGN TAX CREDIT - Individuals, Estates, and Trusts</p> <p>Form 1116</p> <p>Carryback of excess taxes arising in tax years beginning after October 22, 2004; carryover of excess taxes carried to tax years ending after October 22, 2004</p> <p>Note: Excess Foreign Tax Credits can only be carried to a year in which there was foreign income subject to U.S. tax.</p>	one year	10 years	Yes
<p>FOREIGN TAX CREDIT – Corporations</p> <p>Form 1118</p> <p>Carryback of excess taxes arising in tax years beginning prior to October 23, 2004; carryover of excess taxes carried to tax years ending prior to October 23, 2004</p> <p>Note: Excess Foreign Tax Credits can only be carried to a year in which there was foreign income subject to U.S. tax.</p>	one year	10 years	Yes
<p>FOREIGN TAX CREDIT – Corporations</p> <p>Form 1118</p> <p>Carryback of excess taxes arising in tax years beginning after October 22, 2004; carryover of excess taxes carried to tax years ending after October 22, 2004</p> <p>Note: Excess Foreign Tax Credits can only be carried to a year in which there was foreign income subject to U.S. tax. Taxpayers may not carryover or carryback excess foreign taxes that they are deemed to pay or accrue under IRC 960(d).</p>	one year	10 years	Yes
<p>IRC 6417(b) Credits See IRM 21.5.9.5.3, <i>Special Carryback/Carryforward Periods</i>, for a list of specific credits.</p>	three years	20 years	Yes