DATE: 10/08/2024

NUMBER: ts-21-1024-1019

SUBJECT: Supplemental Forms 94XX Filed By Certain Aggregate Employment Tax Return Filers

AFFECTED IRM(s)/SUBSECTION(s): 21.7.2

CHANGE(s):

IRM 21.7.2.4.4.10(2) Added an exception with regards to supplemental Forms 94XX filed by certain aggregate employment tax return filers.

(2) The following general guidance should be considered when processing multiple Forms 94XX cases:

- Generally, separately filed Forms 94XX cannot be combined into a single adjustment. A separate adjustment must be input for each Form 94XX filed by the taxpayer to report corrections.
- Separately filed Forms 94XX should generally be processed in received date order whenever possible.
- Unless there are unusual circumstances in play, it is generally advantageous to process Forms 94XX in the order in which the taxpayer intended. This can usually be determined by reviewing the beginning and ending figures reported on the Forms 94XX.
- Taxpayers cannot net tax on separately filed Forms 94XX reporting underreported amounts and overreported amounts to determine amounts of required payments. To avoid penalties and/or interest, the entire underreported amount must be paid by the time they file the Form 94XX. If the taxpayer does not fully pay the amount of the increase reported by the time they file the Form 94XX, any overpayment arising from the separately filed claim will be offset against the tax due but does not constitute the payment required with the Form 94XX reporting the tax increase. The amount of the tax increase not paid with the Form 94XX may be subject to an FTD penalty whether the adjustment is input as a TC 290 (see IRM 20.1.4.21.3, *Amended or Supplemental (Tax Decrease or Non-Interest-Free Tax Increase*)) or as a TC 298 (see IRM 20.1.4.21.5, *Adjusted Returns (Forms 941-X, 943-X, 944-X, and CT-1X)*). Other systemically generated penalties (FTF and/or FTP) and interest may also apply.
- Current and expected module balances must be considered when processing multiple Form 94XX cases to ensure taxpayers do not receive incorrect refunds or balance due notices. Use hold codes as appropriate. For example, if processing a decrease which will result in an overpayment and then an

increase for which no payment has been received, use Hold Code 1 on the first adjustment to hold the overpayment until the increase posts.

Caution: Extreme care must be exercised to prevent barred assessments or erroneous abatements from occurring when employers file Forms 94XX reporting both underreported amounts and overreported amounts. Unique statute of limitations issues may be encountered. It may be necessary in some circumstances to have a Statute function initiate a manual assessment of the underreported amount before processing the adjustment for the overreported amount. It should be particularly noted that a Refund Statute Expiration Date (RSED) for a tax account may remain open after the Assessment Statute Expiration Date (ASED) has expired. See IRM 25.6.1, *Statute of Limitations Processes and Procedures*, for additional guidance on handling statute imminent cases.

Exception: The procedural guidance provided in this subsection does not apply to Forms 94XX discussed and processed per instructions in IRM 21.7.2.7.6.6, *Form 94XX — Employee Retention Credit (ERC) — Supplemental Form 94XX Filed by Certain Aggregate Employment Tax Return Filers*.

IRM 21.7.2.7.6.3(3) Revised caution to account for handling of supplemental Forms 94XX filed by certain aggregate employment tax return filers.

(3) Cases cleared by RAAS for processing as per guidance in this subsection will be identified to AM as follows:

- IDRS Number: **0230265187**
- CII case notation: **"Cleared to Process"**

Note: CII case notes for these cases will also indicate the EIN and MFT that was identified during data transcription for RAAS analysis. This information is a factor in processing validation described in (12) below.

Note: CII case notes for accepted Forms 941-X will also include two (2) dollar value data elements required for operating the math verification worksheet discussed in (14) below.

Caution: Take no actions to process Forms 94XX reporting ERC-related tax decreases or credit increases unless the case has been controlled/annotated with instructions permitting the case to be worked as indicated above or as indicated in another subsection providing instructions for special handling (i.e., case handling instructions for a failed analysis factor or case handling instructions for certain supplemental Forms 94XX).

IRM 21.7.2.7.6.6 Added new subsection with handling guidance for supplemental Forms 94XX filed by certain aggregate employment tax return filers.

> Form 94XX – Employee Retention Credit (ERC) – Supplemental Form 94XX Filed by Certain Aggregate Employment Tax Return Filers

(1) Certain aggregate employment tax return filers (Section 3504 Agents, CPEOs, and PEOs) are permitted to file a single supplemental amended return on Form 94XX to replace one or more previously filed Forms 94XX claiming Employee Retention Credit (ERC).

(2) Information on the filing of these supplemental Forms 94XX may be found at the following links:

- IRS opens new process for payroll companies, third-party payers to help clients resolve incorrect claims for the Employee Retention Credit
- Filing a supplemental claim for the Employee Retention Credit
- Supplemental claims for third-party payers: Frequently asked questions

(3) The supplemental Forms 94XX filed in the limited circumstances described in the linked guidance:

- Will be processed instead of (i.e., replace) the related previously filed Forms 94XX.
- Will be recorded with a single TC 29X adjustment as reported on the supplemental Form 94XX (i.e., **do not** follow instructions in IRM 21.7.2.4.4.10, *Processing Multiple Forms 94XX Filed for the Same Tax Period*, to record separate adjustments for each previously filed Form 94XX the supplemental Form 94XX is intended to replace).

(4) Supplemental Forms 94XX filed in this manner:

- Must be submitted via a dedicated fax line (855-782-2161).
- Must be submitted not later than 11:59 p.m. on November 22, 2024.
- Must identify the previous Form 94XX filing(s) the supplemental Form 94XX is intended to replace in the explanation section of the form.
- Cannot replace previous Forms 94XX filed after January 31, 2024.
- Cannot replace previously filed Forms 94XX which have already been processed.

(5) Supplemental Forms 94XX received via the fax line are delivered as electronic images to a shared drive. Ephesoft imaging software is then applied to create a new case in CII with **Priority Code 1** and assigned to IDRS number **0230448611** with case category **SPC6**.

Caution: Creation of the case will generate a TC 971 AC 010 and (if not already present) set a -A freeze or E- freeze which **must** be resolved before the case is

closed.

Note: Any other forms or correspondence submitted via the specified efax line will not be considered and must be submitted/resubmitted by the taxpayer as otherwise required.

Caution: No other case types are to be assigned to IDRS number 0230448611. This IDRS number is used exclusively for controlling supplemental Forms 94XX described in this IRM subsection.

(6) Review the supplemental Form 94XX and then follow guidance provided in the table below when previous filings cannot be verified, one or more of the previous Forms 94XX were received after January 31, 2024, one or more of the Forms 94XX was previously processed, or there are more Forms 94XX on file than the supplemental Form 94XX was intended to replace:

If	Then
The previously filed Form(s) 94XX the supplemental Form 94XX is intended to replace is/are not identified on the supplemental Form 94XX	- Reject the supplemental Form 94XX. Send Letter 916C and include the following text in an open paragraph: "We could not process your supplemental Form [specify form] because it did not identify the previously filed forms that it was intended to replace." - If a separate case was opened for the supplemental Form 94XX filing, close that case but do not close any other open Form 94XX case. **Reminder:** If there are no open Form 94XX cases (or duplicate filing condition cases) and a -A or E-freeze was set in association with the supplemental Form 94XX, the freeze must be released via a TC 290 .00 or TC 971 cc 002 transaction as appropriate.
One or more of the previously filed Forms 94XX the supplemental Form 94XX is intended to replace has already been processed	- For each related Form 94XX case that was located, add a case note as follows: "Unprocessable supplemental Form 94XX rejected." - Link each related Form 94XX case that was located to the case for the supplemental Form 94XX but **do not** close any of the related Form 94XX cases which remain open. - Reject the supplemental Form 94XX. Send letter 916C and include the following text in an open paragraph: "We could not process your supplemental Form [specify form]

	because we already processed one or more of the previously filed forms that it was intended to replace." In a second open paragraph, identify the previously processed Form(s) 94XX by date filed and/or the claim amount as space allows. (e,g., "We previously processed your Form 941-X received on January 15, 2024 claiming $10,000.00 in ERC credit." **Reminder:** If there are no open Form 94XX cases (or duplicate filing condition cases) and a -A or E-freeze was set in association with the supplemental Form 94XX, the freeze must be released via a TC 290 .00 or TC 971 cc 002 transaction as appropriate.
One or more of the previously filed Forms 94XX the supplemental Form 94XX is intended to replace has not been received (i.e., cannot be located)	Continue handling the case as directed in the following rows of this table and instructions in (7) and (8) below. **However**, see instructions in Step 2 in (8) below for a corresponding required case note when referring the case for SBSE review.
One or more of the previously filed Forms 94XX the supplemental Form 94XX is intended to replace was received after January 31, 2024	Continue handling the case as directed in the following row of this table and instructions in (7) and (8) below. **However**, see instructions in Step 2 in (8) below for a corresponding required case note when referring the case for SBSE review.
AMS/CII reflects one or more unprocessed Forms 94XX in addition to those the supplemental Form 94XX was intended to replace (i.e., unprocessed Forms 94XX not listed on the supplemental Form 94XX)	Continue handling the case as per instructions in (7) and (8) below. **However**, see instructions in Step 2 in (8) below for a corresponding required case note when referring the case for SBSE review.

Caution: When rejecting documents, extreme care must be taken to ensure that only the material relative to the taxpayer(s) to which the correspondence is addressed is enclosed in the envelope. See IRM 21.3.3.4.24, *Breaches of Personally Identifiable Information (PII) Caused by Manual Stuffing Errors*, for additional information.

(7) All other Form 94XX processing guidelines and requirements also apply to supplemental Forms 94XX filed in the manner discussed in (1) through (4) above:

1. Review the supplemental Form 94XX for completeness and processability (e.g., for a Form 941-X claim, see (2) and (3) in IRM 21.7.2.4.5.6.2, *Form 941-X Tax Decrease — Claim*).

2. **In addition**, review the supplemental Form 94XX for the presence of a Schedule R. If no Schedule R is attached, reject the supplemental Form 94XX (see Step 4 below).

3. **In addition**, compare the beginning tax figures reported in Column 2 of the supplemental Form 94XX to the corresponding figures currently recorded on TXMOD or BMFOLR. If the figures entered on the supplemental Form 94XX do not match IRS records, reject the supplemental Form 94XX (see Step 4 below).

4. Perfect or reject unprocessable supplemental Forms 94XX as appropriate.

   Note: If rejecting an unprocessable supplemental Form 94XX, add a case note to each related Form 94XX case the supplemental Form 94XX was intended to replace as follows: "Unprocessable supplemental Form 94XX rejected." Link the related cases to the case for the rejected supplemental Form 94XX but do not close any of the related Form 94XX cases which remain open.

   Reminder: If there are no open Form 94XX cases (or duplicate filing condition cases) and a -A or E- freeze was set in association with the supplemental Form 94XX, the freeze must be released via a TC 290 .00 or TC 971 cc 002 transaction as appropriate.

5. Review for account conditions that require special handling (i.e., open CAT-A or AIMS status, RICS/RIVO/IDT, etc.) which must be addressed prior to taking further action on the supplemental Form 94XX. Suspend, route, or otherwise address the account condition encountered as appropriate.

(8) After applying the guidance in (6) and (7) above, continue handling processable supplemental Forms 94XX as follows:

1. If not already done, link and close each previously filed Form 94XX case the supplemental Form 94XX was intended to replace to the case for the supplemental Form 94XX.

2. Take action to submit the supplemental Form 94XX for SBSE review/analysis.
   • Add the following case note: "Supplemental Form 94XX submitted for SBSE review/analysis."
   • If one or more of the Forms 94XX the supplemental Form 94XX was intended to replace could not be located, also add an appropriate case note (e.g., "Second and fourth listed Forms 94XX could not be located.") identifying the missing Forms 94XX.
   • If one or more of the Forms 94XX the supplemental Form 94XX was intended to replace was received after January 31, 2024, also add an appropriate case note (e.g., "Third and fourth listed Forms 94XX were received after January 31, 2024.").
   • If AMS/CII reflects one or more unprocessed Forms 94XX in addition to those the supplemental Form 94XX was intended to replace, also add a case

note as follows: "Additional unprocessed Forms 94XX on file."
• Reassign the CII case control to IDRS number **2475065145**.

3. For cases returned by SBSE after review/analysis, complete the processing of the supplemental Form 94XX by following guidance in the appropriate IRM subsection corresponding to the SBSE handling instructions (e.g., if SBSE clears the Form 94XX for processing as a full allowance, follow handling guidance in IRM 21.7.2.7.6.3, *Form 94XX — Employee Retention Credit (ERC) — Claims and Adjustments Cleared for Processing (Accepted) by RAAS*).

Note: # ███
███
███ **#**
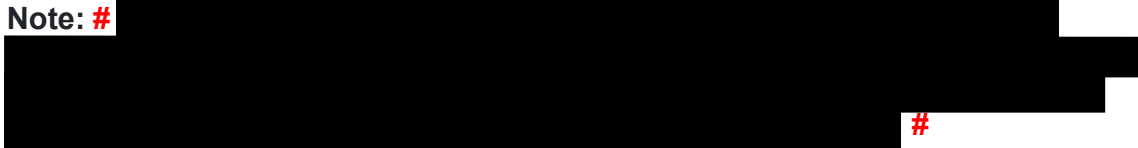
Caution: For amended claims date field and refund schedule date field purposes, use the received date for the earliest Form 94XX being replaced by the supplemental Form 94XX when completing any final adjustments on the account.

Note: If the supplemental Form 94XX reports a net tax increase/credit decrease, use the ascertained (error discovery) date from the supplemental Form 94XX or, if blank, the latest error discovery date entered on the Form(s) 94XX it is intended to replace, for interest computation date purposes.