



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.10.8

SEPTEMBER 13, 2019

EFFECTIVE DATE

(09-13-2019)

PURPOSE

- (1) This transmits a revision of IRM 4.10.8, Examination of Returns, Report Writing.

MATERIAL CHANGES

- (1) Significant changes to this IRM are listed in the table below.

Prior Reference	New Reference	Description of Change
IRM 4.10.8.1	IRM 4.10.8.1	Revised the title to properly reflect the new information contained in this subsection. Overview information is now included to describe the internal control framework required by IRM 1.11.2.2.5, Address Management and Internal Controls.
N/A	IRM 4.10.8.1.1 through IRM 4.10.8.1.7	Added content to provide background information, legal authorities that govern the actions covered in this IRM, responsibilities, terms, acronyms, and related resources available to assist examiners when writing reports.
IRM 4.10.8.1.1 through IRM 4.10.8.1.5	IRM 4.10.8.2 through IRM 4.10.8.2.4	Content moved and renumbered. Revised the overview to explain the purpose and types of audit reports. Clarified procedures for issuing reports including guidance on preparing and signing letters (including digital signatures), preparing envelopes, undeliverable mail procedures, and added a reference to bankruptcy procedures. Incorporated applicable content from Interim Guidance Memorandum NHQ-01-1115-0001, Revision of Policy for Use of Fax in Taxpayer Submissions, dated November 19, 2015. Added an exception that agreements received by IRS Eefax may not require an additional date stamp.
IRM 4.10.8.2 through 4.10.8.2.7.3	IRM 4.10.8.3 through 4.10.8.3.7.3	Content moved and renumbered section and subsections; revisions within are noted below.
IRM 4.10.8.2.1	IRM 4.10.8.3.1	Clarified use of Letter 3401-S, Pass-Through Entity No Change Transmittal (Non-TEFRA).
IRM 4.10.8.2.5	IRM 4.10.8.3.5	Made corrections to the list of no change letters and removed obsolete letters. Removed reference to Letter 570 and Letter 2684 (not no-change letters) and Letter 1855 and Letter 2062 (obsolete).
IRM 4.10.8.3 through 4.10.8.3.7	IRM 4.10.8.4 through 4.10.8.4.7	Content moved and renumbered section and subsections; revisions within are noted below.
IRM 4.10.8.3	IRM 4.10.8.4	Added note about preparing and following up on Letter 4121.

Prior Reference	New Reference	Description of Change
IRM 4.10.8.3.1	IRM 4.10.8.4.1	Clarified instructions for completing Form 4549, Report of Income Tax Examination Changes, adding the requirement to include interest amount on reports and that the examiner's signature can be digital.
IRM 4.10.8.3.3	IRM 4.10.8.4.3	Clarified instructions for completing "Other Information" section of Form 4549.
IRM 4.10.8.3.4	IRM 4.10.8.4.4	Removed reference to obsolete Letter 920, and replaced with current letter and IRM references.
IRM 4.10.8.3.4.1	IRM 4.10.8.4.4.1	Clarified preparation of Form 4605, Examination Changes - Partnerships, Fiduciaries, S Corps., & Interest Charge Domestic International Sales Corporations.
IRM 4.10.8.4 through IRM 4.10.8.4.5	IRM 4.10.8.5 through IRM 4.10.8.5.5	Content moved and renumbered section and subsections.
IRM 4.10.8.4.2	IRM 4.10.8.5.2	Removed references to obsolete form (Form 875).
IRM 4.10.8.5 through 4.10.8.5.6	IRM 4.10.8.6 through 4.10.8.6.6	Content moved and renumbered section and subsections; revisions within are noted below.
IRM 4.10.8.5.1	IRM 4.10.8.6.1	Added Letter 1967 to the guidance for partially agreed cases.
IRM 4.10.8.5.2	IRM 4.10.8.6.2	Removed reference to obsolete Form 875 and added guidance for Letter 921, Report Transmittal For Non-TEFRA Partnership, Fiduciary, & S Corporation.
IRM 4.10.8.5.3	IRM 4.10.8.6.3	Removed references to obsolete Form 875.
IRM 4.10.8.5.4	IRM 4.10.8.6.4	Clarified procedures and added guidance for Letter 921.
IRM 4.10.8.5.5	IRM 4.10.8.6.5	Added to the list of cases excluded from partial assessments: delinquent returns secured after the posting of a TC 150 SFR when there is audit potential, but tax per return is zero.
IRM 4.10.8.6	IRM 4.10.8.7	Content moved and renumbered.
IRM 4.10.8.7	IRM 4.10.8.8	Content moved and renumbered.
IRM 4.10.8.8	IRM 4.10.8.9	Content moved and renumbered.
IRM 4.10.8.9 through 4.10.8.9.8	IRM 4.10.8.10 through 4.10.8.10.8	Content moved and renumbered.
IRM 4.10.8.10 through 4.10.8.10.5	IRM 4.10.8.11 through 4.10.8.11.5	Content moved and renumbered section and subsections.
IRM 4.10.8.11 through 4.10.8.11.12	IRM 4.10.8.12 through 4.10.8.12.12	Content moved and renumbered section and subsections; revisions within are noted below.

Prior Reference	New Reference	Description of Change
IRM 4.10.8.11	IRM 4.10.8.12	Added guidance for offering managerial conference in unagreed cases, and use of Letter 1963, Frivolous Filer Examination Report Transmittal.
IRM 4.10.8.11.1	IRM 4.10.8.12.1	Removed references to obsolete Letter 953 and Letter 962 and clarified use of Letter 921 for pass-through entity investors.
IRM 4.10.8.11.2	IRM 4.10.8.12.2	Removed references to obsolete Form 875 and updated report forms for pass-through entities.
IRM 4.10.8.11.9.3	IRM 4.10.8.12.9.3	Added clarifying language and examples for adequate protests, and guidance for timely actions on requests to appeal.
IRM 4.10.8.12 through 4.10.8.12.12	IRM 4.10.8.13 through 4.10.8.13.12	Content moved and renumbered section and subsections; revisions within are noted below.
IRM 4.10.8.12	IRM 4.10.8.13	Added guidance for the use of Letter 1963, Frivolous Filer Examination Report Transmittal.
IRM 4.10.8.12.1	IRM 4.10.8.13.1	Removed references to obsolete Form 875 and updated report forms for pass-through entities.
IRM 4.10.8.12.4	IRM 4.10.8.13.4	Removed references to obsolete Letter 953 and Letter 962.
IRM 4.10.8.13	IRM 4.10.8.14	Content moved and renumbered. Clarified corrected report procedures and removed the table for Del. Order 4.41 due to an error and outdated titles.
IRM 4.10.8.14 through 4.10.8.14.13	IRM 4.10.8.15 through 4.10.8.15.13	Content moved and renumbered section and subsections. Revisions within are noted below.
IRM 4.10.8.14.3.4	IRM 4.10.8.15.3.4	Updated restricted interest content and example.
N/A	IRM 4.10.8.15.4	Added new subsection with guidance on completing Form 2363 Master File Entity Change, when a taxpayer's name, address, or filing status changes.
IRM 4.10.8.14.4.1	IRM 4.10.8.15.5.1	Updated content regarding Form 2363 and notating Form 3198 with invalid joint elections.
IRM 4.10.8.14.9	IRM 4.10.8.15.10	Deleted content and referenced IRM 4.23.10.17 which contains procedures for adjusting employee share of FICA tax.
IRM 4.10.8.14.12	IRM 4.10.8.15.13	Updated guidance on IRC 6404(g) and added a reference to IRM 20.2.7.8.5.
IRM 4.10.8.15	N/A	Deleted section on Form 5346, Examination Information Reports. Procedures are now in IRM 4.10.5, Required Filing Checks.
IRM 4.10.8.16.8	N/A	Deleted subsection with PSP's responsibilities for Inadequate Records which are contained in IRM 4.1.1.6.10.1.

Prior Reference	New Reference	Description of Change
IRM Exhibit 4.10.8-1	IRM Exhibit 4.10.8-1	Removed sample Non-TEFRA report and added links to Non-TEFRA report writing resources.
IRM Exhibit 4.10.8-2	IRM Exhibit 4.10.8-2	Removed sample TEFRA report and added links to TEFRA report writing resources.
Editorial-type changes		Minor editorial changes have been made throughout this IRM. Website addresses, legal references, and IRM references were reviewed and updated as necessary.

EFFECT ON OTHER DOCUMENTS

IRM 4.10.8, dated April 5, 2017, is superseded. This IRM incorporates applicable content from Interim Guidance Memorandum NHQ-01-1115-0001, Revision of Policy for Use of Fax in Taxpayer Submissions, dated November 19, 2015.

AUDIENCE

Small Business/Self-Employed (SB/SE) Examination-Field, Specialty Examination, Large Business & International (LB&I) and Tax-Exempt/Government Entities (TEGE) Examiners.

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4.10.8
Report Writing

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4.10.8.1
(09-13-2019)
Program Scope and Objectives

- (1) *Purpose.* This IRM section includes guidelines for the preparation of audit reports. In addition to basic report writing procedures, this IRM provides details regarding the preparation of corrected reports and discusses issues which require special reports and forms. It also provides instructions for some case closing requirements.
- (2) *Audience.* These procedures apply to examiners in SB/SE Examination-Field, Specialty Examination, LB&I, and TE/GE.
- (3) *Policy Owner.* The Director, Examination – Field and Campus Policy, who is under the Director, Headquarters Examination.
- (4) *Program Owner.* Field Examination General Processes (FEGP), which is under the Director, Examination – Field and Campus Policy.
- (5) *Contact Information.* To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.6, Providing Feedback About an IRM Section - Outside of Clearance.

4.10.8.1.1
(09-13-2019)
Background

- (1) This IRM provides guidance for report writing that examiners should understand and apply in the performance of their duties.

4.10.8.1.2
(09-13-2019)
Authority

- (1) By law, the Service has the authority to conduct examinations under Title 26, Internal Revenue Code, Subtitle F – Procedure and Administration, Chapter 78, Discovery of Liability and Enforcement of Title, Subchapter A, Examination and Inspection, which includes, but is not limited to, the following IRC sections:
 - IRC 7602, Examination of books and witnesses
 - IRC 7605, Time and place of examination

Note: Procedures for exercising examination authority are contained in the 26 CFR 601.105, Statement of Procedural Regulations.

4.10.8.1.3
(09-13-2019)
Responsibilities

- (1) The Director, Headquarters Examination, is the executive responsible for providing policy and guidance for SB/SE Examination employees and ensuring consistent application of policy, procedures and tax law to effect tax administration while protecting taxpayers' rights. See IRM 1.1.16.3.5, Headquarters Examination, for additional information.
- (2) The Director, Examination – Field and Campus Policy, reports to the Director, Headquarters Examination, and is responsible for the delivery of policy and guidance that impacts the field and campus examination processes. See IRM 1.1.16.3.5.1, Field and Campus Policy, for additional information.
- (3) Field Examination General Processes (FEGP), which is under the Director, Examination – Field and Campus Policy, is the group responsible for providing policy and procedural guidance on standard examination processes to field employees. See IRM 1.1.16.3.5.1.1, Field Exam General Processes, for additional information.
- (4) Examiners are responsible for observing the Taxpayer Bill of Rights, including the taxpayer's right to be informed regarding IRS decisions about their tax accounts. Examiners should ensure taxpayers receive clear explanations of the

outcomes by issuing examination reports and letters which identify the amounts (if any) of tax due, interest, additional amounts, additions to the tax and assessable penalties.

- (5) Examiners and their managers should thoroughly acquaint themselves with the report writing procedures and information contained in this IRM, as well as other resources, such as those listed in IRM 4.10.8.1.7, Related Resources, below.

4.10.8.1.4
(09-13-2019)
Program Reports

- (1) Reports are derived from a variety of sources including the Audit Information Management System (AIMS, AIMS - Centralized Information System (A-CIS)), and Examination Returns Control System (ERCS) databases. These reports provide Headquarters and Field Examination with timely and reliable information. There are a variety of reports designed to meet the needs of the group or function. Additional information can be found in IRM 4.4.27, Reports; IRM 4.7.6, Reports; and IRM 1.4.40.5, Monitoring Reports Overview.

- (2) Periodic program reviews are conducted to:

- Assess the effectiveness of specific programs within Examination or across the organization,
- Determine if procedures are being followed,
- Validate policies and procedures, and
- Identify and share best/proven practices.

4.10.8.1.5
(09-13-2019)
Terms

- (1) The following table contains a list of terms used throughout this IRM and their definitions.

Term	Definition
30-day letter (also known as a "preliminary letter")	Letter used to transmit the examination report to the taxpayer and allow the taxpayer 30 days to request Appeals' consideration of their case, or take other actions as outlined in the specific letter.
Agreed tax period	<p>An examined tax period resulting in changes to tax and/or penalty and the taxpayer agrees to the findings by signing a report.</p> <p>The following scenarios are considered agreed closures even without a signature on the agreement form:</p> <ul style="list-style-type: none"> • prior to the issuance of a notice of deficiency an advance payment is received (other than a payment designated as an IRC 6603 deposit) which fully pays the deficiency • the net result of the audit is an overassessment (other than a claim for refund disallowed in full or part) that is not protested.

Term	Definition
Audit report (also known as examination report)	<p>A form and all attachments used to summarize and explain the findings of an examination, containing all the information necessary to ensure a clear understanding of the adjustments and demonstrating how the tax liability was computed. An audit report is a legally binding document, and serves as the basis for assessment and collection action.</p> <p>Example: Form 4549, Report of Income Tax Examination Changes, with an explanation of each item of adjustment.</p>
Closing letter (also known as a “final letter”)	<p>Letter used to notify the taxpayer:</p> <ul style="list-style-type: none"> • the examination report has been reviewed and accepted by the appropriate Director for the respective operating division, and/or • the examination proceeding is officially closed.
No Change tax period	<p>An examined tax period resulting in no adjustment(s) to the taxpayer’s reported income, loss, deductions or credits.</p>
No Change with adjustments tax period	<p>An examined tax period resulting in adjustment(s) to the taxpayer’s reported income, loss, deductions or credits, but no net change to tax and/or penalty.</p>
Overassessment tax period	<p>An examined tax period resulting in adjustment(s) that reduce the taxpayer’s liability in the year examined. An overassessment becomes an <i>overpayment</i> when a refund is indicated (subject to the time limits prescribed by law for making a refund or credit).</p>
Unagreed tax period	<p>An examined tax period that results in a deficiency, a disallowed claim for refund, or a no change (but the adjustments impact the tax liability of another year), and the taxpayer does not agree to the findings and a report or waiver is not signed by the taxpayer.</p>
Waiver	<p>A form allowing taxpayers to waive certain restrictions or requirements.</p> <p>Example: Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment.</p>

4.10.8.1.6
(09-13-2019)

Acronyms

(1) The following table lists acronyms used throughout this IRM and their definitions.

Acronym	Definition
A-CIS	AIMS - Centralized Information System
AIMS	Audit Information Management System
AMT	Alternative Minimum Tax
ASED	Assessment Statute Expiration Date
AUR	Automated Under Reporter
CAF	Centralized Authorization File
CCP	Centralized Case Processing
CEAS	Correspondence Examination Automation System
CFR	Code of Federal Regulations
CZ	Combat Zone
DET	Direct Examination Time
DIF	Discriminant Index Function
ERCS	Examination Returns Control System
IC-DISC	Interest Charge Domestic International Sales Corporation
DLN	Document Locator Number
DOD	Department of Defense
DPC	Designated Payment Code
EEFAX	Enterprise Electronic Facsimile
EGC	Employee Group Code
EIN	Employer Identification Number
EOAD	Examination Operational Automated Database
ERCS	Examination Return Control System
FFTF	Fraudulent Failure to File
FICA	Federal Insurance Contribution Act
FORT	Field Office Resource Team
FTS	Fast Track Settlement
ICE	Informant's Claims Examiner
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IMS	Issue Management System
IPG	Issue Practice Group
IRA	Individual Retirement Arrangement

Acronym	Definition
IRC	Internal Revenue Code
IRN	Inadequate Records Notice
LB&I	Large Business and International
LCU	Large Corporate Underpayment
LUQ	Large Unusual and Questionable
MACRS	Modified Accelerated Cost Recovery System
MFJ	Married Filing Jointly
MFT	Master File Tax
NMF	Non-Master File
NOLD	Net Operating Loss Deduction
NRP	National Research Program
POA	Power of Attorney
POD	Post of Duty
PSP	Planning & Special Programs
RA	Revenue Agent
RGS	Report Generation Software
RRA	Restructuring and Reform Act of 1998
SB/SE	Small Business and Self-Employed
SBU	Sensitive but Unclassified
SECA	Self-Employed Collection Act
SFR	Substitute for Return
SSN	Social Security number
TCO	Tax Compliance Officer
TDF	Treasury Department Form
TEFRA	Tax Equity and Fiscal Responsibility Act
TEGE	Tax Exempt Government Entities
TIN	Tax Identification Number
TS	Technical Services
USTC	United States Tax Court

4.10.8.1.7
(09-13-2019)

Related Resources

(1) Following are the primary sources of procedures and guidelines examiners will use for report writing:

- IRM 4.10.1, Overview of Examiner Responsibilities
- IRM 4.10.6, Penalty Considerations
- IRM 4.10.7, Issue Resolution
- IRM 4.10.9, Workpaper System and Case File Assembly
- IRM 4.10.10, Standard Paragraphs and Explanation of Adjustments
- IRM 4.13.4, Area Office (AO) Examination
- IRM 4.23.10, Report Writing Guide for Employment Tax Examinations
- IRM 4.23.22, Unagreed Employment Tax Case Procedures
- IRM 4.24.20, Excise Tax Report Writing Guide
- IRM 4.25.6, Report Writing Guide for Estate and Gift Tax Examinations
- IRM 4.27.2, Bankruptcy, Examiner Responsibilities
- IRM 4.31.2, TEFRA Examinations - Field Office Procedures
- IRM 4.31.5, Investor Level Statute Control (ILSC) Examinations - Field Office Procedures
- IRM 4.36, Joint Committee Procedures
- IRM 4.46.6, Workpapers and Reports Resources
- IRM 20.1, Penalty Handbook
- IRM 20.2, Interest

(2) Helpful information can be found on the following websites for:

- Report Writing at <http://mysbse.web.irs.gov/examination/tip/reportwriting/default.aspx>
- S Corporations at <https://portal.ds.irsnet.gov/sites/VL034/Pages/default.aspx>
- TEFRA at http://tefra.web.irs.gov/m1/1a_home.asp
- RGS at <http://mysbse.web.irs.gov/exam/rgs/default.aspx>
- CCP at <http://mysbse.web.irs.gov/AboutSBSE/aboutccs/ccsprog/casepro/cp/cont/28100.aspx>
- Ex Parte Communications at <http://mysbse.web.irs.gov/exam/tip/exparte/default.aspx>
- Disclosure at <https://portal.ds.irsnet.gov/sites/VL003/Pages/default.aspx>
- Joint Committee at <https://irssource.web.irs.gov/LBI/Lists/KMNECPA/AllItems.aspx>
- Claims, Abatements and Audit Reconsiderations at <https://portal.ds.irsnet.gov/sites/vl031/pages/default.aspx>
- Penalties at <https://portal.ds.irsnet.gov/sites/VL015/Pages/default.aspx>

4.10.8.2
(09-13-2019)

Audit Reports

(1) Examiners have the responsibility to ensure audit reports are properly prepared and issued.

(2) The following sections give an overview of audit reports, discuss report preparation and issuance, and provide guidance regarding matters examiners must consider after reports are issued.

4.10.8.2.1
(09-13-2019)

Overview of Audit Reports

(1) Audit reports serve several important purposes. Therefore, examiners should take all necessary steps to ensure report accuracy. Audit reports:

- a. Protect the taxpayer's "Right to be Informed." Audit reports should contain all the information necessary to ensure a clear understanding of the adjustments and identify the amounts (if any) of tax due, interest, additions to the tax, and assessable penalties.
 - b. Serve as the basis for assessment and collection action. Reports (unlike workpapers) are legally binding documents.
 - c. Give notice of a tax liability for purposes of interest suspension. IRC 6404(g) provides for the suspension of interest when the Service fails to provide timely and adequate notice of a tax liability. For example, Form 4549 is sufficient notice if it contains an explanation of each item of adjustment. See Treas. Reg. 301.6404-4(a)(7)(i). See IRM 4.10.8.15.13, which addresses notice requirements for IRC 6404(g).
- (2) The type of audit report an examiner prepares depends on the outcome of the examination. For example, reports are prepared for the following types of cases:
- No Change and No Liability (IRM 4.10.8.3)
 - Regular Agreed (IRM 4.10.8.4)
 - Excepted Agreed (IRM 4.10.8.5)
 - Partially Agreed (IRM 4.10.8.6)
 - Unagreed (IRM 4.10.8.12 and IRM 4.10.8.13)

4.10.8.2.2
(09-13-2019)
**Preparation of Audit
Reports**

- (1) This section contains general guidance for income tax report preparation. Other sections in this IRM contain specific guidance for reports for each type of case (e.g., no change, agreed, etc.).
- (2) Form 4549, is the basic report form for most individual and corporate income tax cases. Form 4549 has a place for the taxpayer(s) to sign and includes consent to assessment and collection language. See IRM 4.10.8.4.1 for instructions for preparing Form 4549.
- (3) Form 4549-A, Report of Income Tax Examination Changes (Unagreed and Excepted Agreed), does not have a place for the taxpayer(s) to sign, and is appropriate for no change, unagreed, excepted agreed, fully allowed claims for refund, and abatement cases. If Form 4549-A is issued in an unagreed or partially agreed case, examiners typically prepare and provide Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment, to the taxpayer to solicit a consent to assessment.
- (4) Report Generation Software (RGS) is required for generation of all income tax examination reports (with the exception of LB&I agents utilizing BNA Software) and for entry of all data required for the Examination Operational Automation Database (EOAD). EOAD is designed to allow the tracking of examination adjustments by issue and related cause. This data helps identify specific areas of noncompliance based on examination reports. See IRM 4.10.16, Examination Operational Automation Database (EOAD). Procedures for using RGS in report writing can be found in RGS User Guides, training materials, and IRM 4.10.15, Report Generation Software (RGS). See IRM 4.10.8.18 for additional information on the use of RGS.

4.10.8.2.3
(09-13-2019)
**Issuance of Audit
Reports**

- (1) The examiner should discuss the progress of the examination and potential issues with the taxpayer and/or representative at frequent intervals throughout the examination. See IRM 4.10.7.5, Proposing Adjustments to the Taxpayer and/or Representative, for guidance on the time and manner for issuing reports in both office and field examinations.
- (2) Whenever possible, examiners should discuss the audit report with the taxpayer and/or representative in a face to face meeting, versus mailing the report. When a report is mailed, the examiner must prepare and issue the appropriate letter to transmit the report and notify the taxpayer of the examination process and their rights (e.g., Letter 4121, Letter 915, Letter 950, Letter 5153, etc.). See IRM 4.10.8.2.3.1 below for additional guidance on preparing and issuing letters.

Reminder: Generally, for deficiency cases, TCOs issue Letter 915 with the first report (in person or by mail).

- (3) For a joint return, follow IRM 4.10.1.2.2.1, Separate Notice Requirements, to determine if the report must be issued separately.
- (4) Generally, a qualified representative is authorized to receive any notice or other written communication required or permitted to be given to the taxpayer in the matter concerning the taxpayer, as directed on Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization. Before issuing an audit report, the examiner should research the Centralized Authorization File (CAF) on IDRS to ensure the taxpayer did not submit a new Form 2848 or Form 8821 through channels other than the examiner. For more detailed information on how to mail correspondence when a POA is involved, see IRM 4.11.55.2.9, Notices and Communications. See IRM 4.10.1.3.3, Written Communication to the Taxpayer's Representative, for guidance including the preparation and issuance of Letter 937, Transmittal Letter for Power of Attorney.

4.10.8.2.3.1
(09-13-2019)
Letters

- (1) Letters are sent to taxpayers (and their authorized representatives) to transmit reports, explain available appeal rights, and inform the taxpayer of the status of the examination.
- (2) Examiners must follow the guidance in IRM 4.10.1.3.2, Written Communication, when preparing letters. Employee contact information must be included on all correspondence sent to taxpayers. Refer to IRM 4.10.1.2.2.2, Employee Contact Information, for guidance.
- (3) Examiners prepare most letters that are issued from the group or by CCP; the date and signature depends on the type of letter. For example, examiners prepare, but don't sign or date, letters sent by the group manager and closing letters sent by CCP on behalf of the appropriate Director (based on their operating division).
- (4) The type of letter (e.g., initial contact, 30-day, closing, etc.) and required signature (e.g., examiner, group manager, area director, etc.) determines how the signature block is completed. For example:
 - Letter 692, Request for Consideration of Additional Findings, is signed by the examiner therefore the signature block is completed with the examiner's name, title, and signature.

- 30-day letters discussed in IRM 4.10.8.12.1, must be signed by the group manager per *Delegation Order SBSE 4.55, Authority to Sign Thirty Day Letters*. Therefore, the signature block on 30-day letters must contain the group manager's name, title, and signature.

Reminder: Office Examination Letter 1912, Follow-Up Letter Transmitting Examination Reports, is not a 30-day letter. It is signed by the examiner and the signature block is completed with the examiner's name, title, and signature.

- Closing letters are mailed by CCP or TS and indicate the examination has been closed after acceptance by the Area Director (or comparable level of management). For example, Letter 590, No Change Final Letter, and Letter 987, Agreed Income Tax Change, notify the taxpayer the report has been reviewed and accepted. Therefore, the signature block is completed with the name and title of the Area Director (or comparable level of management) and signed by the group manager on behalf of the Area Director (or comparable level of management).

- (5) Generally, letters issued at the group level can be signed digitally provided the procedures in IRM 4.10.1.4.4, Digital Signatures, are followed.

Reminder: Digitally signed letters, forms and other documents issued to the taxpayer and/or representative should contain a graphical image of the signer's handwritten signature.

- (6) See IRM 4.4.7.2.1, Initiator's Responsibilities, for information on how to notate Form 3198, Special Handling Notice for Examination Case Processing, to provide CCP with instructions for mailing closing letters.
- (7) For closing letters, examiners must prepare an envelope to the taxpayer and, if applicable, to the POA. Envelopes must contain the examiner's return address, and should be included in the case file with the applicable letters.
- (8) If mail is returned as undeliverable after a case is closed, follow the procedures in IRM 4.4.7.4, Undeliverable Mail.

4.10.8.2.3.2
(09-13-2019)
Publications

- (1) Publications sent to the taxpayer should always agree with the enclosures listed on the letter to avoid confusion.
- (2) Publications available on IRS.gov should not be sent to the taxpayer's representative or appointee. See IRM 4.10.1.3.3, Written Communication to the Taxpayer's Representative, for additional information.
- (3) Section 3504 of P.L. 106-206 (RRA '98) requires the Service to include an explanation of the examination and collection process, as well as information about assistance from the Taxpayer Advocate with any first letter of proposed deficiency, which allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals. Pub 3498, The Examination Process, is used for this purpose. The procedures below must be followed:
- a. Pub 3498 must be provided with the first examination report that is given to the taxpayer, and with all 30-day letters.

- b. Pub 3498 is not required to be provided again to the same taxpayer with reports for the same tax periods issued subsequent to the first report (i.e., corrected and supplemental reports) unless they are issued with a 30-day letter.
- c. Pub 3498 is not included with no change reports, with the exception of no change with adjustments reports when the adjustments impact other tax years.

4.10.8.2.4
(09-13-2019)
**Considerations After
Report Issuance**

- (1) This section provides general guidance for soliciting payment, receiving executed audit reports, and closing cases within established time frames based on taxpayer responses to issued reports.

4.10.8.2.4.1
(09-13-2019)
Soliciting Payment

- (1) Examiners must follow IRM 4.20.3, Soliciting Payment, which provides guidelines for using the tiered interview approach for soliciting payment, securing levy source information, coordinating with Collection, and processing payments received on deficiency cases.

Caution: When a taxpayer has filed or is preparing to file bankruptcy, examiners must refer to IRM 4.27.2, Bankruptcy, Examiner Responsibilities, for guidance on soliciting payment.

- (2) Taxpayers, upon receipt of an audit report, may pay the deficiency immediately. Examination employees prepare Form 3244-A, Payment Posting Voucher - Examination, and transmit the form along with the payment as instructed in IRM 4.4.24.2, Form 3244-A. Attach a copy of the completed Form 3244-A to the face of the tax return.
- (3) Instead of a payment of tax, taxpayers may submit a "6603 deposit". For a detailed explanation of the enactment of IRC 6603 and its effect on interest see IRM 20.2.4.8.2, IRC 6603 Deposits.
- (4) See IRM 4.4.24, AIMS Procedures and Processing Instructions, Payments and Remittances, for information and instructions on payments and remittances, including the preparation of Form 3244-A. For payments of \$100,000 or more follow IRM 4.4.24.8, Payments of \$100,000 or More, to ensure timely processing.

4.10.8.2.4.2
(09-13-2019)
**Execution and Receipt
of Audit Reports and
Waivers**

- (1) Reports and waivers are considered "executed" when signed by the taxpayer(s). Executed forms must reflect the date received by the IRS. A signed agreement or waiver stops the running of interest 30 days from the date of receipt if the assessment and notice for payment are not made within the 30-day period. See IRM 20.2.7.9, IRC 6601(c), Suspension of Interest on Deficiencies, for additional information and examples. Examiners must date stamp the receipt date on agreements and waivers, with the following exception:

Exception: Agreements and waivers received by IRS EEFax (vs. a traditional fax machine) do not require an additional date stamp **if** the printed agreement or waiver contains a generated date stamp that is legible and correct.

- (2) The IRS can accept consents to assess additional tax (e.g., Form 4549 or Form 870) and taxpayer closing agreements involving any amount of tax by fax. For agreements received by fax, examiners must:
 - a. Document Form 9984, Examining Officer’s Activity Record, including contact with the taxpayer, the date of contact, and that the taxpayer is submitting the consent to assess additional tax by fax.
 - b. Document the origin of an agreement received by EEFax by saving an electronic or hard copy of the incoming e-mail in the case file.
 - c. Ensure Item 416 on Form 5344, Examination Closing Record, contains a “1” if a faxed agreement is received.

- (3) To process as “agreed,” reports and waivers for joint returns require the signature of both spouses (or authorized power-of-attorney(s), if applicable), unless the deficiency is paid in full as discussed in the following paragraph. When full payment is not received, and only one spouse signs the report or waiver, unagreed procedures apply to the non-signing spouse. Additionally, the account of the agreeing spouse must be assessed using MFT 31 procedures. See IRM 4.10.8.12.3.

- (4) Examiners may process a case as “agreed” without an executed agreement form if a full payment not specifically designated as a “6603 deposit” is received in response to a proposed deficiency (tax and penalties), and there is no evidence the taxpayer intends to file a protest. See IRM 4.4.12.5.18.3, Payment in Lieu, for completing the Form 5344 when payment is accepted in lieu of a signed agreement. Disposal Code 08 is used, and an agreement date is not entered; the suspension of interest described in paragraph (1) above does not apply to payments in lieu of agreements.

4.10.8.2.4.3
(08-11-2006)
Time Frames for Closing Cases from the Group

- (1) Generally, cases should be closed from the group within the following time frames:
 - a. 10 days for case closures for agreed or no change examinations – from the first date the report is received or the no change status is communicated to the taxpayer,
 - b. 20 days for case closures for unagreed examinations – from the date the 30-day letter defaults or the request for Appeals conference is received from the taxpayer,
 - c. 4 days for case closures for agreed high dollar unpaid deficiency or over-assessment cases - see IRM 4.4.18, Large Dollar Cases, for more information.

4.10.8.3
(09-12-2014)
No-Change and No Liability Cases

- (1) This section contains procedures for closing a case when the examination results in no adjustments, or there are adjustments that result in no additional liability.

#

4.10.8.3.1
(09-13-2019)
**No Change (No
Adjustments) (SB/SE
Field and Office
Examiners Only)**

- (1) Upon completion of a field or office examination resulting in no adjustments (Disposal Code 02), the examiner will prepare and provide the appropriate no-change letter to the taxpayer(s) and, if applicable, to the taxpayer's representative. The following no-change letters advise the taxpayer that a no-change is proposed but the determination is subject to review:
- a. Letter 3401, No-Change Report Transmittal Letter, or
 - b. Letter 3401-S, Pass-Through Entity No-Change Transmittal Letter (Non-TEFRA)

Note: Letter 3401-S is used to transmit a no-change report to non-TEFRA Partnerships, Fiduciaries, S-Corporations and Interest Charge Domestic International Sales Corporations when there are no changes to any item on the entity's return (Disposal Code 01 or 02).

Note: See IRM 4.31.2, TEFRA Examinations-Field Office Procedures, for additional report preparation guidance and letters to be issued by the examiner, the Field TEFRA Coordinator and/or the Campus TEFRA Function (CTF). The IRM also provides direction for completion of Form 3198, Special Handling Notice for Examination Case Processing, in TEFRA examinations.

- (2) The examiner must generate a "no-change" report using RGS and provide it to the taxpayer and, if applicable, the taxpayer's representative, at the conclusion of the examination. The "Other Information" or "Remarks" section of the report must include the statement "No-Change Subject to Approval by Area Director, Area Manager, or Director of Field Operations."
- (3) The examiner must prepare an undated Letter 590, No-Change Final Letter (or Letter 992, No-Change, for Form 1120-S, U.S. Income Tax Return for an S Corporation, Form 1065, U.S. Return of Partnership Income, or Form 5500, Annual Return/Report of Employee Benefit Plan), have it signed by the group manager, and place it in the case file when the case is closed from the group. Letter 590 (or Letter 992) is issued by CCP and notifies the taxpayer the report has been reviewed and accepted.
- (4) On Form 3198, check the blocks for "No-Change Letters" and "Letter 590" or "Letter 992" in the "Letter Instructions for CCP" section.
- (5) Re-opening procedures do not apply if subsequent changes are needed before issuance of Letter 590 or Letter 992.
- (6) The "no-change" report may be acceptable documentation for repetitive audit verification in lieu of Letter 590 (or Letter 992) if the transaction code on the transcript corroborates the taxpayer's no-change report. The examiner should research IDRS using command code IMFOLZ or BMFOLZ which will display the results of the last two audits. This command code will show the "No-Change Issue Codes", also known as "IMF Issue Codes," disposal codes and any deficiency amount. The "No-Change Issue Codes" can be found using the link in the *Form 5344 - Item 41, No-Change/IMF Issue Codes* article on the MySB/SE website.

4.10.8.3.2
(09-12-2014)
**No Change with
Adjustments Report Not
Impacting Other Tax
Year(s)**

- (1) This section contains procedures for an examination that results in adjustments that do not change the taxpayer's liability in the year examined and do not impact any other tax years.
- (2) In cases where the examination results in adjustments but no change to the tax liability in the year examined and there is no impact to any other tax year(s), it is still important to notify the taxpayer of the adjustments so the taxpayer treats the issue(s) properly when filing subsequent year returns.

Caution: For adjustments or items impacting a prior or subsequent tax year, follow the applicable procedures in IRM 4.10.8.3.3.

- (3) Upon completion of a field or office examination resulting in no-change with adjustments (Disposal Code 01), and there is no impact to other tax years, the examiner will prepare and provide Letter 3402-A, Change/No Change Report Transmittal - Adjustments Do Not Impact Other Tax Years, to the taxpayer(s) and, if applicable, to the taxpayer's representative. Letter 3402-A advises the taxpayer that a no-change with adjustments is proposed but is subject to review. It is not necessary to secure the taxpayer's agreement since there is no tax liability.

Note: No change with adjustments report procedures do not apply to partnership or S corporation examinations.

- (4) The examiner must generate an "agreed" report using RGS and provide it to the taxpayer and, if applicable, the taxpayer's representative, at the conclusion of the examination.
- (5) The examiner must prepare an undated Letter 1156, Change, No-Change Final Letter, have it signed by the group manager, and place it in the case file when the case is closed from the group. Letter 1156 is issued by CCP and notifies the taxpayer the report has been reviewed and accepted.
- (6) On Form 3198, check the blocks for "No-Change Letters" and "Letter 1156" in the "Letter Instructions for CCP" section.
- (7) Re-opening procedures do not apply if subsequent changes are needed before issuance of Letter 1156.

4.10.8.3.3
(04-05-2017)
**No-Change Report with
Adjustments Impacting
Other Tax Year(s) Filed,
Delinquent or Not Due to
be Filed**

- (1) If the examination results in adjustments that do not change the taxpayer's liability in the year examined but impact other tax year(s) that are filed or delinquent, the examination must be expanded to include the other tax year(s). If expanding the examination to other impacted tax years results in a tax liability, follow the procedures in IRM 4.10.8.3.4.
- (2) If the examination is expanded to other tax year(s), there is no tax liability in any of the other tax year(s), and the taxpayer agrees to the adjustments, the examiner must:
 - a. Prepare and provide Letter 3402, Change/No Change Report Transmittal - Adjustments Impact Other Tax Years, to the taxpayer(s) and, if applicable to the taxpayer's representative. Letter 3402 advises the taxpayer that a no-change with adjustments is proposed but is subject to review.
 - b. Generate an "agreed" report using RGS and provide it to the taxpayer and, if applicable, to the taxpayer's representative, at the conclusion of

- the examination. The examiner should secure the taxpayer's signature since there are adjustments to the return(s) and they impact other tax year(s).
- c. Close the case to CCP using Disposal Code 01. The examiner must prepare an undated Letter 1156, have it signed by the group manager, and place it in the case file when the case is closed from the group. Letter 1156 is issued by CCP and notifies the taxpayer the report has been reviewed and accepted.
 - d. Prepare Form 5346, Examination Information Report, and submit to Planning and Special Programs (PSP), if the examination results in adjustments that impact other tax years that are not yet due to be filed. See IRM 4.10.5.14, Form 5346, Examination Information Report, for information on preparing the form.
- (3) If the no-change with adjustments examination impacts other tax years, there is not a deficiency, and the taxpayer does not agree to the adjustments, they may be offered the opportunity to go to Appeals. Generally, cases considered by Appeals involve a disputed tax liability. However, Appeals will consider cases that do not have an immediate tax consequence but may impact the tax liability of year(s) that have not been examined. See IRM 8.1.1.3.2, No Immediate Tax Consequence Cases. If the taxpayer requests an Appeals conference, the examiner should follow the 30-day letter procedures in IRM 4.10.8.12 (SB/SE examiners), or IRM 4.10.8.13 (LB&I examiners).

Example: Adjustments made to an NOL carryforward, or timing issues such as depreciation.

4.10.8.3.4
(04-05-2017)
**Multiple Year Exams
Including No-Change
Years**

- (1) When a multi-year examination results in both change and no-change year(s), the examiner should prepare a separate report for the no-change year(s), depending on the type of no-change, i.e., no adjustments impacting other tax years, etc. See IRM 4.10.8.3.1 through IRM 4.10.8.3.3.
- (2) See IRM 4.10.8.7 for procedures for closing cases that contain at least one agreed/no-change year and one unagreed year.

4.10.8.3.5
(09-13-2019)
No Change Letters

- (1) The following form letters are issued as no change notification letters:
 - a. Letter 590 – Final closing letter for no change cases with no adjustments;
 - b. Letter 992 – Final closing letter for Non-TEFRA flow through entities;
 - c. Letter 1156 – Final closing letter for no change with adjustment cases;
 - d. Letter 3401 – No adjustments impacting the taxpayer's liability or other tax periods;
 - e. Letter 3401-S – No adjustments impacting the taxpayer's liability or other tax periods (Non-TEFRA Flow Through Entities);
 - f. Letter 3402 – Adjustments impacting the taxpayer's liability of other tax periods;
 - g. Letter 3402-A – Adjustments not impacting the taxpayer's liability of other tax periods.
- (2) For TEFRA Partnership cases the following form letters are issued as no change notification letters:
 - a. Letter 1864 – No more than 45 days have elapsed from the date on the Letter 1787;

- b. Letter 2064 – More than 45 days have elapsed from the beginning of the administrative proceedings for a partnership; or
- c. Letter 2621 – No adjustments.
- (3) For nonfiler cases closed without an examination report, the following form letters are issued as no change notification letters:
- a. Letter 2769 – Delinquent return accepted as filed and the nonfiler did not have reasonable cause for the failure to file; or
- b. Letter 2778 – Delinquent return accepted as filed and no penalty is asserted.
- 4.10.8.3.6
(09-12-2014)
No-Change Issue and Disposal Codes
- (1) For no-change cases with no adjustments, RGS will populate the no-change issue codes on the Form 5344 from the issues created and no-changed.
- (2) Enter the disposal code on the appropriate line of Form 5344 as:
- 01 - No-Change with Adjustments
 - 02 - Regular No-Change
 - 07 - Appealed
- 4.10.8.3.7
(08-11-2006)
Special Situations: Combat Zones
- (1) A Combat Zone (CZ) is an area designated in an Executive Order by the President of the United States. Certain taxpayers in a combat zone are provided tax relief and require special processing. Generally, once it is determined that an examination is being conducted on a taxpayer in a combat zone, the case should be no-changed.
- (2) Combat Zone information can be found in various locations in the IRM as well as Publication 3, Armed Forces' Tax Guide. Examiners may refer to IRM 25.6.1.10.2.9.6, Combat Zone, and IRM Exhibit 4.4.1–3, Combat Zone, for additional information.
- 4.10.8.3.7.1
(08-11-2006)
Substantiation of Combat Zone
- (1) When it is common knowledge or apparent that a taxpayer is in a Combat Zone, oral testimony is acceptable to indicate that the taxpayer is entitled to the Combat Zone special tax treatment.
- (2) When it is not common knowledge or apparent that the taxpayer is Combat Zone personnel, written substantiation, such as a copy of the military or civilian orders or a statement issued by the Department of Defense (DOD) attesting that the Combat Zone qualifications are met, is acceptable.
- (3) A signed statement secured by the taxpayer or a contact, such as a spouse or attorney, may be acceptable as substantiation when a copy of the military or civilian orders or a DOD statement is not easily accessible.
- (4) In addition, the IRS may have previously identified the taxpayer as Combat Zone personnel by entering a "C" freeze on Master File. For additional information on Master File identification, see also IRM 4.19.13.21, Combat Zone.
- 4.10.8.3.7.2
(08-11-2006)
Examination Guidance for Combat Zone Personnel
- (1) In accordance with IRC 7508, field examiners are instructed not to conduct any examinations on taxpayers who have been deployed to a Combat Zone. Further, ongoing examinations involving any individual identified as Combat Zone personnel should be closed immediately, unless criteria under "Compelling Reasons" (discussed below) are determined to exist.

- (2) Cases not started should be surveyed using Disposal Code 31 - survey before assignment. Open cases where the books and records have not been reviewed should be surveyed using Disposal Code 32 - survey after assignment. A letter should be sent to the taxpayer to withdraw the appointment letter/scheduled examination. Attach a copy of the letter to the tax return. The following verbiage will be appropriate:

Internal Revenue Code Section 7508 requires us to suspend all activity on your examination. Your examination has been discontinued for the tax year _____.

- (3) When books and records have been examined, close the case as a no-change using Disposal Code 02 unless the case has been put into status code 90. Cases should be closed as no-change even if a signed report has been received. Include appropriate workpaper documentation of the application of Combat Zone requirements.
- (4) If the 30-day letter has been issued/signed, notify the taxpayer that the report is being withdrawn. Close the case using no-change procedures. Include appropriate workpaper documentation of the application of Combat Zone requirements of IRC 7508.
- (5) For cases where a notice of deficiency has been issued, a supplemental report should be prepared to reduce the deficiency to zero and a no change report issued to the taxpayer. Rescission procedures should not be used because that requires the consent of the taxpayer. If "Compelling Reasons" to continue the examination exist (discussed below), the notice must be suspended with the Area Director's or his designee's approval.

4.10.8.3.7.3
(08-11-2006)

**Compelling Reason
Suspense Procedures**

- (1) Examiners may use the following criteria to determine when to postpone an examination instead of applying the survey or no-change policy, in an examination involving Combat Zone personnel. This authority should not be delegated below the Territory Manager level.
- (2) A compelling reason exists for continuing an examination when one of the following is present:
- There is evidence of fraud, malfeasance, collusion, concealment or misrepresentation of fact;
 - No-changing/surveying the Combat Zone case would result in the serious criticism of the Service's administration of the tax law;
 - No-changing/surveying the Combat Zone case would establish a precedent that would seriously hamper subsequent attempts by the Service to take corrective action;
 - The "tax determined or determinable" results in an overpayment to the taxpayer in such a situation - issue the refund immediately.
- (3) When compelling reasons exist, send a letter to the taxpayer informing them that the examination action will be suspended until after their return from the combat zone. Inform the taxpayer that the deadline for the Service to make an assessment of tax will be extended. Also, inform the taxpayer that his or her deadline for taking certain actions with the Service will also be extended (e.g., filing any return of income, estate, or gift tax; paying any income, estate, or gift tax; filing a claim for credit or refund of any tax).

- (4) Generally, the periods are extended for 180 days after the taxpayer's last day in a combat zone/qualified hazardous duty area (or the last day that he or she has qualifying service outside of the combat zone/qualified hazardous duty area). In addition to the 180 days, a deadline is extended by the number of days that were left in any period for taking action when the taxpayer entered the combat zone/qualified hazardous duty area; e.g., the period to file an individual income tax return, which generally runs from January 1 to April 15. See Rev. Rul. 76-425, 1976-2 C.B. 447.
- (5) You may refer the taxpayer to Publication 3, Armed Forces' Tax Guide, for details. For internal guidance, see IRM 25.6.1.10.2.9.6, Combat Zone.
- (6) Request that the taxpayer notify the IRS when they return from combat duty.
- (7) These cases should be suspended using AIMS Status Code 38. Refer to IRM 4.8.2.11, Suspense Cases, for suspense procedures.

4.10.8.4

(09-13-2019)

**Regular Agreed Cases
(SB/SE Field and Office
Examiners Only)**

- (1) This section contains instructions for the preparation of reports when the taxpayer agrees with the examiner's proposed liability. Some cases are "excepted" from the procedures outlined in this section. See IRM 4.10.8.5.1.
- (2) The regular agreed report is designed to cover a three-year period and should include an adequate explanation (e.g. standard paragraphs or lead sheet(s) as discussed in IRM 4.10.8.12.4) to support the proposed adjustment(s).
- (3) Generally, regular agreed report forms require the taxpayer's signature and include a statement that the report is subject to acceptance by the Area Director (or comparable level of management).
- (4) Be very cautious in accepting waivers where taxpayers have added writing other than their signatures. If possible, a new waiver should be obtained with just the taxpayer's signature. If this is not possible, all facts will be obtained to determine the taxpayer's intent. Conditional statements will invalidate a waiver.
- (5) **Field Examination:** Letter 4121, Agreed Examination Report Transmittal, can be used to mail taxpayers a report when they have indicated agreement to all adjustments.

Note: The response date added to Letter 4121 is determined by the examiner based on the facts and circumstances of the case. When a taxpayer does not respond to Letter 4121 within the requested time frame, the examiner should follow-up with the taxpayer to determine if unagreed case procedures should be initiated.

- (6) **Office Examination:** If there are 240 or more days remaining on the statute of limitations, generally Letter 915, Examination Report Transmittal, is used to issue both agreed and unagreed reports. Update the ERCS action code to 04 for follow-up in 15 calendar days.
 - a. If the taxpayer does not respond within 15 days, the examiner will prepare and issue Letter 1912, Follow-Up Letter Transmitting Examination Reports, and update the ERCS action code to 07 for follow-up in 15 calendar days.
 - b. If there are fewer than 240 days remaining on the statute of limitations, follow the procedures in IRM 4.10.8.12.1(4).

Note: The authority to sign and issue 30-day letters (e.g., Letter 915) is delegated to group managers. See *Delegation Order SBSE 4.55, Authority to Sign Thirty Day Letters*.

4.10.8.4.1
(09-13-2019)

Individual and Corporate Cases

- (1) Form 4549 is the basic report form for regular agreed individual and corporate cases.
- (2) Instructions for preparing Form 4549 are outlined below. Sections of the form not discussed are self-explanatory.
- (3) Name and Address — enter the correct name and address of the taxpayer. When the case involves a deceased taxpayer, please ensure you have properly entered the name (see IRM 4.10.8.20.1).
- (4) Taxpayer Identification Number — use Social Security Number (SSN) if the individual also has an Employer Identification Number (EIN). On joint returns, check master file to determine which SSN was used as the primary number for the year(s) examined.
- (5) Person with Whom Examination Changes Were Discussed — enter the name of the individual with whom changes were discussed. If a power of attorney or corporate officer, also enter title.
- (6) Tax Period — enter the taxable year for which the column applies. For calendar, fiscal, and 52–53 week year, show the year ending date (mm/dd/yyyy). For a short period, show the beginning and ending date.
- (7) Adjustments to Income — list adjustments. Place a bracket around the dollar amount if an adjustment is in the taxpayer’s favor. If there are more than sixteen adjustments write, “See page ____” on line 1(a) and use Form 4549–B, Report of Income Tax Examination Changes, for listing the adjustments.
- (8) Taxable Income Per Return or as Previously Adjusted — enter the final figure computed by the taxpayer on the last processed return or as computed on a prior processed examiner’s report if applicable.
 - a. If a math error is discovered at the time of processing and corrected at the campus, then the corrected figure should be input here. Cross-out or add words as needed to identify the figure which you are using.

If...	Then...
More than one return is filed prior to the due date	Last return filed constitutes the original return.
An amended return is filed after the due date and reduces the tax liability but has not been processed	The amended return is considered a claim for refund (or abatement request) and the original return figures should be used.
An amended return filed after the due date which increases or decreases the tax liability and the return has been processed and additional tax assessed or a refund issued	The amount shown on the amended return should be used.
Tentative carryback forms (Form 1045 or 1139) have been filed and refunds issued	The amount shown on original return, not the tentative carryback form, should be used.

- (9) Corrected Tax Liability — identify how the tax was computed (tax table, tax rate schedule, etc.), the taxpayer’s filing status (complete for individual returns only) and the amount of tax. If additional tax such as Parent’s Election to Report Child’s Interest and Dividends, Tax on Accumulation Distribution of Trusts, Tax on Lump-Sum Distributions, maximum tax, etc., applies, indicate on this line and attach schedule showing the computation of corrected tax figure. Likewise, if the alternative minimum tax (AMT) applies, attach a schedule showing the computation of the AMT.
- (10) Less Credits — this line should include only non-refundable credits. Do not include credits such as earned income credits or withholding tax and excess FICA credits.
- (11) Other Taxes — include recapture taxes, self-employment tax, etc. Attach the appropriate forms detailing the computations. Do not include alternative minimum tax on this line.
- (12) Total Tax Shown on Return or as Previously Adjusted — include tax per return plus any additional tax assessed/abated as reflected on a transcript.
- (13) Adjustments — Any changes to special fuels or prepayment credits should be reflected on this line. The calculation of any changes should be attached to the agreed report.
- (14) Penalties — IRC 6751(a) requires that penalties be identified by the name of the penalty, the IRC section under which the penalty is imposed, and include a computation of each penalty on every notice (report) imposing the penalty. Standard explanations contained in RGS are required to be used by all examiners. See IRM Exhibit 4.10.10-1, Index to Standard Explanations, and IRM Exhibit 4.10.10-2, Standard Explanations, for a listing of standard explanations. If the penalty cannot be currently computed, place an asterisk in the line amount field and describe the process of the calculation in the “Other Information Section” of Form 4549.

Note: IRC 6751(b) requires managerial approval for the assessment of most penalties. Refer to IRM 20.1.5.2.3, Supervisory Approval of Penalties - IRC 6751 Procedural Requirements.

- (15) Interest — IRC 7522 states that notices (including the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals and statutory notices of deficiency) shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. If an examiner is unable to compute interest, such as in the case of restricted interest, they must provide a comment in the “Other Information” section of the Form 4549. See IRM 4.10.8.15.3.4 for examples of comments for restricted interest cases.

Note: In general, IRC 7522 is satisfied if the notice or report includes the following statement: “Interest, as provided by law, will be charged on the unpaid amount until it is paid in full.”

- (16) Other Information Section — See IRM 4.10.8.4.3 for additional situations when comments in the Other Information section are applicable.

- (17) Examiner's Signature — a digital signature is acceptable provided the procedures in IRM 4.10.1.4.4, Digital Signatures, are followed. Digitally signed letters, forms and other documents issued to the taxpayer and/or representative should contain a graphical image of the signer's handwritten signature instead of the signer's SEID.
- (18) Form 9984 should properly document actions related to report delivery. When reports are issued be sure to include:
- Date(s) of the notice(s),
 - Method of delivery of notice (i.e., personal delivery, regular mail, certified mail),
 - Person(s) to whom the notice(s) were delivered,
 - Items included in the delivery (i.e., letter, report form, publications, etc.)

4.10.8.4.2
(08-11-2006)

Form 4549 Prepared for Information Only

- (1) An information only report is a completed Form 4549 that does not propose a tax liability. It furnishes information about a taxpayer to the taxpayer or others who need this information. The report should be labeled "FOR INFORMATION ONLY." Information reports are usually submitted in connection with offers in compromise and requests for information from Headquarters and other Area offices.

4.10.8.4.3
(09-13-2019)

Regular Agreed Report: Other Information

- (1) Statements should be included in the "Other Information" section of the report as needed. Below are examples of situations that require a statement to clarify the examination results:
- a. Statement on corrected or revised reports such as "This report supercedes report dated _____,"
 - b. References to attachments;
 - c. If there is an increase or decrease in personal holding company tax or accumulated earnings tax write "Additional Tax Due" or "Net Overassessment" and the dollar amount under the appropriate column and explain the change in an attachment;
 - d. Statements regarding the disposition of claims or amended returns as discussed in IRM 4.10.8.10.6;
 - e. Statement regarding the application of any penalties or additions to tax (or reference to attachments) not otherwise listed on the report. Include the IRC section, title of the penalty, and the dollar amount;
 - f. Statements regarding innocent spouse determination (IRM 25.15.6.10.1, Pre-Assessment Determination and Report Writing);
 - g. Statement regarding the applicability of interest when the examiner is unable to compute interest on the report, such as "Interest, as provided by law, will be charged on the unpaid liability until it is paid in full."
 - h. Statements regarding IRC 6404(g) (suspension of interest provisions) and the date on which the notice was provided, when it applies (see IRM 4.10.8.15.13).
 - i. Statements regarding the applicability of IRC 6601(d) for restricted interest cases. See IRM 4.10.8.15.3.4 for examples.
 - j. Statements regarding the applicability of IRC 6621(c) for large corporate underpayments. See IRM 20.2.5.8, Large Corporate Underpayment (LCU), for the rules and requirements in applying this rate.

Reminder: IRC 6621(c) formerly pertained to interest on tax motivated transactions (TMT), and was repealed for returns with due

dates (without regard to extensions) after December 31, 1989. See IRM 20.2.5.9, Tax Motivated Transaction (TMT) Interest, for the applicability of this 120% rate for returns with due dates before January 1, 1990.

- k. Statements regarding the applicability of the additional 50% interest component on negligence and fraud penalties provided for in IRC 6653 for tax returns due after December 31, 1981 and prior to January 1, 1989. See IRM 20.2.5.3, Interest on Penalties and Additions to Tax, for details regarding the applicability and computation of this interest component.

Reminder: For returns due after December 31, 1988, this additional 50% interest component was repealed.

4.10.8.4.4
(09-13-2019)
**Partnership and S
Corporation Cases**

- (1) Form 4605, Examination Changes Partnerships, Fiduciaries, S Corporations and Interest Charge Domestic International Sales Corporations, is the basic report form for use in these cases.
- (2) Form 886-S, Partners' Shares of Income, Deductions and Credits, and Form 886-X, Shareholders' Shares of Income, Deductions and Credits, are forms used to identify partner and shareholder level adjustments for each year in which a change is recommended in Non-TEFRA examinations.
- (3) Form 886-Z, TEFRA Partners' Shares of Income, should be printed for the case file only. It reflects the percentages of ownership that are not on the Form 886-S or Form 886-X. See IRM 4.31.2, TEFRA Examinations - Field Office Procedures, and IRM 4.31.5, Investor Level Statute Control (ILSC) Examinations - Field Office Procedures, for procedures in working a TEFRA or non-TEFRA key case and related investors. See IRM 4.31, Pass-Through Entity Handbook, for procedures.

Note: TEFRA procedures do not apply to S corporations for tax years beginning after December 31, 1996. The Small Business Job Protection Act of 1996 removed S corporations from the special audit provisions of TEFRA for tax years beginning after December 31, 1996. All S corporation examinations with tax years beginning after that date must follow non-TEFRA procedures. See IRM 4.31.5.6, S Corporations. Although S corporation's TEFRA rules will not apply, it is possible for an S corporation to be an owner of a partnership. The partnership will be TEFRA, so the S corporation can be a party of the TEFRA proceedings.

- (4) Form 886-S, Form 886-X, and Form 886-Z, should clearly reflect corrected items of income, separately stated items, and other items to be adjusted at the investor level. See Exhibit 4.10.8-1, Non-TEFRA Reports and Exhibit 4.10.8-2, TEFRA Reports, for report writing resources.
- (5) Letter 921, Report Transmittal For Non-TEFRA Partnership, Fiduciary, & S Corporation, is a report transmittal letter for Non-TEFRA partnership, fiduciary, and S corporation cases.

4.10.8.4.4.1
(09-13-2019)
Form 4605

- (1) The following instructions are for preparing Form 4605. If a section of the form is not addressed, then it is self-explanatory. This section only applies to Non-TEFRA entity cases.
- (2) Name and Address — show current address.

- (3) Line 1 — Adjustments to Ordinary, Distributable Net, or Taxable Income — cross out words which do not apply. After “year”, enter the tax period to which the column applies.
- (4) Line 1a through 1g — list adjustments. Place a bracket around dollar amount when an adjustment is in the taxpayer’s favor. If there are more than seven adjustments, write “See page ___” on line 1a and use Form 4549–B. This report should only reflect:
 1. separately stated items that have been adjusted in amount(s) and/or
 2. all separately stated items affected by a change in the allocation percentages to the investors.
- (5) Line 2, 3, and 4 — cross out text which does not apply.
- (6) Line 5, Other Adjustments — this section applies to adjustments which do not affect ordinary, distributable net, or taxable income. For example, a change to contributions or capital gains distributed to partners. Identify the items adjusted on lines 5a and 5b. When there are more than two such adjustments, use Form 886–A, Explanation of Items, or “Remarks” section.
- (7) Remarks — Include any supplemental information which may be needed to clarify the adjustments and other items contained in the report.

4.10.8.4.4.2
(08-11-2006)

**Special Situations: S
Corporation Cases**

- (1) Under certain circumstances, an S Corporation pays tax on built-in gains or on excessive net passive income. IRC 1374 and IRC 1375 are taxes that are imposed at the S Corporation level and do not flow through to the shareholders. This section covers the forms used when a deficiency or overassessment is recommended directly against the S corporation or if a claim is involved.
- (2) Deficiency, Overassessment or Claim — These results should be presented on a Form 4549. See IRM 4.10.8.4.1 for instructions to prepare Form 4549.
- (3) In certain instances a deficiency (e.g., built-in gains tax), overassessment or claim directly against the S corporation and a change in distribution to shareholders may be present. In this situation both Form 4549 and Form 4605 should be prepared along with Form 886–X.
- (4) If an S Corporation is converted to a taxable entity, two reports are required:
 - a. A Form 4549 is required to show the taxable income of, and any tax due from the corporation.
 - b. The Form 4605 and Form 886–X are required to remove items of income and separately stated items from the shareholders’ returns.
- (5) References for S Corporation Level Tax - Non-TEFRA are as follows:
 - IRM 4.10.1.2.1.5, Right to Appeal an IRS Decision in an Independent Forum
 - IRM 25.6.22.6.3, Subchapter S Corporations (Non-TEFRA)
 - *S Corporation & Cooperatives IPG* web page

- 4.10.8.4.4.3
(06-10-2005)
**Special Situations:
Change in Accounting
Method**
- (1) In the case of a change in method of accounting by a partnership or an S corporation, the adjustments required by IRC 481(a) shall be made on the partnership or S corporation return. However, the limitations on tax under IRC 481(b) shall apply at the partner/shareholder level. IRC 481(b) applies to a partner/shareholder whose income is increased by more than \$3,000 as a result of an IRC 481(a) adjustment to the partnership or S corporation's ordinary income. See Exhibit 4.10.8-3. Also, see IRM 4.11.6, Changes in Accounting Methods
- 4.10.8.4.5
(05-14-1999)
**Interest Charge
Domestic International
Sales Corporations**
- (1) Form 4605 is the basic report form for "regular agreed" Interest Charge Domestic International Sales Corporation (Form 1120-IC DISC) cases.
- (2) Form 886-Y, Examination Changes—Shareholder's Share of Deemed and Actual Domestic International Sales Corporation's Distributions, is prepared in conjunction with Form 4605 for each year in which a change is recommended to show the corrected Schedule of Distributions.
- 4.10.8.4.6
(08-11-2006)
Fiduciary Cases
- (1) The basic reports used for fiduciary cases are as follows:
- Deficiency, Overassessment or Claim — results should be presented on a Form 4549.
 - Distributions to Beneficiaries — changes should be reflected on Form 4605. Form 886-W, Distribution of Beneficiary's Shares of Income and Credits, should be prepared for each year in which a change is recommended. Form 886-W is used to show the corrected distribution of each beneficiary's share of fiduciary income and credits.
 - When both of the situations described in paragraphs (2) and (3) occur, the instructions in both such paragraphs should be followed.
- 4.10.8.4.7
(08-11-2006)
**Closing Letters for
Agreed Cases**
- (1) Inform taxpayers that the agreed case is subject to review and once it is accepted, they will receive Letter 987, Agreed Income Tax Change, stating the case is closed. Examiners will prepare Letter 987 which is signed by the group manager, and leave it undated and in the case file (with a copy for the file).
- (2) Letter 987 contact information can be completed with either the examiner's name or the group manager's name.
- (3) Annotate the "Letter Instructions for CCP" section of Form 3198 "Agreed - Letter 987". CCP will be responsible for mailing the letter.
- Note:** Letter 1002 is used instead of Letter 987 for agreed Non-TEFRA S Corporation and Partnership entity cases.
- 4.10.8.5
(08-11-2006)
Excepted Agreed Cases
- (1) When the taxpayer agrees to proposed adjustments, but the examination results are subject to review or additional processing or some other condition, the taxpayer may waive the statutory restriction upon assessment and collection of the deficiency of tax.
- (2) Signing the waiver stops the running of interest 30 days from the date of receipt if the assessment and notice for payment are not made within the 30-day period.

- (3) Signing the waiver does not preclude assertion of a further deficiency by the Commissioner or a request for further consideration of the issues by the taxpayer. That is, the case is “excepted” from application of the case reopening criteria.

4.10.8.5.1
(06-10-2005)
**Cases Requiring
Excepted Agreed
Reports**

- (1) Partially agreed corporate and individual cases;
- (2) Claims allowed in full or part in a partially agreed case if there are agreed adjustments in addition to the claim;
- (3) When an overassessment on one return and a deficiency proposed on a related return is the result of the shifting of income or expenses (whipsaw issues);
- (4) “Excepted agreed” fiduciary cases;
- (5) Form 1120S for a S corporation case where small business corporation provisions of the Internal Revenue Code (Subchapter S) are not applicable;

Note: Agreed report forms are used in cases involving the conversion of a return from Form 1120S to Form 1120.

- (6) Cases involving personal holding company deficiency dividends;
- (7) Joint Committee Cases;
- (8) Transferor—transferee cases;
- (9) Unagreed cases requiring a Preliminary (30-day) Letter.

4.10.8.5.2
(09-13-2019)
**Waivers For Excepted
Agreed Cases: Form 870
Series**

- (1) Forms in the 870 series are used to indicate that the taxpayer is waiving the statutory restriction upon assessment and collection of the deficiency of tax.
- (2) Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment, is generally used instead of Form 4549.
- (3) Form 870–PT/LT — TEFRA agreement forms are used instead of Form 4605.

4.10.8.5.3
(08-11-2006)
**Instructions for
Completing Waiver**

- (1) Instructions for forms in the 870 series:
 - a. Date Received — enter the date received.
 - b. Name and Address — enter the correct name and address of the taxpayer.
 - c. Social Security or Employer Identification Number — use SSN if individual also has an EIN. On joint returns, show the number which corresponds to the first person listed on the return.
 - d. Tax Year Ended (enter each on a separate line): Calendar Year — show ending date, Fiscal Year — show ending date, Short Period — show beginning and ending dates, and 52–53 Week Period — show last day of the period.
 - e. Tax — enter the amount of additional tax, as agreed, on separate line by years. When prepayment credits are adjusted, the waiver will show the amount of the deficiency before the proposed change in prepayment

credits. This is because changes to prepayment credits can be assessed without deficiency procedures. For clarity, an explanation or Form 4549–A should accompany the Form 870.

- f. Penalties — enter separately by year and by Code section the penalty or penalties as agreed.
- g. Signature of Taxpayer — see the instructions on the form.

4.10.8.5.4
(08-11-2006)
**Waiver of Assessment
for Joint Returns**

- (1) Reports/waivers of assessment for joint returns will require the signature of both spouses (or authorized power-of-attorney(s), if applicable), unless the deficiency is paid in full. We will continue to follow current procedures where full payment by the taxpayer, other than payment designated as a “6603 deposit,” will be considered an agreement to the deficiency. See IRM 4.10.8.2.4.2.
- (2) When full payment is not received, and only one spouse signs the waiver, unagreed procedures should be followed for the non-signing spouse. Additionally, the account of the agreeing spouse will need to be assessed using MFT 31 procedures. See IRM 4.10.8.12.3.

4.10.8.6
(08-11-2006)
Partially Agreed Cases

- (1) This section includes general instructions for preparing reports for partially agreed cases. Partially agreed cases are excepted agreed cases as described in IRM 4.10.8.5. After the partially agreed report has been processed, unagreed case procedures apply to the remaining issues.
- (2) A partially agreed case contains more than one issue of which at least one issue is agreed and at least one issue is not agreed to by the taxpayer.
- (3) Examiners should refer to IRM 4.4.12, Examined Closings, Surveyed Claims, and Partial Assessments, for partial assessment procedures including the preparation of Form 5344. The partially agreed package sent to CCP includes:
 - a. Form 3198, annotated “Partial Assessment Requested” and in the Other Instructions section, “Return via fax when completed.”
 - b. Waiver and copy of the report
 - c. Form 5344 with the results of the partial agreement
 - d. Copy of the front page of the tax return with an IMFOLT or BMFOLT transcript.

4.10.8.6.1
(09-13-2019)
**Individuals and
Corporations**

- (1) The letters, reports and forms required to close a partially agreed individual or corporate case are as follows:
- (2) Letter 1967, Partially Agreed Case Letter, is used to transmit and explain the examination reports required for a partially agreed case.
- (3) Form 4549–A should be prepared using only the agreed adjustments. The additional tax computed will be reflected on Form 870. Indicate “Agreed Issues” on the top of the Form 4549–A. The Form 4549–A reflecting the agreed issues should be included in the case file as a workpaper to document the calculation of the tax shown on Form 870.
- (4) Form 870 is used where no TEFRA issues are involved.
- (5) A second Form 4549–A should be prepared to show both agreed and unagreed adjustments.

- a. An asterisk should be placed in front of the letter for each agreed adjustment.
 - b. The "Total Tax Per Return or as Previously Adjusted" line includes the tax on the agreed adjustments.
 - c. The "Other Information" section should contain the following statement, "These adjustment(s) have been agreed. The taxpayer is in agreement with the adjustment(s) indicated as agreed, and the applicable deficiency is being assessed and is included in Total Tax as Previously Adjusted."
- (6) Lead sheets for all remaining unagreed issues should be attached and procedures for unagreed cases should be followed. See IRM 4.10.8.12.4.
 - (7) Form 3198 should be on the outside of the case file specifying "Partial Agreement." Form 870 must be processed prior to the issuance of the 30-day letter for the unagreed issues.

4.10.8.6.2
(09-13-2019)
**Non-TEFRA
Partnerships and
Nontaxable S
Corporation and
Fiduciary Cases**

- (1) Letter 921 transmits Form 4605, for nontaxable pass-through entity returns when adjustments are made to the entity's return (both agreed and unagreed). Enclose Form 4605 to reflect the adjustments made to the entity's ordinary income/loss and separately stated items of income, loss, deduction and credit. A nontaxable pass-through entity indicates agreement by having an authorized person sign Form 4605; however, the signature at the entity level is not binding. Therefore, an agreement (or partial agreement) must be obtained at the investor level. Partial agreements are not processed on nontaxable pass-through entities.
- (2) See IRM 4.31.5, Investor Level Statute Control (ILSC) Examinations-Field Office Procedures, for detailed information on pass-through entities.

4.10.8.6.3
(09-13-2019)
**S Corporations and
Fiduciary Cases**

- (1) The procedures for processing a partially agreed S corporation or fiduciary case that is subject to tax are the same as the procedures for individual and corporation cases outlined in IRM 4.10.8.6.1.

4.10.8.6.4
(09-13-2019)
**Interest Charge
Domestic International
Sales Corporations**

- (1) Letter 921-L, Report Transmittal For Non-TEFRA Partnership, Fiduciary, S Corporations & Interest Charge Domestic International Sales Corporation (DISC), is used to transmit the pass-through audit adjustments from Form 4605 to the investors. The agreement (or partial agreement) must be obtained at the investor level. Partial agreements are not processed on an Interest Charge Domestic International Sales Corporation.

4.10.8.6.5
(09-13-2019)
**Cases Excluded from
Partial Assessments**

- (1) Cases excluded from partial assessments are as follows:
 - a. Joint Committee cases and cases requiring Chief Counsel review;
 - b. Cases for a specific year with both agreed tax-reducing issue(s) and unagreed tax-increasing issues, with an apparent net overall deficiency;
 - c. Multiple year cases when a combined net overall deficiency is apparent, even though the agreed result for one or more years would be an over-assessment;
 - d. Cases docketed in the United States Tax Court.
 - e. Delinquent returns secured after the posting of a TC 150 SFR when there is audit potential but tax per return is zero (before withholding and/or refundable credits).

Note: If a partial assessment was not processed because the tax was zero, the Per Return figures for the report will be the amounts shown on the return filed by the taxpayer. See IRM 4.4.9.7.5, Delinquent Return Secured by Examination After TC 150 SFR, With Audit Potential - Final Closing Package (Partial Assessment Processed), for additional information.

4.10.8.6.6
(08-11-2006)

Partial Overassessments

- (1) The allowance of partial overassessments should not be made routinely but only if the facts and circumstances warrant such action. Whether a partial overassessment should be allowed must be a matter of sound judgment and discretion. Group manager approval will be obtained prior to the allowance of a partial overassessment. Group manager concurrence will be documented on Form 9984.
- (2) A partial overassessment will be made only if there has been an agreement on the issue(s) resulting in the partial overassessment. These cases generally fall into the following categories:
 - a. Cases for a specific year involving two or more tax-reducing issues;
 - b. Cases for a specific year involving several issues, both tax-reducing and tax-increasing, provided the overall result, after giving effect to the tax-increasing issues, is a net overassessment;
 - c. Cases involving more than one year if the net result is an overassessment.
- (3) The following are examples of partial overassessments that could be made for the situations listed above:
 - a. Allowing an agreed tax-reducing issue results in an overassessment of \$15,000 for the taxable year. A contested tax-reducing issue for the same year, if allowable, would result in an additional overassessment of \$10,000. A partial allowance reflecting an overassessment not exceeding \$15,000 could be made.
 - b. A case for a specific year involves two tax-reducing issues, one of which is contested, and two tax-increasing issues which may or may not be contested. Allowing one of the agreed tax-reducing issues results in a net overassessment of \$50,000, after considering the offsetting adjustments for the two tax-increasing issues. A partial overassessment not exceeding \$50,000 could be made.
 - c. There is an unagreed proposed deficiency of \$40,000 for the year 2002, but a complete agreement to an overassessment of \$70,000 for the year 2003. A partial overassessment not exceeding \$30,000 (\$70,000-\$40,000) for 2003 could be made.

4.10.8.7
(08-11-2006)

Multi-Year Examination Cases with At Least One Agreed/No Change Year and One Unagreed Year

- (1) When closing a multi-year case containing at least one agreed/no change year and one unagreed year, examiners should split the case into an agreed/no change case file and an unagreed case file.

Forms/Documents	Unagreed Case File	Agreed/No Change Case File
Examination report	Examination report containing the unagreed adjustment(s)	Original agreed examination report signed by the taxpayer(s)
Returns	Returns for the unagreed year(s)	Returns for the agreed year(s)
Form 5344	Completed Form(s) 5344	Completed Form(s) 5344
Workpapers	Original Workpapers and information	None required
Form 3198	Notate in the top margin: "Unagreed - Do Not Separate from Agreed Case File"	Notate in the top margin: a. "Agreed - Do Not Separate from Unagreed Case File" and Notate in the Other Instructions blank: a. "The YYYYMM case file contains the original workpapers"

- (2) The agreed and unagreed files should remain together and be sent to Technical Services in Status 21. All years will be moved on RGS CEAS using two separate actions (explained in (3) below) to the appropriate RGS group code.

Note: RGS group codes change periodically and changes are communicated to the field on the RGS web site.

Note: Once a multi-year case is split, the split years can no longer be treated as one case within RGS.

- (3) The agreed and unagreed years may eventually be split, so examiners must move the unagreed and agreed/no-change years to the RGS file server in two separate actions. See *CEAS and Splitting Case Files* for how to split a case in RGS.
- (4) Partial assessments on individual tax years with both agreed and unagreed issues are still required to be completed by the Field as noted in the direct shipment instructions issued to the Areas as a part of the CCP implementation. Absent the need for a quick or prompt assessment on a case with a short statute (14 days or less remaining on the statute), no other partial assessments will be required by the Field.
- (5) If the unagreed year(s) are protested, the case must have 30 days plus the minimum number of days required by Appeals on the statute when it is closed from the group. See IRM 4.10.8.12.1(1).

4.10.8.8
(08-11-2006)

**Claims for Abatement,
Audit Reconsiderations,
and Supplemental
Reports**

- (1) An amended return (Form 1040X or Form 1120X) is not necessarily a formal claim. To be a formal claim the taxpayer must be requesting a refund of tax paid. A claim for abatement pertains to an accounting decrease in tax liability. Claims of this nature, whether filed on Form 1040X, Form 1120X, or Form 843, are treated as claims for abatement.

- (2) If an examiner is assigned a case in which the taxpayer has requested an audit reconsideration, the examiner should also refer to IRM 4.13.4, Area Office (AO) Examination, for report writing, letters and procedures to be followed.
- (3) Supplemental Reports are prepared for abatements (reduction) of previously assessed (but unpaid) tax. These types of reports differ from reports prepared for claims in that the supplemental report reduces tax which has been assessed but not paid. In such cases any overassessment shown on the supplemental examination report will not be refunded to the taxpayer; instead the existing balance due will be reduced or eliminated. This point should be clearly explained to the taxpayer.
- (4) When preparing a report for a claim for abatement due to an audit reconsideration, the “Per Return or as Previously Adjusted” amounts for both taxable income and tax are the amounts as shown in the previously assessed report as confirmed with a transcript. It is not necessary to repeat adjustments previously made. Include only adjustment(s) made to the previous report or notice of deficiency based on the additional information received. The “Other Information” section on the report should state “Supplemental Report — Reduction in Previously Assessed Tax.”
- (5) A reduction in previously assessed penalties should be clearly explained to minimize confusion. For example, if an accuracy related penalty of \$500 was assessed, and the examiner later determines that the correct penalty is \$200, the Supplemental Report should show a penalty amount of (\$300). The “Other Information” section of the report should explain the reduction as follows:

Accuracy Related Penalty as Corrected.....	\$200
Amount Previously Assessed.....	\$500
Adjustment (reduction) in Accuracy Related Penalty.....	.(\$300)

Note: A computation should be provided for each penalty that is abated.

- (6) Since a taxpayer’s request for abatement of unpaid tax does not constitute a valid claim within the meaning of IRC 6511, Form 3363, Acceptance of Proposed Disallowance of Claim for Refund or Credit, Form 2297, Waiver of Statutory Notification of Claim Disallowance, and Letter 569, Full/Partial Preliminary Claim Disallowance Letter, cannot be used since the taxpayer has no judicial rights. Instead, the following procedures should be used for claims for abatement:
 - a. Letter 693, Reply to Request for Reconsideration of Assessment, should be used for no-change, allowance in part and allowance in full determinations.
 - b. Prepare and mail Letter 693 to the taxpayer and keep a copy for the case file.

Note: Abatements due to audit reconsiderations have certain appeal rights and use different letters. See IRM 4.13.4, Area Office (AO) Examination.

- (7) Form 3198 should be annotated “Supplemental Report - Reduction of Previously Assessed Tax” if the informal claim is allowed in part or in full. In all cases an annotation should be made indicating the letter number and date it was issued.

4.10.8.8.1
(08-11-2006)
**90-Day Pre-Assessment
Cases**

- (1) A “Statutory Notice Audit Reconsideration” case is one in which the taxpayer received a notice of deficiency (determination) and requests reconsideration of the deficiency (determination). It is a priority case and must be closed back through Technical Services. It does not suspend or extend the 90 or 150-day time period to petition Tax Court.
- (2) Because of the time constraints, the taxpayer should be advised that the Statutory Notice period cannot be extended by submitting information or by an audit reconsideration. The taxpayer is responsible for filing a petition before the Statutory Notice period expires if he/she does not agree with the adjustments or results of the audit reconsideration. All communication to the taxpayer should include the following statement: “The reconsideration of your case will in no way serve to suspend or extend the 90-day period in which a petition for a redetermination of the proposed deficiency may be filed with the Tax Court.”
- (3) Audit reports should be prepared based upon the transcript taxable income and tax per return or as previously adjusted before the statutory notice.
- (4) In the “Other Information” section of the examination report, make the following remarks: “This report is only a supplement to the notice of deficiency. It does not supersede the previous report nor does it serve to extend the 90-day period for filing a petition to the United States Tax Court. If you do not agree to these adjustments, we may be required to assess the tax shown on the Notice of Deficiency.” Also, the “45 day” or the “subject to the Area Director” clauses should be removed on supplemental reports.
- (5) Clearly label the top of the revised report as a “Supplement to the Notice of Deficiency (Determination)”. Date the Supplemental examination report with the current date. The examiner can obtain signatures on an audit report from the taxpayer at the time of the audit reconsideration interview but should not issue a cover letter. The 90-Day Coordinator/Reviewer is responsible for checking the audit report for accuracy before the Supplemental Notice and appropriate closing letters are mailed to the taxpayer.
- a. If the information results in no deficiency and Technical Services concurs, the taxpayer will be advised by 90-Day Coordinator/Reviewer that there is no need to file a petition with Tax Court.
 - b. If the information results in no change to the notice of deficiency, no report is given the taxpayer and the examiner will respond accordingly to the 90-day memo from Technical Services. The 90-Day Coordinator/Reviewer will issue the appropriate letter to the taxpayer.
 - c. If the information results in a partial decrease, agreement signed and Technical Services concurs, the taxpayer will be advised by 90-Day Coordinator/Reviewer that there is no need to file a petition with Tax Court.

Note: If only one spouse signs the report, and filing status is Married Filing Joint (MFJ), an MFT 31 assessment will be made on the taxpayer signing the report.

- d. If the information results in an increase to the notice of deficiency, the deficiency line of the supplemental report should be labeled "Limited to amount on Notice of Deficiency (Determination)." The amount assessed from the revised Notice cannot be larger than the amount on the original Notice. Consideration should be given to issuing an additional notice of deficiency for the increased deficiency if the statute of limitations on assessment is still open and a petition has not been filed with the Tax Court.

4.10.8.9
(06-10-2005)
**Reports For Cases
Reopened By
Examination**

- (1) A report of re-examination is used when a taxpayer's books and records are re-examined as the result of the Service initiating the action using the case reopening criteria set forth in Policy Statement 4-3. See IRM 1.2.1.5.1, Policy Statement 4-3, and Rev. Proc. 2005-32.
- (2) When a contact falls under reopening criteria, prior approval must be obtained using Form 4505, Reopening Memorandum, before starting the examination.
- (3) Use the appropriate forms for the entity and type of closing. Once prepared, write "Reopening" in capital letters on the top of the report.
- (4) Prepare the report as you would a supplemental report. In the Other information section state "This report supplements the report dated mm/dd/yyyy."
- (5) Re-examination reports require special processing. Form 3198 should be annotated "Reopening Case."
- (6) A re-examination report should not be used for a closed deficiency assessment reconsidered at the taxpayer's request (audit reconsideration). See IRM 4.10.8.8.

4.10.8.10
(08-11-2006)
Claims

- (1) Claims may relate to any item of income, loss, exclusion, deduction, or credit involving a refund of tax. Claims may be filed by use of the following forms:
 - a. Claim for Refund and Request for Abatement, Form 843,
 - b. An amended return (specified on the tax return),
 - c. Amended U.S. Individual Income Tax Return, Form 1040X, or
 - d. Amended U.S. Corporation Income Tax Return, Form 1120X.
- (2) An "informal claim" is one that is submitted by the taxpayer either on a non-standard form (written request) or by some other means if the required elements are identified, i.e. tax year, identification number, refund requested and reason. A claim for abatement is not an informal claim. Examples of informal claims are signed Form 870 or Form 4549 for an overassessment, letter sent by the taxpayer requesting a refund, or oral statements made to an examiner or other service representative.
- (3) There are four possible results when a claim is examined. The claim may be:
 - a. Allowed in full,
 - b. Disallowed in full,
 - c. Partially allowed, or
 - d. Offset by other adjustments.

- 4.10.8.10.1
(05-14-1999)
Transcript of Account
- (1) Before preparing a report on a case involving a claim, examiners must have a current transcript of the taxpayer's account.
 - (2) If the claim is the result of a prior audit or assessment, TC 300 or TC 290 with a dollar amount will be posted. The "as adjusted" figures shown on the original report will be used as the starting point.
 - (3) If the claim has already been allowed by the service center, TC 291 with a dollar amount will be posted.
- 4.10.8.10.2
(06-10-2005)
Claims Allowed in Full
- (1) If the claim is allowed in full, Letter 570 will be prepared to notify the taxpayer of the findings. Since receipt of Letter 570 by the taxpayer constitutes a closed case (subject to the case reopening criteria), the letter generally should not be furnished to the taxpayer until the entire case is ready to close.
 - (2) If the amount claimed has already been refunded to the taxpayer by the campus, the examiner will close the case as a regular no-change case.
 - (3) Even though the issues stated in a claim are allowed in full, if offsetting adjustments are proposed which reduce the amount refundable, the claim will be treated as a partially or wholly disallowed claim. The procedures for claims disallowed in full or in part will be followed.
- 4.10.8.10.3
(04-05-2017)
Claims Disallowed in Full or Part (SB/SE Field and Office Examiners Only)
- (1) When a claim is disallowed in full or in part, the examiner will prepare the following:
 - a. Letter 569,
 - b. Form 2297;
 - c. Form 3363; and
 - d. Form 4549 if additional tax is due or there is a partial disallowance.
 - (2) When a claim is disallowed because the taxpayer failed to appear for an interview or to provide substantiation, the following explanation will be shown at the end of Letter 569: "No basis for the allowance of the claim has been submitted."
- 4.10.8.10.4
(06-10-2005)
Form 2297, Waiver of Statutory Notice of Claim Disallowance
- (1) Form 2297 is applicable in all cases where there is a complete or partial disallowance of a formal claim.
 - (2) IRC 6532(a)(3) provides that a taxpayer may file a written waiver of the requirement that a notice of disallowance of a claim in whole or in part be sent by certified or registered mail. The effect of such waiver is to start the running of the two year period for filing suit on the claim from the date the waiver is filed. Thus, Form 2297 accomplishes the same purpose as a notice of the disallowance of a claim by certified or registered mail, except that it does not affect the six month waiting period required by IRC 6532(a) before filing a refund suit [Treas. Reg. 301.6532-1(c) - Periods of limitation on suits by taxpayers].
 - (3) Since Form 2297 constitutes a waiver of only the statutory notice being sent by certified or registered mail, a waiver form (Form 870, Form 4549, or Form 3363) is required in addition to Form 2297 if there is a partial overassessment or if additional tax is assessed.

- (4) Form 2297 should be enclosed in the case folder in the same manner as other waiver and acceptance forms. Where claims for multiple years are disallowed, Form 2297 covering all years should be associated with the claim or amended return covering the most recent year.
- (5) Since Form 1045, Application for Tentative Refund, and Form 1139, Corporation Application for Tentative Refund, are not considered "Claims," it is not necessary to use Form 2297 where the tax previously refunded is recouped.

Note: If it is determined the tentative refund was unwarranted or excessive, the Service has three options:

- a. Treat the excess refund as a mathematical error and immediately assess and collect it under the authority of IRC 6213(b)(3),
 - b. Issue a notice of deficiency pursuant to IRC 6501(h), or
 - c. File suit against the taxpayer to collect the erroneous refund pursuant to IRC 7405(b).
- (6) Form 2297 should not be secured in cases that require review by the Joint Committee. See IRM 4.36.3.2.9, Claim Disallowance In Agreed Cases.

4.10.8.10.4.1
(08-11-2006)
**Instructions for
Completing Form 2297**

- (1) Name and Address — write or type the name and address of the taxpayer; include the SSN or EIN.
- (2) Taxable period ended — list each year for which a claim has been filed and disallowed in part or in full on separate lines as follows:
 - Calendar Year — Show ending date (12/31/01)
 - Fiscal Year — Show ending date (6/30/01)
 - Short period — Show beginning and ending date (1/1/01 – 9/30/01)
 - 52–53 Week Year — Show last day of year (5/25/01)
- (3) Kind of Tax — show the type of tax covered by the return under examination such as income, estate, gift, or employment tax. It is not necessary to show the form number of the return under examination or to identify the type of income, such as individual income or corporate income.
- (4) Amount of Claim information should be entered as follows:
 - a. Where a Form 843, Form 1040X, Form 1120X, or an informal claim states a definite dollar amount, enter the amount in the "amount of claim" space.
 - b. Where an amended return shows the computation of the corrected tax, enter the difference between the corrected amount as computed by the taxpayer and the tax as shown on the original return in the "amount of claim" space.
 - c. Where a claim is filed for "\$1 or more" and no details are shown as to the amount of reduction in income, enter \$1 as "amount of claim". When details are shown as to the amount of reduction in income but computation of the amount of tax refund is not shown on the claim, compute the amount of the claim based upon reduction of income shown by the taxpayer and enter this figure as "amount of claim".

Note: 1. A taxpayer is required to provide a realistic claim amount by Treas. Reg. § 301.6402–3(a)(5), which provides, "A return or amended return shall constitute a claim for refund or credit if it contains a statement setting forth the

amount determined as an overpayment and advising whether such amount shall be refunded to the taxpayers or shall be applied as a credit against the taxpayers' estimated income tax for the taxable year immediately succeeding the taxable year for which the return (or amended return) is filed."

Note: 2. A \$1 claim amount may be acceptable for "protective claims." The concept of a "protective claim" is well established although this term is not used in the statute or regulations. Protective claims are often filed to preserve the taxpayer's right to claim a refund when the taxpayer's right to the refund is contingent on future events and may not be determinable until after the statute of limitations expires. See IRM 21.5.3.4.7.3, Protective Claims, which indicates that a protective claim is based on an expected change in the tax law, other legislation, regulations, or case law. A general claim should not be viewed as a valid protective claim for Service processing purposes merely because the taxpayer labels it as such. See *Nucorp, Inc. v. U.S.* 23 Cl. Ct. 234, 67 A.F.T.R.2d 91-1256, 91-1 USTC P 50,235.

Note: 3. In general, a valid protective claim must (1) identify the contingency affecting the claim; (2) be sufficiently clear and definite to alert the Service as to the essential nature of the claim; and (3) identify a specific year or years for which the refund is sought. The claim may be a valid protective claim even though it does not state all the facts necessary to establish that the taxpayer is entitled to a refund. The Service has discretion in deciding how to process protective claims. In general, it is in the interests of the Service and taxpayers to delay action on protective claims until the pending litigation or other contingency is resolved. Once the contingency is resolved, the Service may obtain any additional information necessary in processing the claim and then reject or allow the claim.

- d. Where a claim is filed for "entire amount of tax paid", enter the entire amount of tax shown on the return.
- e. Where a claim is filed for "such amount as may be due" and no details are shown and a computation cannot be made, enter "indeterminable" in the "amount of claim" space and explain in the "Other Information" section of Form 4549. When details are shown and a computation of the tax refund can be made, enter the computed figure.

(5) Amount of Claim Disallowed — See Exhibit 4.10.8-4

Example:	
Claim Amount	\$2100
Allowed in Full but Offset by Other Adjustments	
Line 16 of Form 4549	(\$ 892)
Amount of Claim Disallowed	\$1208

(6) Signature — see instructions at the bottom of the form.

- 4.10.8.10.5
(06-10-2005)
**Agreed Cases:
Acceptance of Proposed
Disallowance of Claim
for Refund or Credit
(Form 3363)**
- (1) Form 3363 is to be used in “agreed cases” where a Form 843 or an amended return is disallowed in full or part and no other adjustments to the tax liability are necessary.
 - (2) In an agreed case where the claim is being disallowed in full or part with additional adjustments to the tax liability, both Form 3363 and an examination report should be secured. See IRM 4.10.8.10.6.1 for information to be included in the remarks section of the report.
 - (3) Form 1045 and Form 1139 are not considered claims. Form 3363 is not used to reflect any recoupment of the tax previously refunded.
- 4.10.8.10.5.1
(06-10-2005)
**Instructions for
Completing Form 3363**
- (1) Name and Address — write or type the name or address of the taxpayer; include the SSN and EIN.
 - (2) Year or Period — List each year for which a claim has been filed on separate years as follows:
 - Calendar Year — show ending date (12/31/01),
 - Fiscal Year — show ending date (6/30/01),
 - Short Period — show beginning and ending date (1/1/01 – 9/30/01),
 - 52–53 Week Year — show last day of year (5/25/01).
 - (3) Date Claim Filed — enter date Form 843 or amended return was filed.
 - (4) Kind of Tax — enter the type of tax covered by the return under examination, such as income, estate, gift, or employment tax. It is not necessary to show the form number of the return under examination or to identify the type of income, such as individual income or corporate income.
 - (5) Amount of Claim — enter the amount of refund requested in the claim (Form 843, Form 1040X, Form 1120X, amended return or informal claim) filed by the taxpayer.
 - (6) Amount of Claim Disallowed — enter the amount of claim disallowed per the examination report.
 - (7) Amount of Claim Allowed — enter the amount of claim allowed per the examination report.
 - (8) Signature — see instructions on the form.
- 4.10.8.10.6
(06-10-2005)
**Unagreed Cases:
Reports**
- (1) When a claim is disallowed in full or in part in an “unagreed” case and there are no other adjustments, complete the top portion of the report for unagreed cases. See IRM 4.10.8.12. IRC 6402(l) requires an explanation of the reason for the refund disallowance. In addition, an appropriate statement regarding the disallowance of the claim is to be included in the “Other Information” section. See IRM 4.10.8.10.6.1.
 - (2) When a claim is allowed in full or in part in a partially agreed case with other adjustments, complete Form 4549–A. A statement, regarding the disposition of the claim, is to be included in the “Other Information” section.
 - (3) When a claim is allowed in full in an unagreed case with proposed deficiencies, complete Form 4549–A. A statement, regarding the allowance of the claim, is to be included in the “Other Information” section.

4.10.8.10.6.1
(08-11-2006)

Form 4549–A “Other Information” Section: Statements Regarding Disposition of Claims

- (1) Claim Allowed in Full: “On (date) you filed Form 843, Form 1040X, Form 1120X, or an informal claim for a refund of \$(amount) for (year). As the result of our examination, we allowed your claim in full, as shown in this report.”
- (2) Claim Allowed in Full but Offset by Other Adjustments: “On (date) you filed Form 843, Form 1040X, Form 1120X, or an informal claim for refund of \$(amount) for (year). As the result of our examination, we allowed your claim in full. The total amount of the refund is, however, increased or decreased by other adjustments shown in this report.”
- (3) Claim Allowed in Part: “On (date) you filed Form 843, Form 1040X, Form 1120X, or an informal claim for a refund of \$(amount) for (year). As the result of our examination, we allowed your claim in part, as shown in this report.”
- (4) Claim Rejection: “On (date) you filed Form 843, Form 1040X, Form 1120X, or an informal claim for refund of \$(amount) for (year).”
 - a. Each claim rejection statement should have a concise statement of the issue, and the authority for rejecting the claim. For example: “As the result of our examination, we have disallowed your claim. Expenses for education not needed in your present employment are considered personal and, therefore, are not deductible as a business expense. See Treas. Reg. 1.162–5.”

4.10.8.10.7
(06-10-2005)

Inviting Claims in Overassessment Cases

- (1) Taxpayers will be invited to file claims in the following types of cases if the proposed overassessments are not already covered by claims:
 - a. Cases to be referred to Appeals in the “90–Day” status when a period of less than 120 days remains to allow the overassessment. Appeals may accept such a case without a claim if the Appeals Area Director approves.
 - b. Cases involving proposed overassessments exceeding \$100,000, regardless of the time remaining in the limitation period for scheduling overassessments.
 - c. Cases forwarded to the Headquarters Office, regardless of the amount of overassessment involved, if 30 days or less remain in the statutory period for scheduling overassessments.
- (2) The number of cases requiring a claim invitation will be limited because the Service considers a waiver in the Form 870 or Form 890 series to be a valid claim for refund when the taxpayer agrees to an overassessment determined by the Service as explained in IRM 25.6.1.10.2.6.2.2(3), Prescribed Forms for Amending an Original Tax Return or Abating a Penalty Already Paid.
- (3) When a taxpayer is invited to file a claim, a separate Letter 897, Claim Invitation Letter, should be sent for each taxable year needing protection.

4.10.8.10.8
(06-10-2005)

Application of Revenue Ruling 99-40

- (1) There are certain periods of time when the Government retains the taxpayer’s money without paying for its use as required by the following:
 - a. IRC 6611(e)(1) prohibits the payment of credit interest to the taxpayer if an overpayment is refunded within 45 days of the receipt of an original return or a carryback claim. See IRM 20.2.4.7.5, 45–Day Rule.

- b. In regard to delinquent returns, IRC 6611(b)(3) provides that no credit interest shall be allowed or paid for any day before the date on which the return is filed. See IRM 20.2.4.3, Availability Dates for Overpayments.
 - c. Treas. Reg. 301.6402-3(a)(5) provides that the allowance of interest is prohibited when an overpayment reported on a return or amended return is applied as a credit elect to estimated tax for the succeeding year.
- (2) Examiners should insure proper calculation of interest when an original return had an overpayment and the taxpayer chose to elect to apply all or part of the overpayment shown by its return to its estimated tax for the succeeding tax year instead of taking a refund. Rev. Rul. 99-40, 1999-2 C.B. 441 held if an overpayment claimed on a return is credited to the succeeding year's estimated tax, interest will be assessed on that portion of a subsequently determined deficiency for the overpayment return year that is less than or equal to the overpayments as of: (1) the date on which the Service refunds the overpayment without interest; or (2) the date on which overpayment is applied to the succeeding year's estimated taxes. Any remaining portion of the deficiency will be assessed from the original due date of the tax for the overpayment return year. Potential Rev. Rul. 99-40 cases are those with a TC 830 or TC 836 on the module. CCP generally will not apply the provisions of Rev. Rul. 99-40 unless advised.
- (3) The examiner should flag Form 3198 of the potential interest relief per Rev. Rul. 99-40. The examiner should include Form 2220, Underpayment of Estimated Tax by Corporations, or Form 2210, Underpayment of Estimated Tax by Individuals, Estates and Trusts, (subsequent year) in the case file which provides a schedule of the required estimated tax payments for the succeeding tax year and the related transcripts.

4.10.8.11
(06-10-2005)
Deficiency Dividends

- (1) The Internal Revenue Code provides a method under which a personal holding company may, under certain circumstances, be relieved from the payment of a liability of the tax imposed on personal holding companies.
- (2) In any case in which a deficiency in personal holding company tax is disclosed to which the taxpayer agrees, the benefits afforded by IRC 547 will be explained to the taxpayer, if applicable.

4.10.8.11.1
(08-11-2006)
**Informal Agreements
Under IRC Section
547(c)(3)**

- (1) If the taxpayer decides to make a distribution of earnings for the purpose of securing a credit against the liability, the taxpayer will be advised that the liability may be established by executing an informal agreement under IRC 547(c)(3) on Form 2198, Determination of Liability for Personal Holding Company Tax, or by entering into a final closing agreement on Form 866, Agreement as to Final Determination of Tax Liability.

Note: Use of Form 866 is usually limited to litigated cases.

- a. Form 2198 should not be accepted unless all items relating to the personal holding company tax liability and other income tax liabilities are agreed upon and a Form 870 is signed by the taxpayer.
- b. Unless sufficient time remains in which to make an assessment under IRC 6501, Form 2198 or Form 866 should not be approved (in addition to the 120-day period for filing a Form 976, Claim for Deficiency Dividends Deduction, or Credit or Refund by a Personal Holding Company, Regulated Investment Company, or Real Estate Investment Trust).

- c. Form 2198 may be approved if a consent is secured from the taxpayer under IRC 6501(c)(4) to extend the statute. One year should remain on the statute when the case is closed to Technical Services. See IRM 4.8.8.4.1, Scope of Review.
 - d. Form 866 – This form is not routinely used in lieu of Form 2198 unless advised by Counsel for a unique situation. The examiner should consult with the group manager and local Counsel to determine if the use of a closing agreement is appropriate, and if so, which particular type should be used. If Form 866 is used as the agreement document, the examiner will prepare the agreement and secure the taxpayer's signature in accordance with the instructions in IRM 8.13.1, Closing Agreements. All closing agreements require local Counsel's approval and Technical Services review before obtaining the taxpayer's signature.
 - e. Counsel Involvement - Coordination with local Counsel is required in the development of the closing agreement when a standard language or pattern agreement is not used and there are modifications to a pattern agreement. A review by Technical Services and the approval of local Counsel is required, relative to the language and form of the closing agreement, prior to securing the taxpayer's signature. There must be sufficient documentation in the taxpayer's administrative file to support Counsel's concurrence. To request a review, a formal or informal correspondence should be addressed to local Counsel stating the reasons for and intent of the agreement and requesting review of and concurrence with the draft closing agreement. The correspondence may be in the form of an email, fax, or memorandum. If needed, the *Technical Services Closing Agreement Coordinator* will assist in preparing the request to Counsel.
- (2) Form 4549–A is prepared reflecting the Personal Holding Tax as “Other Taxes” with an attached explanation. See Exhibit 4.10.8-5.
- (3) Form 870, which is required to be submitted with Form 2198, should contain the following statements:
- a. The waiver of restrictions on assessment and collection contained herein is subject to the approval of Form 2198 relating to the taxpayer's liability for Income and Personal Holding Company Tax.
 - b. This waiver will not take effect until after the expiration of the 120 day period to begin with the effective date of Form 2198.
 - c. If the taxpayer complies with IRC 547, relating to the payment of deficiency dividends, by (1) paying the deficiency dividends within 90 days after the effective date of Form 2198, and (2) filing a proper claim on Form 976 subsequent to the payment of the deficiency dividends and within 120 days after the effective date of Form 2198, then the amount of the deficiency stated on this waiver shall be reduced by the amount necessary to give effect to the timely paid deficiency dividends, and the remainder, if any, will be assessed.
 - d. If, at the expiration of the 120 day period beginning with the effective date of the Form 2198, a Form 976 has not been filed or timely deficiency dividend payments have not been made, the entire amount of the deficiency shown in this waiver will be assessed.
 - e. See Exhibit 4.10.8-6.
- (4) Upon receipt of Form 2198:

- a. The original Form 2198 should be initialed by the examiner and group manager to indicate their acceptance of the form.
- b. The original Form 2198 should be attached to the return for the last taxable year covered by the agreement.
- c. A duplicate Form 2198 will be mailed to the taxpayer with Letter 1152, Agreement Transmittal for Signed Personal Holding Company/ Determination of Liability for Personal Holding Company Tax, using certified or registered mail within five calendar days.

Note: Treas. Reg. 1.547-2(b)(1)(v) provides that, with one exception, the date of determination is the date the signed agreement (Form 2198) is mailed to the taxpayer and not the date the agreement is signed by the authorized Service official.

- d. See Exhibit 4.10.8-7 for a sample Form 2198.
- (5) After accepting Form 2198, the case should be held in suspense by Technical Services until Form 976 is filed or the expiration of the 120 day period, whichever is earlier. The case should then be returned to the examiner.

4.10.8.11.2
(06-10-2005)
Receipt of Claim: Form 976

- (1) The date on which Form 976 is filed in accordance with applicable regulations will be the controlling date to determine whether the form has been timely filed. The effective date of an informal agreement on Form 2198 will be the date the signed agreement is mailed to the taxpayer.
 - a. Form 976, Filed Timely — the examiner will verify the information on Form 976 to the extent deemed necessary and then prepare a report of the examination showing the general adjustments, the personal holding company income, the reduction due to the allowance of any deficiency dividend deduction, and whether the amount of the claim (Form 976) was allowed in full, allowed in part, or disallowed in full. See Exhibit 4.10.8-8.
 - b. Form 976, Not Filed Timely — a letter will be sent to the taxpayer as notification that the claim was not timely filed. A certified notice of disallowance will be issued unless the taxpayer has signed Form 2297. See IRM 4.10.8.10.4.1.

4.10.8.11.3
(06-10-2005)
Appeals Cases: Area Compliance Responsibilities

- (1) When Appeals accepts a Form 2198, the Appeals Officer solicits the taxpayer's claim (Form 976) and secures supporting evidence from the taxpayer. See IRM 8.7.1.2, Personal Holding Company Tax Alleviated by Deficiency Dividend.
 - a. The Appeals Officer may prepare the report and close the case if there are no unusual circumstances and verification of payment of the deficiency dividends can be made easily.
 - b. The Appeals Officer may return the case to the Examination field group. The case should be assigned to an examiner to verify payment of the deficiency dividends and prepare the report. The report should include adjustments made by Appeals. The report should be returned to Appeals for closing. If the examiner determines that the claim was not timely filed, the case should be returned to Appeals without contacting the taxpayer.

4.10.8.11.4
(08-11-2006)

**United States Tax Court
Cases: Area Compliance
Responsibilities**

- (1) In cases where the liability for personal holding company tax has been established by a decision of the United States Tax Court, Appeals will assess the gross deficiency. The Appeals Officer will explain to the taxpayer the actions to be taken to assess the tax and how to secure the benefits of IRC 547. After the assessment has been made, the administrative file will be forwarded to the Area Compliance Examination. See IRM 8.4.1.32.2, Docketed Personal Holding Company Tax Cases.
- (2) The case will be held in suspense (Technical Services) until a Form 976 is filed or until the expiration of the 120 day period for filing Form 976, whichever is earlier.
- (3) If a Form 976 is not timely filed, the case will be transferred for collection action, consistent with the Court's decision.
- (4) If a Form 976 is timely filed, the case will be assigned to an examiner.
 - a. Upon receipt of a closing agreement from the taxpayer, Form 866 will be prepared and forwarded to Technical Services for processing. The date of the closing agreement on Form 866 will be the date upon which the closing agreement is signed by the Area Director. The closing agreement, together with the case file, will be transmitted to the Area Director for approval.
 - b. Once approved, Technical Services will determine any need for follow-up action and transmit a copy of the closing agreement to the taxpayer.

4.10.8.11.5
(06-10-2005)

**Closing Procedures For
All Dividend Deficiency
Cases**

- (1) For all cases where a deficiency dividend deduction is allowed, the examiner will prepare Form 3189, Deficiency Dividend Deduction Case Transmittal. See Exhibit 4.10.8-9.
 - a. The form will include a computation of the tax liability before the reduction for payment of deficiency dividends. This is necessary for computing the interest amount.
 - b. The original Form 3189 will be placed on top (outside) of the case file.
 - c. A duplicate Form 3189 will be attached to every corporation return for which a deficiency dividend was paid.
- (2) If a return for which deficiency dividends were paid has not yet been filed, then the examiner should prepare Form 5346 and attach the duplicate Form 3189 so that it can be associated upon filing.
- (3) Form 5346 should be completed to report dividends paid to shareholders in the current year.
- (4) Form 3198 should identify the case as a restricted interest and claim for deficiency dividends paid case.

4.10.8.12
(09-13-2019)

**Unagreed Case
Procedures (SB/SE Field
and Office Examiners
only)**

- (1) Managerial involvement is required in all unagreed cases. Examiners should be aware of the procedures in IRM 1.4.40.4.11.5, Unagreed Closing Procedures, and inform their group manager when they believe a case will have unagreed issues. The group manager's actions must be documented in the case file. Form 9984 may be used for this purpose.
- (2) If the case is eligible for SB/SE Fast Track Settlement (FTS) and there are unagreed issues remaining after the group manager has contacted the taxpayer or representative in an attempt to resolve all issues, the examiner or

group manager will explain and offer FTS to the taxpayer. FTS should not be offered if the group manager has not spoken to the taxpayer or representative. See IRM 4.10.7.5.5, SB/SE Fast Track Settlement, for additional information.

- (3) Unless specifically excluded from Appeals consideration (see paragraph (4) below), all cases are eligible for an Appeals conference as long as the taxpayer submits an adequate protest (when a formal written protest is required), or a small case request, that includes the information required in Pub 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree. See IRM 4.10.8.12.9.3 (2) below for additional guidance regarding the adequacy of a formal written protest or small case request.

Note: Generally, if the taxpayer submits new information or evidence to Appeals, or raises a new issue Examination has not considered, the case will be returned to Examination. See IRM 8.2.1.5, Returning a Case to Examination - ATE, and IRM 4.10.8.12.11.

- (4) Following is a list of cases that are excluded from Appeals consideration:
- Fewer than 365 days remain on the statute of limitations when the case is received in Appeals. See IRM 4.10.8.12.1(1) for additional information.
 - Request/claim for abatement of unpaid tax (IRM 4.10.8.8(6)) that is not an audit reconsideration (taxpayer has no judicial rights).
 - Taxpayer disagrees solely on moral, religious, political, constitutional, conscientious, or similar grounds (IRM 8.1.1.3.1, No Appeals Conference or Concession on Certain Arguments). See IRM Exhibit 25.25.10-1, Frivolous Arguments, for examples.

Note: Examiners must use Letter 1963, Frivolous Filer Examination Report Transmittal, to transmit the report and explain why administrative appeal rights are not applicable. If additional information is subsequently received so the case is no longer excluded from Appeals consideration, follow the procedures in IRM 4.10.8.12.9.

- Fraud cases involving pending criminal prosecution (IRM 8.2.1.5(2), Returning a Case to Examination - ATE).

4.10.8.12.1
(09-13-2019)
**30-Day Letters (SB/SE
Field and Office
Examiners only)**

- (1) 30-day letters are used to transmit the examination report to the taxpayer and allow the taxpayer 30 days to request Appeals consideration of their case, or take other actions as outlined in the specific letter.

Note: When a case is initially received in Appeals, there must be at least 365 days remaining on the statute (270 days for estate tax cases or IRC 6206 excessive claim cases). If Appeals previously released jurisdiction of the case and returned it to Examination for additional work, there must be at least 180 days remaining on the statute of limitations when the case is received in Appeals. The group must allow a minimum of 30 days for shipping and processing a case through Technical Services. Therefore, a case should have a minimum of 395 days (or 210 if the case was returned) remaining on the statute when it is closed from the group. See IRM 8.2.1.4, Receipt of New Assignment by an Appeals Technical Employee (ATE).

- (2) 30-day letters are issued for cases resulting in the following:

- a. Unagreed change (deficiency or overassessment),
 - b. No-change with adjustments impacting other tax years, and
 - c. Formal claim disallowance.
- (3) Generally, taxpayers with 240 or more days remaining on the statute of limitations will receive the appropriate 30-day letter. This allows 30 days for the taxpayer to respond to the letter (and extend the statute if needed) and if the taxpayer fails to respond, it also ensures adequate time to close the case from the group (IRM 4.10.8.2.4.3) and provide Technical Services at least 180 days to issue the notice of deficiency. See IRM 25.6.23.7.1, Minimum Time Remaining on ASED.
- (4) When fewer than 240 days remain on the statute of limitations, the examiner should prepare and issue an agreed examination report with Letter 5153, Examination Report Transmittal - Statute less than 240 Days (Straight Deficiency), Letter 5153-A, Examination Report Transmittal - Statute less than 240 Days(Claim), Letter 5153-B, Examination Report Transmittal - Statute less than 240 Days (No-Change with Adjustments), or Letter 5153-D, Examination Report Transmittal - Statute less than 240 Days (Bankruptcy), to transmit the report and notify the taxpayer additional time is needed on the statute of limitations for Appeals to consider their case if it is unagreed, and allow 10 days to respond. Office examiners will update the ERCS action code to 07. If a statute extension has not already been solicited, the examiner should follow the procedures in IRM 25.6.22, Extension of Assessment Statute of Limitations By Consent, and simultaneously solicit an extension (using a separate envelope), then proceed as follows:
- a. If the case is agreed, close using normal agreed procedures. See IRM 4.10.8.4.7 for deficiency and claim cases, or IRM 4.10.8.3.3(1) for no-change with adjustment cases.
 - b. If the case is unagreed and the taxpayer signs a consent to extend the statute of limitations that will allow sufficient time for the case to be considered by Appeals, prepare and issue a 30-day letter.
 - c. If the case is unagreed and the taxpayer does not sign a consent, close the case to Technical Services for issuance of a notice of deficiency.
- (5) 30-day letter procedures are applicable to income, estate, gift, excise, and employment tax cases. See IRM 4.23.22, Unagreed Employment Tax Case Procedures, IRM 4.24.10, Excise Tax, Appeals Referral Procedures, or IRM 4.25.6, Report Writing Guide for Estate and Gift Tax Examinations, for procedures related to employment tax, excise and estate and gift examinations.
- (6) Examiners issue reports to Non-TEFRA pass-through entities with Letter 921, Letter 921-L, etc., however these letters are not 30-day letters. Thirty-day letter procedures are followed for the investors' reports reflecting their share of the adjustments made at the entity level. Only the investors will be able to request a hearing with Appeals because there is no "deficiency" at the entity level. See IRM 4.31.5.11.3, Key Cases With Adjustments and Investors Not Linked on PCS.
- (7) If an examination of a return results in a deficiency or overassessment that is offset (no deficiency or overassessment results) by a net operating loss carryback, a manual computation of interest may be required. If the taxpayer disagrees with the examination results, they will be afforded the same opportunity to request an Appeals hearing, as if a deficiency/overassessment were involved.

(8) The following form letters, specific to the type of case, are 30-day letters used to transmit the examination report and allow the taxpayer 30 days to request Appeals consideration of their case, or take other actions as outlined in the specific letters:

- a. Letter 915 – for straight deficiency, straight overassessment, or mixed deficiency and overassessment cases in Office Examination; update ERCS action code to 04 for follow-up in 15 calendar days.

Note: If the taxpayer does not respond within 15 days, the examiner will prepare and issue Letter 1912 and update ERCS action code to 07 for follow-up in 15 calendar days.

- b. Letter 950 — for straight deficiency, straight overassessment, or mixed deficiency and overassessment cases in Field Examination.
- c. Letter 950-F — for no-change with adjustments cases.
- d. Letter 569 — for claim disallowance cases.
- e. Letter 3391 — for nonfiler cases.
- f. Letter 955 – for transferee/transferor cases.
- g. Letter 1963 - for frivolous filer / nonfiler cases.
- h. Restricted Interest Cases — the examiner will need to prepare and the group manager approve a letter patterned after the form letters listed above. Form letters are not available for restricted interest cases due to infrequent use. The letter created by the examiner should address the restricted interest issue, rather than a deficiency or overassessment of tax.

(9) The following items must be included with the 30-day letter:

- a. Examination report (including lead sheets or standard explanations as required in IRM 4.10.8.12.4) and waiver (when required); and
- b. Pub 3498.

Note: Pub 3498 must always be enclosed with a 30-day letter even if it was provided with a previous report or letter.

(10) 30-day letters should be prepared by the examiner, and include the examiner's or group manager's name in the contact area, depending on the type of letter.

Note: The authority to sign and issue 30-day letters is delegated to group managers. See *Delegation Order SBSE 4.55, Authority to Sign Thirty Day Letters*.

(11) IRC 6651(f), Fraudulent Failure to File (FFTF) Cases — The portion of a FFTF penalty attributable to the amount of tax shown on a return is assessable immediately and is not subject to deficiency procedures. See IRM 25.1.7.7.1, Assessment Procedure for the Fraudulent Failure to File (FFTF) Penalty. To ensure the facts of a particular case support fraud, and because the assessment of a FFTF penalty attributable to the amount shown on a return will not be reviewed by the Tax Court, all 30-day letters proposing a FFTF penalty must be reviewed and approved by Area Counsel prior to issuance. Furthermore, the period of limitations on assessment of such portion would not be suspended by the issuance of a notice for the other portion.

Exception: When proposing the FFTF penalty on an income tax substitute for return (SFR), Counsel's review and approval is not required prior to the

issuance of the 30-day letter. However, Counsel will review the case prior to the issuance of a notice of deficiency.

4.10.8.12.2
(09-13-2019)

**Unagreed Report Forms
(SB/SE Field and Office
Examiners only)**

- (1) The unagreed report forms listed below are generally used to present the audit findings for an unagreed case. They are similar to those used for agreed cases and the instructions for completing agreed case reports generally apply. However, unagreed report forms do not include a statement regarding the acceptance of the report by the Area Director. They also do not include a signature line for the taxpayer's consent to assessment and collection, so a waiver is required. See IRM 4.10.8.5.2 for instructions for preparing waivers.
- (2) The following report forms are used for unagreed income tax cases.

Note: Office Examination can use Form 4549 in lieu of Form 4549-A. If Form 4549 is used, a waiver is not required.

Type of Taxpayer	Report Form	Agreement or Waiver Form
Individual (1040)	4549-A	870
Corporations (1120)	4549-A	870
Non-TEFRA Partnerships (1065)	4605 and 886-S	N/A
S Corporations	4605 886-X	870 (entity tax) N/A (nontaxable entity)
Fiduciary	4605 886-W	870 (entity tax) N/A (nontaxable entity)
Domestic International Sales Corporations	4605 886-Y	N/A

4.10.8.12.3
(09-12-2014)

**Separate Assessments
on Joint Taxpayers
(SB/SE Field and Office
Examiners only)**

- (1) In certain cases, it may be necessary to set up separate assessments for taxpayers who filed a joint return. For example, when only one spouse signs an agreement and the deficiency is not fully paid, an assessment may need to be made on the agreeing, or "obligated", spouse in order to protect the statute of limitations for that taxpayer while unagreed procedures are applied to the other spouse. Similarly, a separate assessment would need to be made when only one spouse does not petition Tax Court after receiving a 90-day letter. In these situations, separate assessments are made using MFT 31, as long as the SSN's are valid (no asterisks). If invalid, Non-Master File procedures found in IRM 21.7.12, Non-Master File (NMF) Adjustments, and IRM 3.17.46, Automated Non-Master File Accounting, will apply.
- (2) Although an assessment will be made on the obligated spouse, no collection notices will be mailed until the case is ultimately resolved (and assessment adjusted if necessary). At that time, an MFT 31 assessment will be set up for the other spouse.
- (3) If only one spouse signs an adequate protest requesting Appeals consideration and no response is received from the other spouse, the case will normally be

sent to Appeals as long as there is sufficient time on the statute of limitations for both spouses. In other words, one signature on the protest may be adequate.

- (4) However, if one spouse agrees and one protests, a separate assessment may be necessary on the obligated spouse especially if the statute of limitations for that spouse is imminent. In any event, note on the Form 3198 that one spouse has signed a waiver, so CCP can calculate interest accordingly.
- (5) If one spouse agrees and the other does not respond to the 30-day letter, a separate assessment needs to be set up on the obligated spouse before the case is sent to Technical Services for 90-day letter procedures.
- (6) Procedures for creating an MFT 31 account:
 - a. Request the creation of the MFT 31 account for the obligated spouse by preparing Form 3177, Notice of Action for Entry on Master File. The top section of Form 3177 will be completed, using the primary SSN.
 - b. In the "Other" section, put TC 971 as the transaction code in the empty box, and on the line state "Action Code 103". Also include the obligated (agreeing) spouse's SSN as "XREF SSN: XXX-XX-XXXX".
 - c. On the "Other" line, MFT Code column reflect 30 and ensure the taxable period is listed in the correct column (a separate Form 3177 is needed for each year). The TC 971 and appropriate action code on the MFT 30 account will create an MFT 31 account for the XREF SSN listed.
- (7) Eefax the Form 3177 to CCP and request a partial assessment be made on the obligated spouse:
 - a. Form 3198, Form 5344 and the agreed report are needed in addition to the Form 3177.
 - b. Note on Form 3198 "input TC 971 per attached Form 3177". Include your name and fax number so CCP can fax a copy of Form 5344 to you after the partial assessment has been made.
 - c. Form 5344 must be manually prepared and should reflect MFT 30 and the primary SSN. In the top left of the Form 5344 put an "S" in the blank following AMCLS. In Item 56 put either "P" or "S" depending on whether the assessment is being made on the primary or secondary spouse.
 - d. Eefax these forms to CCP while you continue to hold the case.
 - e. See the *CCP* website for the Exam Eefax numbers.
- (8) Continue normal unagreed procedures for the disagreeing/petitioning spouse. Associate an IMFOLT or copy of the Form 5344 received from CCP showing that the partial assessment on the other spouse has been made on MFT 31. Close the case using normal RGS procedures and check the "MFT 31 Assessment" checkbox on Form 3198.
- (9) Examiners should refer to IRM 21.6.8, Split Spousal Assessments (MFT 31 / MFT 65), for additional information.
- (1) For most Office Examination reports, examiners will use the standard explanations in IRM 4.10.10, Standard Paragraphs and Explanation of Adjustments, and RGS. The explanations include enough information to enable the taxpayer to challenge the issue. As an option, lead sheets may be attached to the report to explain the issue(s) but examiners should follow the format in IRM 4.10.8.12.4(2).

4.10.8.12.4
(09-12-2014)
**Explanation of Items
(SB/SE Field and Office
Examiners only)**

- (2) For Field Examination, a copy of the examiner's lead sheet relating to each issue will be attached to the report to explain the items. A separate lead sheet must be used for each issue. If the issue is applicable to more than one year, the issue should be shown on one combined lead sheet. The copy of each issue lead sheet used as an attachment to the examination report must be modified to remove extraneous information that does not address the Conclusion, Facts, Applicable Law, and Taxpayer's Position (e.g. audit steps and workpaper references should generally be removed, depending on the facts and circumstances). The following format should be used:
- a. Title — Each lead sheet must be numbered and titled to correspond with the adjustment on the audit report. See IRM 4.10.9.7.2, Workpapers: Indexing. Lead sheets for issues with specific adjustment amounts must reflect the amount per return, the amount per audit, and the resulting adjustment.
 - b. Conclusion — State a conclusion of the Service's position. Relate the facts, as previously stated, to the cited authority through a narrative discussion to support the Service's position. Also include the Service's rebuttal to the taxpayer's position reflected on the lead sheet. See IRM 4.10.8.12.9.3 for information regarding preparing rebuttals in response to a protest.
 - c. Facts — Each lead sheet must include a statement of the facts upon which the adjustment is based. The statement should be in narrative form. The facts must be relevant to the issue and should be stated accurately and objectively. Facts favorable to both the Service's and taxpayer's position must be included.
 - d. Applicable Law — The applicable authority must be correctly cited and explained (if necessary). Rulings, opinions, and decisions relied upon must be clearly stated and identified in the explanation. Citations are not required when the adjustment is predicated entirely on facts (e.g. identity theft issues). However, reports should be informative for the taxpayer. If the adjustment is supported by multiple code sections of tax law, they all must be reflected. For example, to support a disallowance of business expenses, IRC 162(a), ordinary and necessary business expenses, and IRC 6001, lack of substantiation, should be incorporated into the narrative.
 - e. Taxpayer's Position — The taxpayer's position should be stated (in narrative form) if known. The legal authority, if any, that the taxpayer is using as the basis of their argument should also be cited. If the taxpayer has provided a written position statement, include the entire statement in this section or summarize the statement and include the entire document in the report as an exhibit.

4.10.8.12.5
(09-12-2014)

**Alternative Positions
(SB/SE Field and Office
Examiners only)**

- (1) An alternative position is a secondary position the Service may ultimately rely on if the primary position is not upheld. The primary position should be the one resulting in the larger liability when two positions are considered. All alternative positions must be addressed or Appeals will not raise them in the event they do not sustain the primary position. Therefore, the examiner must thoroughly document the facts, law, taxpayer's position and conclusion for all alternative positions that may be applicable if the primary position is not sustained.
- (2) Alternative positions must be discussed with the taxpayer, or his or her authorized representative prior to issuing the examination report.

- (3) An alternative position must be used for tax law that supports two totally separate positions. For example:
- a. When an adjustment is proposed to disallow a loss due to IRC 183, activities not engaged in for profit; any IRC 162 adjustments to business expenses should be included as an alternative position to IRC 183.
 - b. When an Employer did not issue Form(s) 1099 and did not secure TINs from the workers the examiner may propose disallowing the expense as the primary position. A strong alternative to disallowing the expense is backup withholding. See IRM 4.10.8.12.5.1(4) for report writing procedures for this alternative position.
 - c. When the fraud penalty is asserted, the negligence/substantial understatement portion of the accuracy-related penalty should be addressed as an alternative position.
 - d. When the fraudulent failure to file penalty (FFTF) is asserted, the failure to file penalty (FTF) should be addressed as the alternative position.
 - e. When the accuracy-related penalty attributable to a substantial understatement of income tax is not asserted due to the assertion of negligence or disregard of the rules or regulations, include the substantial understatement penalty as an alternative position.
 - f. When the substantial understatement penalty is asserted, the negligence portion of the accuracy-related penalty should be addressed as the alternative position in the event tax is decreased resulting in the substantial penalty no longer being applicable.
- (4) References for alternative positions in unagreed cases:
- IRM 4.10.6.4, Finalizing Penalty Determinations
 - IRM 4.23.10.16.3, Alternative and Whipsaw Positions in Unagreed Cases
 - IRM 20.1.5.3.2, Common Features of Accuracy-Related and Civil Fraud Penalties
 - IRM 25.1.4.3.10, Preparation of the Pre-Prosecution Report

4.10.8.12.5.1
(09-12-2014)
**Reports for Alternative
Positions(SB/SE Field
and Office Examiners
only)**

- (1) Include in the Other Information section of the primary examination report “This report includes alternative issue(s) for which the tax computation has not been computed. Refer to the attachments labeled “Alternative Issue” for the facts, law, taxpayer’s position, and conclusion related to the alternative issue(s).”
- Note:** If the taxpayer requests a report reflecting the tax computation resulting from the alternative issue(s), the examiner may generate a report and provide it to the taxpayer. The report should be clearly labeled “Alternative Issues” at the top of the report.
- (2) The facts, law, taxpayer’s position, and conclusion for the alternative position on an issue will be presented on a separate lead sheet from the primary position. The top of each lead sheet for the alternative position will be marked “Alternative Issue.”
- (3) The lead sheets for the alternative issue(s) will be placed behind the unagreed report for the primary position.
- (4) For a backup withholding alternative position, the examiner must discuss the backup withholding issue with the taxpayer and include a lead sheet or Form 886-A including the Facts, Law, Taxpayer Position, and Conclusion, as well as

Form 4668-B, Employment Tax Examination Changes Report, as attachments to the unagreed report. Write "Alternative Issue" at the top of the attachments and place behind the unagreed report for the primary position. See IRM Exhibit 4.23.10-4, Form 4668-B, Report of Examination of Withheld Federal Income Tax, for instructions on how to complete Form 4668-B.

Note: Do not create a separate backup withholding case file or establish the case on ERCS.

4.10.8.12.6
(09-12-2014)
Form 4665, Report Transmittal (SB/SE Field and Office Examiners only)

- (1) Form 4665 can be used to transmit a case file to Appeals, but examiners must ensure the Form 4665 or any similar document does not contain statements or comments intended to influence Appeals' decision-making process. This includes recommendations concerning what Appeals should consider and how Appeals should resolve the case. It is permissible to include a neutral list of unagreed issues, without discussion, and indicate which ones, if any, are coordinated issues. Information related to the managerial conference should be documented on Form 9984, not on Form 4665.
- (2) If Form 4665 includes statements or comments that may be construed as prohibited ex parte communications, or includes prohibited communications, regardless of whether such content is included as part of a document that is either placed on top of the case file as a transmittal or inserted into the case file in conjunction with preparing the case for transmission to Appeals, the document must be shared by the examiner with the taxpayer and representative at the time the case file is sent to Appeals.

Note: An "ex parte communication" is an oral or written communication that takes place between any Appeals employee and employees of other IRS functions, without the taxpayer/representative being given an opportunity to participate in the communication. See Rev. Proc. 2012-18, 2012-10 I.R.B. 455.

- (3) See IRM 4.2.7, Ex Parte Communication Procedures, and the *Ex Parte Communications* website for additional information and guidance.
- (4) Items that need safeguarding from unauthorized or inadvertent disclosure with Form TDF 15-05.11, Sensitive But Unclassified (SBU) Cover Sheet, should not be included or referenced on Form 4665. Examples include fraud referrals and identification of informants.

4.10.8.12.7
(04-05-2017)
Issuing 30-Day Letters (SB/SE Field and Office Examiners only)

- (1) Generally, 30-day letters should be issued to the taxpayer and representative in person. However, if circumstances necessitate mailing the 30-day letter, the examiner should follow the procedures in this section.
- (2) 30-day letters will be sent by ordinary mail unless it is considered necessary to document the mailing and delivery. In such cases, certified or registered mail should be used and a return receipt requested.
- (3) In the case of a joint return, follow the procedures in IRM 4.10.1.2.2.1, Separate Notice Requirements, to mail the 30-day letter.
- (4) A copy of the 30-day letter should be sent to the taxpayer's representative. See IRM 4.10.8.2.3 for additional guidance regarding sending correspondence to the taxpayer's representative.

- (5) A copy of the 30-day letter and report must be maintained in the case file. See IRM 4.10.9.9, Case File Assembly for Closing.
- (6) **Field Examination:** After issuing the 30-day letter, the case must be updated to status code 13.
- (7) **Office Examination:** Examiners should update the case for 15 days using ERCS action code 04.

4.10.8.12.8
(09-12-2014)
Extension of Time to Respond (SB/SE Field and Office Examiners only)

- (1) In general, Statement of Procedural Rules 601.105(d)(1) does not provide for an extension of time to reply to a 30-day letter. However, as a matter of practice, extensions may be granted under reasonable circumstances.
- (2) Reasonable circumstances include but are not limited to the following:
 - a. The taxpayer retains a representative and demonstrates a need for more time to prepare a meaningful protest.
 - b. The taxpayer retains a new representative.
 - c. Sickness or injury of the taxpayer or representative.
 - d. Issues are complex and require extensive research.
- (3) Requests for extensions should be in writing and should state the reason(s) why additional time is needed. Since many requests are made by telephone, the extension may be granted verbally and confirmed in writing upon receipt of the written request.
- (4) Extensions should not be granted if the statute of limitations will expire within 240 days and the granting of an extension will not leave sufficient time to process the case. Under such circumstances an extension to respond to a 30-day letter will be contingent upon securing an extension of the statute of limitations.
- (5) Extensions are granted by the group manager or a designated management official. The taxpayer should be notified in writing of the extension and the specific extended response date. Letter 686, Extension of Time for Certain Actions, signed by the group manager, will be used for this purpose. Extensions are normally granted for no more than 30 days unless a specific reason supports additional time.
- (6) If the taxpayer lives outside of the United States, the 30-day letter should be modified to allow for a reasonable period of time to respond.

4.10.8.12.9
(09-12-2014)
Response to 30-Day Letter (SB/SE Field and Office Examiners only)

- (1) The taxpayer may respond to the 30-day letter in a variety of ways. This section provides instructions depending on the type of response.

4.10.8.12.9.1
(09-12-2014)
Additional Information Received (SB/SE Field and Office Examiners only)

- (1) If the taxpayer provides additional information after a 30-day letter is issued, the examiner should evaluate the information, then follow the applicable procedures in the table below.

Note: If the examination report changes as a result of the additional information, follow the corrected report procedures in IRM 4.10.8.14(4) through (6).

If...	Then...
<ul style="list-style-type: none"> • There is no change to the examination report, or • The corrected report reduces the previous report and no new issues are raised 	<p>Solicit an agreement by sending:</p> <ol style="list-style-type: none"> a. Letter 692, Request for Consideration of Additional Findings, or b. Letter 692-A, Request for Consideration of Additional Findings (Claim), or c. Letter 692-B, Request for Consideration of Additional Findings (No-Change with Adjustments). d. Letter 692-K, Request for Consideration of Additional Findings (Bankruptcy) <p>Allow the taxpayer 15 days to respond. A new 30-day letter is not needed.</p> <p>Office examiners will update the case using ERCS action code 07.</p>
<ul style="list-style-type: none"> • The corrected report raises new issue(s), or • The proposed deficiency is increased 	<p>A new 30-day letter must be issued if sufficient time remains on the statute of limitations. If sufficient time does not remain on the statute of limitations, follow the instructions in IRM 4.10.8.12.1(4).</p>

4.10.8.12.9.2
(09-12-2014)

Full or Partial Agreement or Remittance (SB/SE Field and Office Examiners only)

(1) If the taxpayer agrees or remits full or partial payment in response to the 30-day letter, examiners should follow the applicable procedures in the table below:

If...	Then...
<p>The taxpayer indicates agreement to part of the report</p>	<p>Solicit a partial agreement. If a partial agreement is received, process according to the procedures in IRM 4.10.8.6</p>
<p>A signed agreement form (or full payment not designated as a "6603 deposit") is received</p>	<p>Close the case within 10 days from the date the agreement or full payment is received using agreed case closing procedures.</p>

If...	Then...
<p>An agreement form is not signed, but a partial remittance is received (not specifically designated as a deposit in the nature of a “6603 deposit”)</p> <p>Note: If the taxpayer has not signed an agreement form but has submitted a payment without specifically addressing how to apply the payment, the examiner must still process the payment within 24 hours. See IRM 4.4.24.2, Form 3244-A. If necessary, the Designated Payment Code (DPC) can be changed at a later date by completing Form 2424, Account Adjustment Voucher, and faxing it to CCP. See IRM 5.1.15.15(6), Credit Transfers. For the application of partial payments, see Rev. Proc. 2002-26.</p>	<p>Do not treat the payment as a partial payment of tax unless the taxpayer designates it as such.</p> <p>a. Contact the taxpayer by phone to ask whether the payment was intended to be a payment of tax or a “6603 deposit”. Document the conversation in the case file. If the taxpayer cannot be reached, draft a follow-up letter. The letter will inform the taxpayer that:</p> <ul style="list-style-type: none"> — We received the remittance. — We did not receive a protest or a signed agreement agreeing to adjustments. — We need to know whether they intended the remittance to be a payment of the tax deficiency or a “6603 deposit”. — We need to receive a response within 15 days from the date of the letter or the case will be routed for issuance of a notice of deficiency. <p>b. If the taxpayer is contacted and agrees with all adjustments but cannot pay the entire liability and intended the remittance to be a partial payment, have the taxpayer sign the agreement and determine if the taxpayer is eligible for an installment agreement. Process the payment as a partial payment. Do not hold the payment until the agreement is received.</p> <p>c. If the payment was intended to be a “6603 deposit”, advise the taxpayer that if we don’t receive a protest or signed waiver, a notice of deficiency will be issued.</p>

4.10.8.12.9.3
(09-13-2019)

Request for Appeals Conference (SB/SE Field and Office Examiners only)

- (1) If the taxpayer responds to the 30-day letter by requesting an Appeals conference, examiners must follow the applicable procedures in this subsection.

Reminder: Unless specifically excluded from Appeals consideration, all cases are eligible for an Appeals conference if the taxpayer submits an adequate formal written protest (when required), or small case request.

- (2) To be considered “adequate”, a formal written protest and a small case request must contain all information required by Pub 5 (with exceptions noted in the table below). Adequacy of a protest is generally not determined based on its substantive content, such as whether the protest contains sufficient factual or legal support.

Example: A taxpayer submits a formal written protest and cites Internal Revenue Code §162, but does not provide reasons for their disagreement and any factual information to support their position as required by Pub 5.

Therefore, the protest is inadequate; the examiner must return the protest to the taxpayer and grant additional time for the taxpayer to perfect it. See (3)(d) below.

Example: A taxpayer submits a small case request and indicates disagreement based solely on the inability to pay. The protest is inadequate; the examiner must return the protest to the taxpayer and grant additional time for the taxpayer to perfect it. See (3)(d) below.

Example: A taxpayer submits a formal written protest with the information required by Pub 5, addressing the issues raised in the 30-day letter, reasons for disagreement, and factual information to support their position on the issues. The examiner disagrees with the taxpayer's facts and/or does not consider the taxpayer's position sufficiently supported; however, the protest is adequate because it contains all information required by Pub 5. The examiner should determine if a rebuttal is needed prior to forwarding the case for Appeals consideration. See (3)(f) below.

(3) When a taxpayer requests an Appeals conference, examiners must follow the applicable procedures in the table below:

If...	Then...
<p>(a) The total amount for any tax period is not more than \$25,000</p> <p>Note: In computing the total amount, include a proposed increase or decrease in tax (including penalties), or claimed refund.</p>	<p>The taxpayer may make a small case request instead of filing a formal written protest. The taxpayer may complete Form 12203, Request for Appeals Review.</p> <p>Note: Pub 5 contains instructions on preparing formal written protests and small case requests in unagreed cases.</p>
<p>(b) The total amount for any tax period is more than \$25,000</p> <p>Note: In computing the total amount, include a proposed increase or decrease in tax (including penalties), or claimed refund.</p>	<p>The taxpayer must submit a formal written protest.</p> <p>Note: Pub 5 contains instructions on preparing formal written protests and small case requests in unagreed cases.</p>
<p>(c) The taxpayer submits a formal written protest or small case request</p>	<p>The protest must be reviewed at the group level, as designated by management, within seven days of receipt to determine whether the protest complies with the requirements as outlined in Pub 5. The protest review should include consideration of any new facts, law, or arguments presented to determine if:</p> <ul style="list-style-type: none"> • The case requires further development by the examiner; • The examiner's report should be modified; • The examiner should write a rebuttal to refute arguments in the protest.

If...	Then...
<p>(d) The formal written protest or small case request does not comply with the requirements as outlined in Pub 5</p>	<p>The protest should be returned to the taxpayer and additional time should be granted to perfect the protest.</p> <p>The examiner should use one of the following letters for this purpose:</p> <ul style="list-style-type: none"> • Letter 1025, Letter of Protest, or • Letter 1025-A, Letter of Protest (Claims), or • Letter 1025-B, Letter of Protest (No-Change with Adjustments). <p>Note: The signature of only one spouse on a protest regarding a joint return does not make the protest incomplete. Also, if the only item missing from the protest is a copy of the 30-day letter, the case can be closed using the copy in the file, therefore, there is no need to return the protest to the taxpayer for perfection.</p>
<p>(e) The formal written protest or small case request contains information warranting consideration</p>	<p>The case may require additional development because of additional facts raised and/or new information, issues, or legal arguments presented in the formal written protest or small case request. Cases requiring additional development are priority work and should be given expedited consideration. See IRM 4.10.8.12.9.3.1.</p> <p>Reminder: Appeals does not return cases for further development.</p>
<p>(f) The examiner or group manager feels there is something in the formal written protest or small case request that does not change the determination, but requires further comment or explanation</p>	<p>A rebuttal should be prepared and included in the case file before it is sent to Appeals. See (4) below for additional guidance on preparing a rebuttal.</p>
<p>(g) The formal written protest or small case request is complete and the examiner does not prepare a rebuttal</p>	<p>The examiner must prepare Letter 2280, Transfer to Appeals, to notify the taxpayer the case is being closed to Appeals. The letter must be signed by the group manager, and mailed to the taxpayer.</p>
<p>(h) There is not sufficient time remaining on the statute of limitations to send the case to Appeals, and a consent was not previously solicited</p>	<p>The examiner should follow the procedures in IRM 25.6.22, Extension of Assessment Statute of Limitations By Consent, to solicit a consent.</p>
<p>(i) There is not sufficient time remaining on the statute of limitations to send the case to Appeals and a consent was previously solicited.</p>	<p>The examiner should issue Letter 1025, Letter 1025-A, or Letter 1025-B, to remind the taxpayer a consent is needed to send the case to Appeals, and give the taxpayer 10 days to respond.</p>

If...	Then...
(j) The taxpayer's representative submits the formal written protest or small case request for the taxpayer	The representative must include a substitute for the taxpayer's declaration described in Pub 5. The declaration will state: <ul style="list-style-type: none"> • The representative prepared the protest and accompanying documents; and • Whether the representative knows personally that the facts contained in the protest and accompanying documents are true and correct.
(k) The taxpayer verbally requests a transfer of jurisdiction for the appeal, and the formal written protest or small case request is complete	The case file will be sent promptly to the local Appeals office serving the examiner's area. This procedure applies even if the taxpayer has requested a hearing in an Appeals office other than the one servicing the examiner's area.
(l) A notice of deficiency has been issued to the taxpayer (and the taxpayer has not petitioned the Tax Court (or petitioned the Tax Court untimely))	Transfer of protested cases to Appeals is generally precluded except for: <ul style="list-style-type: none"> • Other taxable periods of the same taxpayer not listed on the notice, • Other types of tax for the same taxable periods for the same taxpayer which are not listed on the notice, or • An offer in compromise covering the same type of tax and the same taxable periods of the taxpayer.

- (4) When a rebuttal is needed, it should be prepared using Form 886-A and address:
- Statements, facts, and arguments that were not previously addressed in the examination report
 - New arguments or facts raised by the taxpayer
 - Factual differences between the examination report and the protest

Note: A copy of the rebuttal must be provided to the taxpayer at the time the case is sent to Appeals. Examiners use Letter 5072, Examiner's Rebuttal, to transmit the rebuttal to the taxpayer. Letter 5072 with the attached rebuttal must be included with the taxpayer's protest in the case file as provided in IRM 4.10.9.3(1)(e).

4.10.8.12.9.3.1
(09-13-2019)

**Timely Actions -
Request for Appeals
Conference**

- (1) In order to adhere to the general time frame for closing an unagreed case from the group, all actions (e.g., securing a consent, perfecting or rebutting a protest, holding a group manager conference, etc.) should be completed within 20 days of receipt of a formal written protest or small case request, unless the case requires additional development. See IRM 4.10.8.2.4.3.
- (2) **Field Examination:** When a taxpayer requests an Appeals conference, revenue agent cases remain in status code 13 (see IRM 4.10.8.12.7(6)), unless additional development is required (see IRM 4.10.8.12.9.3(3)(e) above). If additional development is required, the case must be updated to status code 12.

- (3) **Office Examination:** Upon receipt of a formal written protest or small case request, the case must be updated to ERCS action code 03, Request for Appeals Conference, and the purge date set to 7 days. If additional development is required (see IRM 4.10.8.12.9.3(3)(e) above), the case must be updated to the appropriate ERCS action code depending on the next required action. When the examiner has completed all actions and the case is ready to close, it must be updated to action code 11, Managerial Review and Protests, which defaults to a purge date of “Today”, and submitted to the group manager.

Note: Group managers use the ERCS Action Code Report and Overage Purge Report to monitor cases to ensure timely actions, including the transfer of cases to Appeals.

4.10.8.12.10
(04-05-2017)
No Response to 30-Day Letter (SB/SE Field and Office Examiners only)

- (1) If the taxpayer does not file a small case request or formal written protest within the time allowed, but indicated their intent to do so, examiners should issue:
 - a. Letter 923, Letter Extending Time to File Protest, or
 - b. Letter 923-C, Letter Extending Time to File Protest (Claim for Refund), or
 - c. Letter 923-D, Letter Extending Time to File Protest (No-Change with Adjustments).

Note: Letter 923 (or applicable letter) is sent to the taxpayer as a reminder to file a protest. Letter 923 should be issued no later than seven calendar days after expiration of the original 30-day letter.

Reminder: Office examiners will update the case file using ERCS action code 07.

- (2) If the 30-day letter is returned as undeliverable, an attempt must be made to obtain the correct address (see IRM 4.10.2.8.4, Undeliverable Initial Contact Letters).
 - a. If the taxpayer’s correct address is determined, the 30-day letter will be mailed to the new address. The period in which the taxpayer may reply starts with the date the letter is mailed to the new address.
 - b. If the taxpayer’s correct address cannot be determined and the case results in a deficiency, close the case to Technical Services for issuance of a notice of deficiency. If the case results in an overassessment, close to CCP for processing.
- (3) If the taxpayer has not submitted a small case request or formal written protest in response to the 30-day letter, and the examiner has taken the actions in paragraphs (1) or (2), when applicable, close the case as follows:

Reminder: Cases must be closed from the group within 20 days after the expiration of the time (including extensions) allowed to file a protest.

If...	Then...
The case is a deficiency case	Close the case to Technical Services for issuance of a notice of deficiency.

If...	Then...
The case is an overassessment case (adjustments that decrease the tax liability exceed the adjustments increasing the tax liability)	No follow-up action should be taken and the case should be closed to CCP.
The case is a claim disallowance	Close the case to Technical Services for issuance of a statutory notice of claim disallowance. If there is no change to the tax liability (neither a deficiency or overassessment), or the claim is disallowed in part with a resulting overassessment, close the case and check the "Statutory Notice of Claim Disallowance – Letters 905 and 906" box in the "Forward to Technical Services" section on Form 3198.
The case involves restricted interest	The tax liability will be adjusted as proposed in the examination report.

4.10.8.12.11
(04-05-2017)

Cases Returned from Appeals (SB/SE Field and Office Examiners only)

- (1) If the taxpayer provides new information or evidence related to the issues in the unagreed report, Appeals will release jurisdiction and return the case to Examination so the examiner can evaluate the new information and make an audit determination. See IRM 8.6.1.6.5, Taxpayer Provides New Information. The examiner must document the issue lead sheet(s) and supporting workpapers to reflect the evaluation of the new information or evidence. In addition, the examiner must follow the table below to determine the appropriate actions required.

Note: The procedures in this subsection are for non-docketed cases. For docketed cases see IRM 4.2.1.8.4, Docketed Case Examination Assistance.

If...	And...	Then...
The case is agreed	If warranted	The examiner will issue a corrected report and close the case using agreed case procedures. See IRM 4.10.8.4.7 for deficiency and claim cases. See IRM 4.10.8.3.3(1) for no-change with adjustment cases.
The case remains unagreed	There is a decrease in the tax liability	A corrected report should be issued to the taxpayer and included in the case file when it is sent back to Appeals. The examiner will not issue a new 30-day letter. The taxpayer will not be required to submit another protest.

If...	And...	Then...
The case remains unagreed	There is no change to the report	<p>The examiner will not issue a new 30-day letter.</p> <p>The taxpayer will not be required to submit another protest.</p> <p>The examiner will close the case to Appeals.</p>
The case remains unagreed	There is an increase in the tax liability	<p>A new 30-day letter and corrected report should be issued to the taxpayer and included in the case file.</p> <p>The taxpayer will be required to submit a new protest.</p> <p>If the taxpayer submits a new protest, the examiner will close the case to Appeals; otherwise close to Technical Services for issuance of a notice of deficiency.</p>

- (2) If the taxpayer raises a new issue to Appeals, Appeals will release jurisdiction and return the case to Examination so the examiner can evaluate the new issue and make an audit determination. See IRM 8.6.1.6.4, Taxpayer Raises New Issue. The examiner must create an issue lead sheet(s) and supporting workpapers to reflect the evaluation of the new issue. In addition, the examiner must follow the table below to determine the appropriate actions required:

If...	And...	Then...
The case is agreed	If warranted	<p>The examiner will issue a corrected report and close the case using agreed case procedures.</p> <p>See IRM 4.10.8.4.7 for deficiency and claim cases.</p> <p>See IRM 4.10.8.3.3(1) for no-change with adjustment cases.</p>
The case remains unagreed	The new issue is allowed in full	<p>The examiner will issue a corrected report.</p> <p>The examiner will not issue a new 30-day letter.</p> <p>The taxpayer will not be required to submit another protest.</p> <p>The examiner will close the case to Appeals.</p>

If...	And...	Then...
The case remains unagreed	The issue is partially allowed or there is an increase in the tax liability	<p>A new 30-day letter and corrected report must be issued to the taxpayer and included in the case file.</p> <p>The taxpayer will be required to submit another protest.</p> <p>If the taxpayer submits a new protest, the examiner will close the case to Appeals; otherwise:</p> <ul style="list-style-type: none"> • For deficiency cases, close the case to Technical Services for issuance of a notice of deficiency. • For claim cases, close the case to Technical Services for issuance of a notice of claim disallowance. • For no-change with adjustment cases, see IRM 4.10.8.3.3(2)c.
The case remains unagreed	There is no change to the report	<p>The examiner will not issue a new 30-day letter. The results of the review of the new issue must be shared with the taxpayer/ representative.</p> <p>The taxpayer will not be required to submit another protest.</p> <p>The examiner will close the case to Appeals.</p>

Reminder: If Appeals previously released jurisdiction of the case and returned it to Examination for additional work, there must be at least 180 days remaining on the statute of limitations when the case is received in Appeals the second time. The group must allow a minimum of 30 days for shipping and processing a case through Technical Services. Therefore, 210 days must be remaining on the statute when the case is closed from the group.

4.10.8.12.12
(09-12-2014)

Time Reporting for 30-Day Letters for Revenue Agents (SB/SE Field and Office Examiners only)

- (1) Time spent by examiners to prepare the unagreed report and accompanying explanatory lead sheets or standard explanations is charged to the case under Direct Examination Time (DET).
- (2) Time spent by examiners on 30-day letter activities (including protest reviews, and follow-up letter) will be reported using non-examination Activity Code 646. Preparation of the report (including explanatory lead sheets or standard explanations) is not reported under Activity Code 646.

4.10.8.13
(09-13-2019)

Unagreed Case Procedures: Preliminary (30-Day) Letters (LB&I Examiners only)

- (1) Preliminary (30-day) Letters are used to furnish taxpayers a copy of the examination report and advise them of their appeal rights when they do not agree with the results of an examination. Refer to Statement of Procedural Rules 601.105(d) - Thirty-day letters and protests for legal authority and additional explanation. Generally, the 30-day letters are:

- a. Tax Compliance Officers (TCO) - Letter 915 (issued with first report)
 - b. Field Examination Domestic and International Business Compliance - Letter 950-Z
 - c. Transferee/Transferor Cases - Letter 955. See IRM 4.10.13.3, Transferor-Transferee Liability.
- (2) Preliminary (30-day) Letter procedures are applicable to income, estate, gift, excise, and employment tax cases.
 - (3) Per Appeals, 365 days must be remaining on the statute when they receive the case. The group should consider a minimum of 30 days for processing in consideration of the statute requirements.
 - (4) Managerial involvement is required in unagreed cases. A field group preliminary (30-day) letter generally should not be issued to the taxpayer unless the manager has contacted the taxpayer and/or representative to attempt to resolve the tax controversies and reach an agreement. If the case is a no-show/no-response case, the manager will verify that an address confirmation was done. These efforts will be documented in the case file. Form 9984 may be used for this purpose.
 - (5) Fast Track Settlement (FTS) is available on LB&I cases. FTS may be initiated at any time after an issue has been fully developed. See IRM 4.51.4, LB&I/ Appeals Fast Track Settlement Program (FTS), for more information.
 - (6) Letters are issued in change cases and in no change cases involving the disallowance in full of claims for refund. Exceptions are fraud cases involving criminal prosecution and frivolous filers/nonfilers when Appeals does not have jurisdiction for these cases.

Note: For frivolous filers / nonfilers, examiners use Letter 1963, Frivolous Filer Examination Report Transmittal, to transmit the report and explain why administrative appeal rights are not applicable.

- (7) If an examination of a return results in a deficiency or overassessment that is offset (no deficiency or overassessment results) by a net operating loss carryback, a computation of restricted interest may be required. If the taxpayer disagrees with the examination results, they will be afforded the same opportunity to request an Appeals hearing, as if a deficiency/overassessment were involved.
- (8) IRC 6651(f), Fraudulent Failure to File (FFTF) Cases — The portion of a FFTF penalty attributable to the amount of tax shown on a return is assessable immediately and is not subject to deficiency procedures. To ensure that the facts of a particular case support fraud, and because the assessment of a FFTF penalty attributable to the amount shown on a return will not be reviewed by the Tax Court, all 30-day letters proposing a FFTF penalty must be reviewed and approved by Area Counsel prior to issuance. Furthermore, the period of limitations on assessment of such portion would not be suspended by the issuance of a notice for the other portion.

4.10.8.13.1
(09-13-2019)
**Reports (LB&I
Examiners only)**

- (1) Report forms used to present the audit findings for an unagreed case are similar to those used for agreed cases and the instructions for completing agreed case reports generally apply. However, these unagreed report forms do not include a signature line for the taxpayer's consent to assessment and collection. Unagreed cases are "excepted" agreed cases. See IRM 4.10.8.5.2 for instructions for preparing waivers (Form 870). Also, there is no statement regarding the Area Director's acceptance of the report.
- (2) The following report forms are used for unagreed cases.

Note: Use of Form 4549–A is optional for Office Examination in lieu of Form 4549.

Type of Taxpayer	Report Form	Agreement or Waiver Form
Individual (1040)	4549–A	870
Corporations (1120)	4549–A	870
Non-TEFRA Partnerships (1065)	4605 and 886–S	N/A
S Corporations	4605 886–X	870 (entity tax) N/A (nontaxable entity)
Fiduciary	4605 886–W	870 (entity tax) N/A (nontaxable entity)
Domestic International Sales Corporations	4605 886–Y	N/A

4.10.8.13.1.1
(08-11-2006)
**Separate Assessments
on Joint Taxpayers
(LB&I Examiners only)**

- (1) In certain cases, it may be necessary to set up separate assessments for taxpayers who filed a joint return. For example, when only one spouse signs an agreement and the deficiency is not fully paid, an assessment may need to be made on the agreeing, or "obligated" spouse in order to protect the statute of limitations for that taxpayer while unagreed procedures are applied to the other spouse. Similarly, a separate assessment would need to be made when only one spouse does not petition Tax Court after receiving a 90-day letter. In these situations, separate assessments are made using MFT 31, as long as the SSN's are valid (no asterisks). If invalid, Non-Master File procedures found in IRM 21.7.12 and IRM 3.17.46 will apply.
- (2) Although an assessment will be made on the obligated spouse, no collection notices will be mailed until the case is ultimately resolved (and assessment adjusted if necessary). At that time, an MFT 31 assessment will be set up for the other spouse.
- (3) If only one spouse signs an adequate protest requesting Appeals consideration and no response is received from the other spouse, the case will normally be sent to Appeals as long as there is sufficient time on the statute of limitations for both spouses. In other words, one signature on the protest may be adequate.

- (4) However, if one spouse agrees and one protests, a separate assessment may be necessary on the obligated spouse especially if the statute of limitations for that spouse is imminent. In any event, note on the Form 3198 that one spouse has signed a waiver, so CCP can calculate interest accordingly.
- (5) If one spouse agrees and the other does not respond to the 30-day letter, a separate assessment needs to be set up on the obligated spouse before the case is sent to Technical Services for 90-day letter procedures.
- (6) Procedures for creating an MFT 31 account:
 - a. Request the creation of the MFT 31 account for the obligated spouse by preparing Form 3177. The top section of Form 3177 will be completed, using the primary SSN.
 - b. In the "Other" section, put TC 971 in the empty box, and on the line state "Action Code 102" (Action Code 103 is used if both spouses are unagreed but only one petitions the Tax Court after receiving a 90-day letter). Also on the "Other" line the obligated (agreeing) spouse's SSN is noted as the "XREF SSN: XXX-XX-XXXX."
 - c. Complete the MFT Code (30) and the taxable period (a separate Form 3177 is needed for each year). The TC 971 and appropriate action code on the MFT 30 account will create an MFT 31 account for the XREF SSN listed.
- (7) Send or fax the Form 3177 to CCP/FORT manager and request a partial assessment be made on the obligated spouse:
 - a. Forms 3198, 5344 and the examination report are needed in addition to the Form 3177.
 - b. Note on Form 3198 "input TC 971 per attached Form 3177." Include your name and fax number so CCP can fax you a copy of Form 5344 after the partial assessment has been made.
 - c. Form 5344 will show MFT 30 and the primary SSN. In the top left of the Form 5344 put an "S" in the blank following AMCLS. In Item 56 put either "P" or "S" depending on whether the assessment is being made on the primary or secondary spouse. This is a manual input, so if RGS won't print the Form 5344 with this information, it can be hand written on the form.
 - d. Send or fax these forms to your CCP/FORT manager, while you continue to hold the case.
- (8) Continue normal unagreed procedures for the disagreeing/petitioning spouse. Associate an IMFOLT and / or copy of the Form 5344 received from Case Processing showing that the partial assessment on the other spouse has been made on MFT 31. Close the case as you normally would (including RGS CEAS), but note on the Form 3198 that Manual Closure is required due to MFT 31 assessments.
- (9) Examiners may refer to IRM 21.6.8, Split Spousal Assessments (MFT 31 / MFT 65), for additional information.
- (1) A copy of the examiner's lead sheet relating to each adjusted issue will be attached to the report form to explain the adjusted items. A separate lead sheet should be used for each adjustment. If the adjustment is applicable to more than one year, the adjustments should be shown on one combined lead sheet.

4.10.8.13.2
(08-11-2006)
**Explanation of Items
(LB&I Examiners only)**

- (2) The following format should be used for Field Examination cases:
- a. Title — Each lead sheet should be numbered and titled to correspond with the adjustment on the audit report. See IRM 4.10.9.7.2, Workpapers: Indexing. The lead sheet should reflect the amount per return, the amount per audit, and the resulting adjustment.
 - b. Facts — Each lead sheet will include a statement of the facts upon which the adjustment is based. The statement should be in narrative form. The facts must be relevant to the issue and should be stated accurately and objectively. Facts favorable to both the Service's and taxpayer's position must be included.
 - c. Applicable Law — The applicable authority should be correctly cited and explained (if necessary). Rulings, opinions, and decisions relied upon are to be clearly stated and identified in the explanation. Citations are not required when the adjustment is predicated entirely on facts, or when they serve no useful purpose. However, reports should be informative for the taxpayer.
 - d. Taxpayer's Position — The taxpayer's position should be stated (in narrative form) if known. The legal authority, if any, that the taxpayer is using as the basis of their argument should also be cited. If the taxpayer has provided a written position statement, include the entire statement in this section or summarize the statement and include the entire document in the report as an exhibit.
 - e. Argument — Relate the facts, as previously stated, to the cited authority through a narrative discussion to support the Service's position. Also include the Service's refutation of the taxpayer's position. The examiner's argument will be included in the new law section of the applicable issue lead sheet.
 - f. Conclusion — Briefly state a conclusion of the Service's position.
- (3) The copy of each issue lead sheet that is used as an attachment to the examination report may be modified to remove extraneous information (e.g., workpaper cross-referencing, audit steps that were not employed during the audit, etc.) that would be of no use to the taxpayer or representative.

4.10.8.13.3
(06-10-2005)

**Alternative Positions
(LB&I Examiners only)**

- (1) An alternative position for an issue in an unagreed case is a secondary position that the Service may ultimately rely on if the primary position cannot be upheld. An alternative position is recommended as Appeals generally will not raise new issues. Therefore, the examiner must outline all alternative positions that may be applicable if the primary position is not sustained.
- (2) The primary and secondary positions will usually address a different set of law and arguments. Due to this, the tax computation for the alternative position may be different from the primary position.
- (3) An alternative position should be used for tax law that supports two totally separate positions. For example, when an adjustment is proposed to disallow business expenses due to IRC 183, hobby loss provisions; the IRC 162 adjustment should be written up as an alternative position to IRC 183. The primary position should be the larger of the liabilities when two positions are considered.
- (4) An alternative position is not required for an adjustment that is supported by multiple code sections of tax law for one position. For example, to support a

disallowance of business expenses, IRC 162(a), ordinary and necessary business expenses, and IRC 6001, lack of substantiation, may be incorporated into one explanation of adjustment.

4.10.8.13.3.1
(06-10-2005)
**Reports for Alternative
Positions (LB&I
Examiners only)**

- (1) The alternative position must be discussed with the taxpayer, or his/her authorized representative prior to issuing the examination report. The alternative position report must be included in the report presented to the taxpayer.
- (2) The facts, law, taxpayer's position, and conclusions for the alternative position on an issue will be presented on a separate lead sheet from the primary position.
- (3) If the tax computation changes due to the alternative position, a separate Form 4549–A from the primary position will be prepared in addition to a separate lead sheet.
- (4) The top of each of these report forms for the alternative position will be marked "Alternative Issues."
- (5) The alternative position report will be placed behind the report containing the primary position.
- (6) For unagreed cases that contain multiple related issues it will not be necessary to prepare an alternative tax computation on Form 4549–A for each combination of alternative issues. Form 4549–A and appropriate lead sheets will be prepared for the primary issues. However, only lead sheets will be prepared for the alternative issues.
- (7) If a partial agreement is being solicited in conjunction with a correlative (i.e. whipsaw) adjustment and the taxpayer wants to agree with the non-correlative adjustment(s) secure Form 870. Form 870 must specifically state that the correlative adjustment(s) is/are not shown in the computation of the deficiency or overassessment.
- (8) Backup withholding is a strong alternative position in a case where an Employer did not issue Form 1099 and did not get TIN's from the workers. Procedures for backup withholding can be found in IRM 4.23.8.13, IRC 3406 – Backup Withholding.
- (9) The negligence/substantial understatement portion of the accuracy related penalty is the standard alternative position when asserting the Fraud Penalty.
- (10) The failure to file penalty (FTF) is the standard alternative position to the fraudulent failure to file penalty (FFTF).
- (11) When the accuracy-related penalty attributable to a substantial understatement of income tax is not asserted due to the assertion of negligence or disregard of the rules or regulations, an unagreed report will include the substantial understatement as an alternative position.

4.10.8.13.3.2
(08-11-2006)
**References - Alternative
Position in Unagreed
Cases (LB&I Examiners
only)**

- (1) References for Alternative Position in Unagreed Cases:
 - IRM 4.10.6.4 - Finalizing Penalty Determinations
 - IRM 4.23.10.16.3 - Alternative and Whipsaw Positions in Unagreed Cases

- IRM 20.1.5.3.2 - Common Features of Accuracy-Related and Civil Fraud Penalties
- IRM 25.1.4.3.10 - Preparation of the Pre-Prosecution Report

4.10.8.13.4
(09-13-2019)

Form Letters (LB&I Examiners only)

- (1) Generally, Preliminary (30-day) Letters allow the taxpayer 30 days to request Appeals consideration of their case. The following form letters, specific to the type of case, are used for this purpose:
- a. Letter 950 — for straight deficiency, straight overassessment, or mixed deficiency and overassessment Field Examination cases;
 - b. Letter 950-Z - for straight deficiency, straight overassessment, or mixed deficiency and overassessment, Field Examination Domestic and International Business Compliance cases;
 - c. Letter 915 — for straight deficiency, straight overassessment, or mixed deficiency and overassessment Office Examination cases;
 - d. Letter 569 — for claim disallowance cases;
 - e. Letter 3391 — for nonfilers;
 - f. Letter 1125 — for preparer penalty cases; and
 - g. Letter 1963 - for frivolous filer / nonfiler cases.
 - h. Restricted Interest Cases — the examiner will need to prepare and the manager approve a letter patterned after the form letters listed above. No form letter is available due to infrequent use. The letter should address the restricted interest issue, rather than a deficiency or overassessment of tax.

4.10.8.13.5
(09-12-2014)

Report Transmittal: Form 4665 (LB&I Examiners only)

- (1) Refer to IRM 4.10.8.12.6 for current guidance regarding the use of Form 4665.

4.10.8.13.6
(06-10-2005)

Contents of Preliminary (30-Day) Letters (LB&I Examiners only)

- (1) Preliminary (30-day) Letters will include the following documents:
- a. Appropriate form letter;
 - b. Examination report and waiver;
 - c. Publication 3498, The Examination Process (or Publications 1, 5, and 594).
- Note:** Publication 3498 must always be enclosed with the preliminary (30-day) letter even if it was provided with a previous report or letter. (Pub 3498 not required if Letter 950-Z is issued.)

4.10.8.13.7
(04-05-2017)

Mailing Preliminary (30-Day) Letters (LB&I Examiners only)

- (1) Preliminary letters will be sent by ordinary mail unless it is considered necessary to document the mailing and delivery. In such cases, certified or registered mail should be used and a return receipt requested.
- (2) Preliminary (30-day) Letters should be prepared by the examiner, and could include the examiner's name or group manager's name, as the situation warrants, in the contact area of the letter.
- (3) The authority to sign and issue the letters is delegated to group managers.
- (4) In the case of a joint return, a complete original Preliminary Letter will be sent to each spouse.

4.10.8.13.8
(08-11-2006)
**Extension of Time to
Respond (LB&I
Examiners only)**

- (5) A copy of the Preliminary Letter should be sent to the taxpayer's representative.
 - (6) A copy of the Preliminary Letter will be maintained in the case file.
 - (7) After mailing the Preliminary Letter, the case will be held in the group's suspense files. Managers will ensure adequate controls for cases in 30-day status.
- (1) In general, Statement of Procedural Rules 601.105(d)1, does not provide for any extension of time to reply to Preliminary (30-day) Letters. However, as a matter of practice, extensions may be granted under reasonable circumstances.
 - (2) Reasonable circumstances include but are not limited to the following:
 - a. The taxpayer retains a representative and demonstrates a need for more time to prepare a meaningful protest,
 - b. The taxpayer retains a new representative,
 - c. Sickness or injury of the taxpayer or representative, or
 - d. Issues are complex and require extensive research.
 - (3) Requests for extensions should be in writing and should state the reason(s) why additional time is needed. Since many requests are made by telephone, the extension may be granted verbally and confirmed in writing upon receipt of the written request.
 - (4) Extensions should not be granted if the statute of limitations will expire within 240 days and the granting of an extension will not leave sufficient time to process the case. Under such circumstances an extension to respond to a Preliminary Letter will be contingent upon securing an extension of the statute of limitations.
 - (5) Extensions are granted by the group manager or a designated management official. The taxpayer should be notified in writing of the extension and the specific extended response date. Letter 686 will be used for this purpose. Extensions are normally granted for no more than 30 days unless a specific reason supports additional time.
 - (6) If the taxpayer lives outside of the United States, the 30-day letter should be modified to allow for a reasonable period of time to respond.
 - (7) If an examination report is changed after a 30-day letter has been issued, follow Corrected Report procedures and solicit an agreement. If the taxpayer does not agree to the corrected report, take the following steps, as appropriate:
 - If the corrected report reduces the previous examination report and no new issues are raised, the case can be closed after the initial 30 days have expired. No new 30-day letter is needed.
 - If the corrected report raises new issue(s) or the proposed deficiency is increased, a new 30-day letter will be issued, if sufficient time remains on the statute of limitations.

4.10.8.13.9
(08-11-2006)

**Response to Preliminary
(30-Day) Letters (LB&I
Examiners only)**

- (1) If a signed agreement form (or full payment not designated as a “6603 deposit”) is received in response to the Preliminary Letter, the case will be closed from the group within 10 days from the date the report is received using agreed case closing procedures.
- (2) If the taxpayer indicates agreement to part of the report, solicit a partial agreement. If a partial agreement is received, process according to IRM 4.10.8.6. The case will remain in 30-day suspense awaiting either a protest or default for the remaining issues.
- (3) If a waiver is not signed, but a partial remittance is received (not specifically designated as a deposit in the nature of a “6603 deposit”) the payment will not be treated as a partial payment of tax unless the taxpayer designates it as such.
 - a. Contact the taxpayer by phone to ask whether the payment was intended to be a payment of tax or a “6603 deposit”. Document the conversation in the case file. If the taxpayer cannot be reached, draft a follow-up letter to inform the taxpayer we did not receive a protest or a signed waiver or agreement to the adjustments; we received the remittance and need to know whether they intended the remittance to be a payment of the tax deficiency or a “6603 deposit”; and we need to receive a response within 15 days from the date of the letter or the case will be closed for issuance of a Notice of Deficiency.
 - b. If the taxpayer was contacted and agrees with all adjustments but could not pay the entire liability at the time and intended the remittance to be a partial payment, have the taxpayer sign the waiver and determine if the taxpayer is eligible for an installment agreement. Process the payment as a partial payment. Do not hold the payment until the waiver is received.
 - c. If the payment was intended to be a “6603 deposit”, advise the taxpayer that if we don’t receive a protest or signed waiver, a Notice of Deficiency will be issued.
- (4) The taxpayer may respond by requesting an appeal. The appeal request procedure below applies to Field Assistance as well as to Field/Office Examination.
- (5) Appeal Request — Field/Office Examinations
 - a. For any case where the total amount of proposed additional tax, additions to tax and penalties, proposed overassessment, or claimed refund, credit, or abatement for any tax period, does not exceed \$25,000, a request for an appeal is made using small case procedures. These procedures require a written request asking for Appeals consideration, indicating the changes the taxpayer does not agree with and any reasons for disagreement.
 - b. A case with a deficiency exceeding \$25,000 requires a formal written protest.
- (6) If the taxpayer submits a formal written protest it will be reviewed at the group level, as designated by management, within seven days of receipt to determine whether:
 - a. The protest is adequate,
 - b. The case requires further development by the examiner,
 - c. The examiner’s report should be modified,
 - d. The taxpayer’s written protest includes the required documents.

- (7) A taxpayer's formal written protest must include the following:
 - a. A statement that the taxpayer wants to appeal the examiner's findings to the Appeals Office;
 - b. The taxpayer's name and address and daytime telephone number;
 - c. A copy of the letter showing the proposed changes and findings being protested or the date and symbols from the letter;
 - d. The tax periods or years involved;
 - e. An itemized schedule of the adjustments with which the taxpayer does not agree;
 - f. A statement of facts supporting the taxpayer's position on any contested factual issue;
 - g. A statement outlining the law or other authority, if any, upon which the taxpayer is relying; and
 - h. A declaration of truth for item "f" above under penalties of perjury. This may be done by adding the following signed declaration to the protest document: "Under penalties of perjury, I declare that I have examined the statement of facts stated in this protest, including any accompanying documents and, to the best of my knowledge and belief, they are true, correct, and complete."
- (8) If the taxpayer's representative submits the protest for the taxpayer, the representative may include a substitute for the taxpayer's declaration described in paragraph (7)h above. The declaration will state:
 - a. The representative prepared the protest and accompanying documents; and
 - b. Whether the representative knows personally that the facts contained in the protest and accompanying documents are true and correct.
- (9) The protest should be returned to the taxpayer if incomplete and additional time granted to perfect the document. The signature of only one spouse on a protest regarding a joint return does not make the protest inadequate.
- (10) The case should be returned to the examiner for further development if the protest contains information warranting consideration. Cases returned for additional development should be considered priority work and given expedited consideration. If the examiner or group manager feels that there is something in the protest that does not change the determination, but requires further comment or explanation and is not confidential in nature, a rebuttal can be prepared and included in the case file before it is sent to Appeals. If a rebuttal is prepared, a copy must also be provided to the taxpayer.

Reminder: Appeals will not return cases for further development.

- (11) The group manager should attempt to discuss the disputed issues with the taxpayer (representative) in an attempt to resolve the issues, obtain agreement, and limit taxpayer burden. If agreement cannot be reached, the case will be forwarded to Appeals.
- (12) If the taxpayer verbally requests a transfer of jurisdiction for the appeal, and the written protest is complete, the case file will be sent promptly to the local Appeals office serving the transferor's area. This procedure applies even if the taxpayer has requested a hearing in an Appeals office other than the one servicing the transferor's area.

- (13) The fact that a Statutory Notice of Deficiency has been issued to the taxpayer does not preclude transfer of protested cases to Appeals for:
 - a. Other taxable periods of the same taxpayer,
 - b. Other types of tax for the same taxable periods for the same taxpayer, or
 - c. An offer in compromise covering the same type of tax and the same taxable periods of the taxpayer.
- (14) Appeals may also request jurisdiction of cases related to the cases described in (13) above.
- (15) A case can be transferred to Appeals with a copy of the taxpayer's return if:
 - a. A transcript of account is attached to the duplicate return; and
 - b. The case does not involve fraud, a jeopardy assessment, a Joint Committee case, or a Statutory Notice of Deficiency issued as a basis for closing.
- (16) Requests from Appeals for additional information or further verification of facts in a protested case will be completed expeditiously.

4.10.8.13.10
(08-11-2006)
**Follow-Up to Preliminary
(30-Day) Letters (LB&I
Examiners only)**

- (1) Field Examination— If the taxpayer has not filed a protest within the time allowed, but indicated their intent to do so, Letter 923 will be sent to the taxpayer to allow an additional 15 days to file a protest. Letter 923 should be issued no later than seven calendar days after expiration of the original Preliminary Letter.
- (2) If the Preliminary Letter is returned as undeliverable to the address on file, then an attempt will be made to obtain the correct address.
 - a. If the taxpayer's correct address is determined, the Preliminary Letter will be mailed to the new address. The period in which the taxpayer may reply starts with the date the letter was mailed to the new address.
 - b. If the taxpayer's correct address cannot be determined, then the case will be processed as outlined in IRM 4.10.8.13.11.
- (3) If the Preliminary Letter proposes an overassessment or disallowance of a claim with no change in tax liability, no follow-up action should be taken. The case should be closed as outlined in IRM 4.10.8.13.11.
- (4) If no response to a follow-up letter is received, the case will be processed as outlined in IRM 4.10.8.13.11.

4.10.8.13.11
(08-11-2006)
**No Response to
Preliminary (30-Day)
Letter (LB&I Examiners
only)**

- (1) Cases will be closed from the group promptly within 20 days after the expiration of the time (including extensions) allowed to file a protest.
- (2) Deficiency cases— A Statutory Notice of Deficiency will be prepared by Technical Services and issued when no response was received to the preliminary (30-day) letter subject to the following conditions:
 - a. It appears reasonable that the taxpayer or authorized representative received the Preliminary (30-day) Letter or, if not received, the Service exercised due diligence in determining the taxpayer's last known address.

- b. The taxpayer is temporarily away and is not expected to return within a reasonable period of time, or has not returned after a reasonable extension has been granted.
- c. Follow-up action was taken without success.
- d. The notification required by IRC 534(b) cases involving alleged unreasonable accumulation of earning and profits, has been issued.

Note: See IRM 4.8.9.4, When Issued, for examination group instructions.

- (3) Regardless of the conditions outlined in paragraph (2) above, a statutory notice of deficiency will be issued within the time fixed by law if the statute of limitations will expire within 150 days and the taxpayer will not execute a consent to extend the statute of limitations period. See IRM 4.8.9.4.
- (4) Overassessment proposed— If the taxpayer fails to reply to a preliminary letter advising of a proposed overassessment (adjustments that decrease the tax liability exceed the adjustments increasing the tax liability), the case will be closed out of the group to Case Processing for assessment of the overassessment.
- (5) Claim disallowance— If the taxpayer fails to respond to the preliminary letter advising them of the disallowance of the claim, a Notice of Claim Disallowance will be issued by Technical Services.
 - a. If there is no change to the tax liability (neither a deficiency or overassessment), indicate on Form 3198, “Issue Letter 906, Final Full Claim Disallowance, enclosed inside the case file.”
 - b. If the claim is disallowed in part with a resulting overassessment, indicate on Form 3198, “Letter 905, Final Partial Claim Disallowance Letter, enclosed inside the case file.”
 - c. Both letters include several lines for the examiner to insert the reasons for disallowance. Complete the letter except for the date, include the reasons for disallowance, and place the letter inside the case file on the top.
- (6) Employment tax cases— A Preliminary (30-day) Letter will be issued in employment tax cases to advise taxpayers of all unagreed proposed adjustments to their tax liabilities and of conclusions reached in no change cases involving the disallowance in full of claims for refund. Generally, if a valid protest is not received for an employment tax case, it is closed without issuance of a statutory notice of deficiency. However, examiners should refer to IRM 4.23.22.8.6, No Response to 30-Day Letter, for additional information when the proposed tax involves IRC 7436 issues.
- (7) Restricted interest cases— If the taxpayer fails to reply to the special letter within the time allowed, the tax liability will be adjusted as proposed in the examination report. See AIMS processing procedures in IRM 4.4.1, Introduction, for more information regarding restricted interest assessment.

4.10.8.13.12
(06-10-2005)

**Time Reporting for
Preliminary (30-Day)
Letters (LB&I Examiners
only)**

- (1) Time spent by examiners to prepare the unagreed report and accompanying explanatory lead sheets is charged to the case under Direct Examination Time (DET).
- (2) Time spent by examiners on 30-day letter activities (including preparation of the 30-day cover letter, protest reviews, and follow-up letter) will be reported

using non-examination Activity Code 646. Preparation of the report (including explanatory lead sheets) is not reported under Activity Code 646. When 30 day activity begins, the case should be removed from the agent's inventory and kept in the manager's office.

- (3) The case should be updated to Status Code 13 on AIMS when the Preliminary Letter is sent to the taxpayer from the group. If the Preliminary Letter is sent from Technical Services, the case will be updated to Status Code 22
 - a. AIMS Statute Table 4.1, at the group level, will include cases in Status Codes 9–18.
 - b. AIMS Table 4.0, for Technical Services Staffs, will include cases in Status Code 22.
- (4) If further development is required after the Preliminary Letter activities have begun, the case will be returned to the examiner and reactivated under Direct Examination Time, Status Code 12.

4.10.8.14
(09-13-2019)
Corrected Reports

- (1) This section includes instructions for correcting reports which include errors. Revisions to reports are considered "corrected reports" when changes are made to reports issued with 30-day letters or to reports which have been signed by the taxpayer. Reports which are revised due to additional information provided during the examination (before a 30-day letter or agreement) should be retained in the workpapers. If a closing letter (such as Letter 590 or Letter 987) has been sent to the taxpayer, reopening procedures must be followed before proposing changes unfavorable to the taxpayer. See IRM 4.10.8.9, Claims.
- (2) Signed waiver and the error is in the taxpayer's favor - If an error was made in computing a deficiency, overassessment or penalty shown on a previously executed report/waiver that is in the taxpayer's favor, a corrected report will be prepared. A copy should be given to the taxpayer; however, no signature on the new report/waiver is required. Note on the corrected report, "Refer to the taxpayer's signature on the report dated (date)."
- (3) Signed waiver and the error is NOT in the taxpayer's favor - If an error is against a taxpayer (more tax due or less refund), the examiner has two alternatives.
 - Prepare a corrected report and solicit a new waiver. If the taxpayer does not agree to the corrected report, follow partially agreed procedures; or,
 - Process the case for the amount shown on the original executed report/waiver if it falls under the error tolerance levels of *Delegation Order SBSE 4.41, Error Tolerance Levels*. The group or function discovering the error will prepare a memo to CCP signed by the appropriate delegated official. Place the memo on top of the report in the case file.
- (4) A corrected report should be prepared as follows:
 - a. Across the top of the corrected report write "Corrected Report."
 - b. In the other information or remarks section write, "This report supersedes report dated (date)."
 - c. The taxpayer's signature is only required on the corrected report if the change is in the government's favor, i.e., more tax or less refund. If the taxpayer disagrees with the corrected report, unagreed procedures are applicable. Consider each year separately with no netting of tax periods.

New waivers may need to be solicited even though the net effect of the corrections may be in favor of the taxpayer.

- (5) The original report will be noted across the top, "This report superseded by report dated (date)."
- (6) Both the original and corrected reports are included in the case file.
- (7) Note on Form 3198 "Corrected Report."

4.10.8.15
(05-14-1999)
Issues Requiring Special Reports and Forms

- (1) This section includes examination issues which require computations on a standard form. When an adjustment is proposed in any of these areas, the applicable form should be completed and attached to the examination report to clarify how the adjustment was determined.

4.10.8.15.1
(08-11-2006)
Depreciation

- (1) Use Form 1914, Computation of Allowable MACRS/ACRS/Depreciation Deduction, accessed via RGS (or equivalent schedule), to compute allowable depreciation expenses.

4.10.8.15.2
(06-10-2005)
Passive Activity Loss Limitations

- (1) Worksheets should be provided to the taxpayer in cases in which the passive loss, the allowed loss and the disallowed (suspended, carryover) loss must be allocated among the various passive activities so the activities can be properly reported in subsequent years.

4.10.8.15.3
(08-11-2006)
Adjustments to Net Operating Loss (NOL)

- (1) Any adjustment to a net operating loss deduction should be completely explained in the report. The adjustment on Form 4549 should be identified as a NOL carryback with source year identified or NOL carryforward with source year identified.
- (2) Examiners should refer to IRM 4.11.11, Net Operating Loss Cases, when making adjustments to net operating losses.
- (3) Examiners should be aware that Net Operating Loss deductions may result in Joint Committee jurisdiction. See IRM 4.36.2, Identification of Joint Committee Cases.
- (4) Examiners should also note that Net Operating Loss deductions usually require restricted interest computations. For examination procedures on these cases, see IRM 4.10.8.15.3.4.

4.10.8.15.3.1
(08-11-2006)
Computation of the Net Operating Loss

- (1) A report which proposes an adjustment to a net operating loss deduction should include all computations necessary to fully explain the source year and amount of any net operating losses.
- (2) The computation will include the modifications required by IRC 172(d).
- (3) Form 3621, Net Operating Loss Computation - Individuals and Corporations, and Estates and Trusts, may be used for this computation.
- (4) Corporate NOL and individual NOL worksheets may be found in the *Special Applications* section of the RGS website.

4.10.8.15.3.2
(08-11-2006)

Computation of the Net Operating Loss Deduction

- (1) The report should include a computation of the amount of the net operating loss allowable in any year.
- (2) The computation will include the loss modifications required by IRC 172(b)(2).
- (3) Form 3621–A, Computation of a Net Operating Loss Deduction for Intervening Years Modifications, may be used for this computation.

4.10.8.15.3.3
(08-11-2006)

Reports After a Tentative Refund or Credit

- (1) IRC 6411 allows the taxpayer to apply for refund or credit using Form 1045 (for individuals) or Form 1139 (for corporations); the adjustment to the tax is not a claim. Examiners should be aware that tentative allowances are special restricted interest cases. The Campus computes and pays restricted interest when the tentative refund is processed. See IRM 4.10.8.15.3.4. The examination report reflecting a tentative allowance of a refund or credit is explained below.
- (2) Adjustment of the net operating loss deduction (NOLD) — The report should show the correct NOLD amount. If the NOLD is allowed in full, the entire NOLD would be shown as an adjustment. If the NOLD is not allowed, the adjustment on the report would be zero.
- (3) Taxable income as shown on the report — The taxable income per return (or as previously adjusted) is the amount prior to the processing of the tentative allowance.
 - a. Taxpayer’s examination report prepared per the instructions in this section, and
 - b. An examination report with the following notated in the top margin “For Case Processing Use Only” — Prepare this examination report using RGS (this will ensure that Form 5344 is correct). The taxable income should reflect the taxable income as previously adjusted by incorporating the tentative carryback per the transcript.
- (4) Tax previously adjusted — The tax as previously adjusted should include any tax decrease allowed in processing of the tentative allowance. The report should include a schedule showing the computation of the tax as previously adjusted.
- (5) Examples of a report after a tentative allowance — Facts: Corporation X files its 1992 Form 1120 timely. The taxable income is \$888,888 and the tax is \$302,222. In 1995 there is a net operating loss of \$30,000. On 4/30/96, a Form 1139 is filed and the corporation receives a refund of \$10,200. The 1992 and 1995 returns are examined.
 - a. Example 1: The examination results in no change to 1995. Therefore, the NOLD is allowed in full in 1992. There is no change in tax because the corporation has already received the tentative refund. See Exhibit 4.10.8-10.
 - b. Example 2: The examination results in additional income in 1995 of \$17,000. This reduces the NOLD to \$13,000. There is a deficiency in 1992 of \$5,780 because the corporation received a tentative refund based on a NOLD of \$30,000. See Exhibit 4.10.8-11.
 - c. Example 3: The examination results in income in 1995 of \$50,000. This eliminates the NOLD. There is a deficiency of \$10,200 because the corporation received the tentative refund of \$10,200. See Exhibit 4.10.8-12.

4.10.8.15.3.4
(08-11-2006)

Restricted Interest

- (1) Interest is charged on a tax deficiency under IRC 6601 for the period of time the taxpayer had use of the government's money, or is paid on an overassessment or overpayment under IRC 6611 for the time the government has the taxpayer's money. In most instances, the period of time for which interest is charged or paid to the taxpayer begins on the due date of the return.
 - a. Examination changes that follow this rule are called "General Adjustments".
 - b. Examples include adjustments to expenses, changes to income, increases or decreases in a current credit, and adjustments made to losses/credit carried forward from prior years.
- (2) The interest accrual period is shorter, or "restricted" if certain deductions, credits, or items of income are present.
 - a. Examination changes to these items are called "Restricted Adjustments".
 - b. Examples include net operating loss, capital loss, or credit carrybacks from a subsequent year. In these cases, the interest is computed from the due date of the source year of the carryback item. This is also called the effective date of the restricted adjustment.
 - c. See IRM Exhibit 20.2.1-1, Provisions Restricting Interest, which lists the deductions, credits, or items of income and the provisions of the Code which "restrict" interest.
- (3) Cases with restricted interest adjustments are complex and require special handling.
 - a. Unagreed cases are sent to Appeals via Technical Services.
 - b. Agreed cases with certain refunds over \$2 million (\$5 million for C Corporations) are sent to Joint Committee Review in LB&I. For more details on Joint Committee criteria, see IRM 4.36, Joint Committee Procedures.
 - c. Agreed cases that do not meet Joint Committee criteria are sent to Technical Services if they require a Form 2285, Concurrent Determinations of Deficiencies, to be prepared.
 - d. After section I of Form 2285 is completed for an LB&I Coordinated Industry Case, the SB/SE Technical Services or LB&I Joint Committee reviewer should send a copy of the form to the team coordinator for its inclusion in the case historical file. If reviewers or CCP personnel have any questions about the computations for any Form 2285, they should contact the examiner who prepared the report for clarification before sending it back to the group.
 - e. Form 2285 is required when one or more of the following three criteria are present: both general adjustments and restricted adjustments; carryback adjustments from more than one tax period; or more than one restricted interest computation date.
 - f. In these cases requiring Form 2285, the examiner's report should clearly reflect adjustments to carrybacks or recapture of NOLs or credits. The adjustment on the examination report should reflect the source year of the carryback, i.e., "NOL carryback from tax year YYYYMM". CCP will use the completed Form 2285 to compute the interest for the tax year(s) on the examination report.

Note: For more instructions related to suspended interest see IRM 4.10.8.15.13.

- g. In complex cases with multiple restricted adjustments, it is suggested that the examiner prepare a Joint Committee spreadsheet for the applicable period(s). See IRM 4.36.3.6.5, Joint Committee Spreadsheets.
 - h. Agreed cases that do not meet Joint Committee jurisdictional amount and do not require a Form 2285 should be sent to CCP in status code 51.
 - i. To aid CCP in computing the restricted interest adjustment, examiners should reflect the source year of the carryback in the adjustments section of the examination report and identify the tax periods containing the restricted adjustments on Form 3198.
- (4) In applying these rules, examiners should disregard any restricted adjustment that represents a tentative allowance filed on Form 1045 or Form 1139 that has been accepted as filed. This is because when the tax is paid, the campus function automatically generates a restricted interest computation.
 - (5) For all cases with restricted interest, Form 4549, or other appropriate form, with all adjustments identified must include in "Other Information" the following or a similar statement; "This report involves restricted interest. In such cases, some or all of the interest is computed from a date other than the due date of the return". Additional language must be added to explain the computation period, for example:
 - a. "Interest allocated to your NOL carryback from 2014, is computed from the due date of that return, 4/15/2015."
 - b. "Under IRC 6404(g), interest is suspended from MM/DD/YYYY to MM/DD/YYYY."
 - c. "Your tentative refund filed on Form (1045 or 1139) for YYYYMM has been (fully or partially) disallowed. The interest related to this adjustment is restricted to the due date of the source year return."
 - (6) For restricted interest cases that result in no change to tax liability, a statement should be added to the "Other Information" section of the report: "Even though there is no change in your tax liability, there may be interest payable or receivable as a result of this report. This is because one or more of the adjustments is a restricted adjustment. Tax related to this adjustment has an interest computation date different from the return". See IRM 4.10.8.3.3. The examiner should solicit the taxpayer's agreement in such cases.
 - (7) Notate Form 3198 with "Restricted Interest applies to yr ____" by checking the applicable box and filling in the blank for the year. If Form 2285 is not required, check the box in the "Special Features" section. If Form 2285 is required, check the box in the "Forward to Technical Services" section.
 - (8) For a step-by-step decision model for handling restricted interest cases, see the Restricted Interest Decision Chart at Exhibit 4.10.8-13.

4.10.8.15.4
(09-13-2019)
Form 2363

- (1) Taxpayer name or address changes require the examiner to complete Form 2363, Master File Entity Change, as soon as clear and concise notification is received. See IRM 4.10.2.11, Taxpayer Change of Address, for additional information on "clear and concise notification" and completing Form 2363.
- (2) Examiners must also complete Form 2363, when there is an allowable/agreed change to the taxpayer's filing status.
- (3) The examiner must Eefax the Form 2363 to CCP as soon as possible. See the CCP website for the Exam CCP Eefax numbers.

- (4) For additional information, see IRM 4.4.11, AIMS/Processing, Entity Changes.

4.10.8.15.5
(06-10-2005)
**Filing Status: Joint
Return Converted to
Separate Returns**

- (1) Treas. Reg. 1.6013–1(a)(1) does not allow spouses to change from a joint return to a separate return, unless prior to the due date of the return (without regard to any extension of time to file) either spouse subsequently files a separate return. The separate return is a superseding return.
- (2) Separate return filed by an executor — Under certain circumstances, a surviving spouse may file a joint return for the year of death if an executor or administrator has not been appointed by certain times. IRC 6013(a)(3), and Treas. Reg. 1.6013–1(d)(3) & (4). An executor or administrator for a deceased person may disaffirm a joint return filed by the surviving spouse. See IRC 6013(f)(4) and Treas. Reg. 1.6013–1(d)(5).
- (3) “Invalid joint elections”— Sometimes, after a joint return is processed, it is determined that the joint election is not valid even though the return, itself, is valid for purposes of IRC 6011 and IRC 6012. Some reasons a joint election may not be valid include:
- The taxpayers were not married,
 - The return is not signed by both parties,
 - The return was signed under duress (Treas. Reg. 1.6013–4(d)),
 - One spouse’s signature was forged.

Note: A return that is not signed may be corrected by obtaining a valid signature using Letter 2348, Declaration (2) letter. Also, the return may be treated as signed by establishing both spouses intent to file a joint return. See *Federbush v. Commissioner*, 34 T.C. 740, 757 (1960), *aff’d per curiam*, 325 F.2d 1 (2d Cir. 1963).

4.10.8.15.5.1
(09-13-2019)
**Closing the Return of
the Primary Taxpayer if
the Joint Election is
Invalid**

- (1) When closing the separate return of the person whose Social Security number is listed first (the primary taxpayer) on the “invalid joint return,” the following actions should be taken:
- a. Prepare a report using the correct filing status and only the income, deductions and credits of the primary taxpayer.
 - b. Solicit agreement from the taxpayer.
 - c. Follow normal agreed/unagreed procedures.
 - d. Show only one name on Form 5344.
 - e. Prepare Form 2363 to correct the name line to reflect the primary taxpayer only and correct the filing status on the account. Check the following Transaction Code boxes on Form 2363 : 013 and 016, and input the appropriate filing status code in the FSC box. See IRM 4.10.8.15.4, Form 2363, for additional information.
 - f. Check the box for Form 2363 in the “Forms Enclosed” section of Form 3198.

4.10.8.15.5.2
(06-10-2005)
**Closing the Return of
the Person Whose Name
was Removed from the
Joint Return**

- (1) If the file does not already contain the separate return for the person removed from the joint return, the return should be solicited (if a return is required). That return should be closed together with the “joint return” with instructions to the CCP function to process the return as an original return.

- (2) If a return is required and is not filed, follow substitute for return procedures to make an assessment against the person whose name was removed from the “joint return”.

4.10.8.15.6
(06-10-2005)

Filing Status: Separate Returns Converted to Amended Joint Return

- (1) Spouses who originally filed returns on a separate basis may find it to their advantage to use a joint tax computation. To change from separate to joint return status taxpayers may file a joint return or an amended Form 1040X.
- (2) For tax years beginning on or after July 31, 1996, (e.g., calendar year 1997), it is not necessary for taxpayers to pay the tax shown on the joint return in full as a condition to electing joint status.

4.10.8.15.6.1
(08-11-2006)

Procedures for Delinquent and Substitute for Returns for Joint Return Filing Status

- (1) IRC 6020(a) authorizes the Secretary to prepare a return for a taxpayer who fails to make and file a return if the taxpayer discloses all information necessary for the preparation of the return. If the taxpayer signs the return prepared by the Secretary, the return may be received as the taxpayer’s return.
- a. If a taxpayer fails to make a return, or makes a false or fraudulent return, IRC 6020(b) authorizes the Secretary to make a return from his own knowledge and from such information as he can obtain through testimony or otherwise.
 - b. IRC 6065 requires that a return “shall contain or be verified by a written declaration that it is made under the penalties of perjury.”
 - c. Joint return filing status under IRC 6013(a) is predicated on the spouses making an election and intending to file a joint return. Accordingly, the Service may not elect joint filing status on behalf of taxpayers in a return it prepares and signs under the authority of IRC 6020(b). See *Millsap v. Commissioner*, 91 T.C. 926 (1988), acq. in result, 1991–2 C.B. 1 (filing status used by IRS in preparing return under IRC 6020(b) does not bind taxpayers in later deficiency proceeding).
 - d. A Form 870 signed by the spouses is not a return under IRC 6020(a) and it is not an election to file a joint return under IRC 6013. This holding also applies to Form 1902, Report of Individual Income Tax Audit Changes (obsoleted 1988), and Form 4549, Report of Income Tax Examination Changes, and any successor forms to these forms, because these documents do not purport to be returns and do not contain a “jurat” with a penalties of perjury clause.
 - e. If married taxpayers fail to execute a joint return, the examiner will have to close the case unagreed using a filing status other than married filing joint. Generally, these taxpayers’ filing status will be married filing separate. Based on facts and circumstances, the examiner will need to determine if a return is needed for one or both taxpayers. See Rev. Rul. 2005-59.

4.10.8.15.6.2
(06-10-2005)

Statute and Other Considerations

- (1) IRC 6013(b)(2)(A) requires that taxpayers make a joint return election within three years of the original due date of the tax return (without regard to an extension).
- (2) IRC 6013(b)(2)(B) requires that taxpayers make a joint return election prior to the mailing of a notice of deficiency for that year to either spouse if the spouse files a timely petition with the Tax Court with respect to that year.

- (3) IRC 6013(b)(2)(C) requires that taxpayers make a joint return election prior to commencing suit in any court for recovery of any part of the tax for such taxable year.
- (4) IRC 6013(b)(2)(D) requires that taxpayers make a joint return election before either spouse has entered into a closing agreement with respect to such taxable year, or before any civil or criminal case arising against either spouse with respect to such taxable year has been compromised.
- 4.10.8.15.6.3
(06-10-2005)
Examination of Return
- (1) If an amended return is received during an examination, examiners generally will examine the amended return to determine whether the tax reported is correct. The examination will be made as soon as possible after the return is received and to the extent deemed necessary. An amended return received from a taxpayer during an examination, with or without remittance, will remain with the case file.
- (2) Separate files should be set up for each spouse as each file will be closed under its own Document Locator Number (DLN) Generally, the primary file will be the first SSN shown on the joint return and the secondary file will be the second SSN shown on the joint return.
- a. The primary file will include the original or copy of the joint amended return. The primary's original separate return and a copy of the secondary's separate return should be attached.
- b. The secondary file will include the secondary's original separate return. A copy of the first page of the joint amended return should be attached.
- 4.10.8.15.6.4
(06-10-2005)
Preparation of Reports
- (1) Two reports will be prepared when separate returns are converted to a joint return.
- (2) Primary file — prepare a report starting with the primary account and include as adjustments the items appearing on the secondary separate return. At the conclusion of the examination, the examiner will solicit an agreement covering the proposed changes. If a deficiency is unagreed, normal appeal procedures apply.
- (3) Secondary file — prepare a second report to adjust all tax and penalties previously assessed on the secondary account to zero.
- 4.10.8.15.6.5
(06-10-2005)
Closing Procedures
- (1) The primary and secondary files should be closed to CCP together as one case file.
- (2) Prepare a Form 5344 for each file and include the name of the secondary taxpayer on the Form 5344 for the primary file.
- (3) Prepare Form 3198, to be transmitted with the case file, and include the following comments:
- a. "Separate Return(s) Converted to Joint",
- b. "Add secondary taxpayer to primary account",
- c. Indicate any estimated tax payments to be transferred from the secondary account to the primary account, and
- d. Indicate whether or not the tax has been paid.

4.10.8.15.7
(06-10-2005)

Adjustments to the Investment Credit

- (1) A report including adjustments to investment credits (including the recapture of investment credit) should include a computation showing the correct investment credit.
- (2) IRC 46 defines the credits which are considered investment credits. Form 3468, Investment Credit, may be used to show the computation of the corrected investment credit.
- (3) IRC 38 limits the amount of general business credits (including investment credit) which may be used in any year. Form 3800, General Business Credit, may be used to show the limitations of the investment credit when the taxpayer is eligible for more than one type of general business credit. The report should clearly show the amount and year of origin of any adjustments to investment credit carrybacks or carryforwards.
- (4) IRC 50(c) requires the recapture of all or part of the investment credit in the case of an early disposition of the property which generated the credit. Form 4255, Recapture of Investment Credit, may be used to show the computation of the tax due to the recapture of the investment credit.

4.10.8.15.8
(06-10-2005)

Self-Employment Tax Adjustments

- (1) When an audit results in an adjustment to self-employment tax, the information is forwarded electronically to the Social Security Administration via the Form 5344. See IRM 4.4.29.2, Self-Employment Income Adjustments.
- (2) Include the following information as applicable on Form 5344: (See IRM 4.4.29.2.1.1, Reference Code Changes to Self-employment Income/Tax):
 - a. Reference number 878: a net increase or decrease to the self-employment income of the primary taxpayer.
 - b. Reference number 879: a net increase or decrease to the self-employment income of the secondary taxpayer.
 - c. For 1990 and subsequent tax years, enter the self-employment income adjustments multiplied by .9235. The net increase or decrease to the self-employment tax reference number is 889. Changes to both primary and secondary self-employment tax should be combined for one adjustment to reference number 889.

Note: The employer must “gross up” the employee’s stated pay by taking into account the IRC 3101 tax rates; e.g., if the Social Security tax rate is 6.2% and the Medicare tax rate is 1.45% for a total of 7.65%, the computation uses .9235 (i.e., $1 - .0765$).

Note: Separate adjustments must be made for the Social Security portion and Medicare portion of the self-employment tax. For the maximum amount of combined wages and self-employment earnings subject to Social Security tax for a period, see Pub 334, Tax Guide for Small Business. There is no limit on wages and self-employment earnings subject to Medicare tax.

4.10.8.15.9
(08-11-2006)

Adjustment to FICA Tax on Tip Income Not Reported to Employer

- (1) If it is discovered during an examination that tip income has been underreported by the employee to the employer, FICA tax may have to be adjusted. See IRM 4.4.29.3, Group Procedures for Adjustments to Tip Income, and IRM 4.23.10.18, Procedures for Employee Tax Adjustment on Tip Income Not Reported to Employer.

- 4.10.8.15.10
(09-13-2019)
**Adjustment For
Employee FICA Tax**
- (1) When an examination results in an adjustment to the employees share of FICA tax, examiners must follow IRM 4.23.10.17, General Procedures for Adjusting the Employee Share of FICA/RRTA Taxes including Additional Medicare Tax (AdMT).
- 4.10.8.15.11
(06-10-2005)
**Adjustment to Schedule
H — Household
Employment Taxes**
- (1) An individual who employs domestic workers reports employment tax payments annually on Schedule H, Household Employment Taxes, which is attached to Form 1040, Form 1040-NR, or Form 1040-SS. If an individual is not required to file an income tax return (for example, because income is below the amount that requires the individual to file) Schedule H may be filed by itself.
- (2) The use of Schedule H to report and collect these taxes does not change the nature of the tax.
- Changes are employment tax changes.
 - Changes cannot be included in the income tax report.
 - Changes must be made on an employment tax report (see (4) below).
 - Changes are not subject to deficiency procedures and should not be included on a notice of deficiency.
 - No portion of the employment tax reported on Schedule H is ever available for refund based on changes to a taxpayer's income tax liability.
- (3) For purposes of Schedule H the employer is:
- The taxpayer who applied for the EIN, which is required.
 - For joint returns, only one taxpayer can be the employer and this would be the spouse who obtained the EIN.
- (4) Adjustments to Schedule H require the preparation of Form 4667, Examination Changes - Federal Unemployment Tax; Form 4668 Employment Tax Examination Changes Report; and Form 2504, Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment. The adjustments on Form 4668 should be made to the fourth quarter.
- (5) When Schedule H adjustments are made, Form 3198 must be attached to the case file.
- The Other Instruction section should contain the following notation: "Schedule H Adjustment — Forms 4667, 4668 and 2504 enclosed for the primary or secondary (whichever applies) taxpayer."
 - For joint filers, it is critical that the primary/secondary designation be made to allow for accurate completion of Form 5344.
- (6) As with any other employment tax changes involving wages, corrected or delinquent W-2's should be secured as necessary.
- (7) See IRM 4.23.10.10.5, Household Employment Taxes, for additional information.
- 4.10.8.15.12
(08-11-2006)
Specialists Report
- (1) Engineer's Memorandum Report, Form 3213 — is used as the report transmittal for the engineer's report on non-LB&I cases. The Issue Management System (IMS) is used to transmit reports on LB&I cases.
- For more detail regarding the content of the engineer's report see IRM 4.48.1, Overview of Engineering Program.

- b. Form 4665 will note that an engineer was involved in the case and whether or not the engineer's findings are accepted. When accepted, the engineer's findings will be included in the examiner's report. Workpapers related to the engineering report on SB/SE cases should be placed in the case file.
- (2) International Examiner's Report, Form 3963 — is used as the report transmittal for the international examiner's report on SB/SE and LB&I cases. Form 3963 provides administrative information, compliance check information, issues considered but not changed, and Form 886–A, etc.
 - a. For more detail regarding the preparation of Form 3963 see IRM 4.60.9, International Examiner's Report.
 - b. Form 4665 will be noted International was involved in the case and whether or not the international examiner's findings are accepted. When accepted, the international examiner's explanation of items will be included in the examiner's report. Workpapers related to the International Examiner's report should be placed in the case file.

4.10.8.15.13
(09-13-2019)

**Notice Under IRC
Section 6404(g) –
Suspension of Interest**

- (1) IRC 6404(g) suspends interest if, as a result of an examination, the IRS fails to timely provide individual taxpayers adequate notice of liability and the basis for the liability. The IRS has 36 months (or 18 months in certain cases) from the return due date or return filed date (with regard to extensions), whichever is later, to notify the taxpayer of the additional liability without suspending interest. See IRM 20.2.7.8, IRC 6404(g) Interest Suspension, for additional information on the notification period, interest suspension period, and effect of amended returns.
- (2) A notice provided within the prescribed time period prevents the suspension of interest if the notice adequately states the amount of the liability and the basis for the liability. See IRM 20.2.7.8.5, IRC 6404(g) Notice, for adequate notice requirements and the effect of multiple notices. See IRM 4.31.6.3.6.3, IRC Section 6404(g), Suspension of Interest and Certain Penalties, for notice requirements for individual investors of a pass-through entity.
- (3) The IRC 6404(g) notice date must be noted on a copy of the notice retained in the case file.
- (4) When 6404(g) interest suspension applies, the examiner must include a statement in the "Other Information" section of the examination report using language similar to the following:
 - If there is one IRC 6404(g) notice date, include the following - "IRC 6404(g) applies, and notice was provided on (date)."
 - If there is more than one IRC 6404(g) notice date, as defined by IRM 20.2.7.8.5.1, Multiple IRC 6404(g) Notices, each notice date and the portion of the liability attributable to each notice date will be recorded in the "Other Information" section of the examination report and should contain the following language - "IRC 6404(g) applies and there are XX different notice dates. The first notice was provided on (date) for \$(amount of liability); the second notice was provided on (date), etc."
- (5) On every individual case with a liability adjustment, examiners must indicate on page two of Form 3198, IRC 6404(g) is not applicable **or** enter the notice date(s) and the applicable liability amount.

- (6) If there is more than one IRC 6404(g) notice date, note on Form 3198 that restricted interest applies due to IRC 6404(g), and to see the “Other Information” section of the examination report.
- (7) See IRM 20.2.7, Abatement and Suspension of Debit Interest, for additional information.

4.10.8.15.14
(06-10-2005)
**Individual Retirement
Arrangement (IRA) and
Qualified Retirement
Plan Adjustments**

- (1) There are generally two types of changes that may be made as a result of transactions involving an Individual Retirement Arrangement (IRA) or qualified retirement plan during an examination: adjustments to income, and taxes resulting from not complying with IRA rules.
- (2) Adjustments to income: adjustments to income, such as the taxpayer’s deduction for an IRA contribution or inclusion of premature distributions in income, will be reflected on the “adjustments to income” line on Form 4549.
- (3) Taxes Resulting from not Complying with IRA Rules:
 - Taxes, such as IRC 72(t), tax on early distributions and IRC 4973, IRC 4974, and IRC 4980A, taxes for excess contributions, accumulations, and distributions, are reflected on the “Plus Other Taxes” line of Form 4549 as an addition to the corrected tax liability.
 - The type of tax will be identified in the “Other Information” section.
 - A lead sheet must be attached to show the computation of the tax. In joint return cases, the spouse to whom the tax pertains must be identified on the lead sheets. If it applies to both spouses, the amount of tax applicable to each spouse will be identified.
 - These taxes are normally reported on Form 5329, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts.
- (4) IRM 21.6.5.4.2, Individual Retirement Arrangement (IRA) Taxes, lists the taxes that may be assessed on IRAs and qualified retirement plans if the taxpayer does not conform to rules governing IRAs. Attention should be given as to whether the tax is an income or excise tax as this will affect the preparation of the reports and the statute of limitations.

Note: If a consent to extend the statute of limitations is being prepared and an excise tax due to an IRA may be assessed, complete the “kind of tax” line on the consent form, by inserting “Income and Chapter 43 (Excise) Tax.” The excise tax statute must also be extended in addition to the income tax statute if there is a possibility that an excise tax may be assessed.

4.10.8.15.14.1
(06-10-2005)
**Posting Advance
Payments**

- (1) Separate Forms 3244-A, Payment Posting Voucher, must be prepared for each type of tax, taxpayer, and tax period. Therefore, separate Forms 3244-A must be completed if an advance payment is received on a deficiency that:
 - a. Includes both income and excise tax, or
 - b. Is attributable to both spouses on a joint return for an IRA/qualified retirement plan adjustment.
- (2) The MFT block will be noted “MFT 29” and the “Remarks” block noted “IRA-MFT 29” if the tax is an excise tax.
- (3) One check may be accepted for payments that relate to both income and excise tax.

4.10.8.15.14.2
(06-10-2005)

**Form 5344 –
Examination Closing
Record**

- (1) Separate Forms 5344 are required for processing:
 - a. Each individual's IRA/qualified retirement plan adjustments, and
 - b. The income tax adjustments.

Note: If a joint return is under examination and both spouses' IRAs/qualified retirement plans are adjusted in addition to other income tax adjustments, three Forms 5344 will be required - one for the income tax adjustments and one for each spouse's IRA adjustments.

- (2) Entries on Form 5344 for IRA/qualified retirement plan adjustments are generally the same as those for income tax adjustments, except no entries are required in items 18 through 40. Refer to IRM 4.4.14, Individual Retirement Account (IRA), Education Savings Accounts and Medical Savings Account Adjustments, for instructions in completing the entries on Form 5344.

4.10.8.15.14.3
(06-10-2005)

**Form 3198 – Special
Handling Notice**

- (1) Case files containing IRA/qualified retirement plan adjustments will be identified on Form 3198, by checking the Special Features "Other Instructions" block, followed by "IRA adjustment", the type of tax (i.e., 6%, 50%, etc.), the amount of tax attributable to each type of tax and identifying the SSN of the account to be adjusted.

4.10.8.16
(05-14-1999)

**Inadequate Records
Notices: Overview**

- (1) Every taxpayer is required by law and regulations to maintain records with sufficient detail to prepare a proper return. This may require the maintenance of such permanent books of account and records sufficient to establish the amounts of gross income, deductions, credit, or other matters to be shown on the taxpayer's return. See Treas. Reg. 1.6001-1.
- (2) Taxpayers who maintain automated records can enter into a record retention agreement with the Area Director. This agreement limits retained records to those specifically identified as needed to perform auditing procedures.
- (3) Inadequate Records Notices place taxpayers on notice that their recordkeeping practices are deficient and must be improved to meet the requirements of the law. The issuance of an Inadequate Records Notice may result in a follow-up examination and is a tool to enforce taxpayer compliance with legal requirements to keep adequate records and properly report tax liabilities.

4.10.8.16.1
(05-14-1999)

**Determination of
Taxpayer Compliance**

- (1) The determination that a taxpayer has not maintained adequate books and records, or has not complied with a record retention agreement, is a matter of judgment and should be based on the facts of the individual case. Factors to be considered include, but are not limited to:
 - a. An alternative or indirect method was used to establish the amounts of gross income, deductions, credits, or other matters shown on the taxpayer's return because the taxpayer's records were not sufficient,
 - b. Prior history and present degree of noncompliance,
 - c. Indications of willful intent or evidence of refusal to keep adequate books and records,
 - d. Probability that the inadequacies in recordkeeping will result in significant underreporting of tax liabilities, or
 - e. Other evidence of harm to the Government.

- 4.10.8.16.2
(05-14-1999)
Examination Procedures
- (1) The following section addresses examination procedures for handling inadequate records issues.
- 4.10.8.16.2.1
(05-14-1999)
Time Charges
- (1) All time for the development of inadequate records issues by examiners should be charged to the case.
- 4.10.8.16.2.2
(05-14-1999)
Factual Development
- (1) Examiners should avoid criticizing the work of the taxpayer's employees, accountants, or attorneys in a way that would suggest wrongdoing or negligence. Examiners should focus on explaining how the taxpayer's books and records are inadequate and what steps need to be taken to bring them into compliance with applicable statutes.
- 4.10.8.16.2.3
(05-14-1999)
Case File Documentation
- (1) Examiners should document:
- a. The nature of the inadequacies of the taxpayer's records,
 - b. Examiner/group manager discussions, and
 - c. Basis for the conclusion reached.
- 4.10.8.16.2.4
(05-14-1999)
Group Manager Involvement
- (1) If an examiner determines that the taxpayer has not substantially complied with the law and regulations for maintaining adequate books and records or record retention agreements, the examiner should discuss the inadequacies with the group manager to determine if an inadequate records notice should be issued.
- 4.10.8.16.2.5
(05-14-1999)
Record Retention Agreements
- (1) If the case includes a record retention agreement, the computer audit specialist must be contacted.
- 4.10.8.16.3
(05-14-1999)
Required Forms and Exceptions
- (1) Generally, Letter 979, Inadequate Record Notice, requesting a follow-up statement of corrective action from the taxpayer within 6 months, will be used to notify the taxpayer.
- (2) If the taxpayer is within the racketeer classification, engaged in illegal activities, or is willfully disregarding the law, the examiner will prepare Form 2807, Agreement to Maintain Adequate Books of Account and Records, and Letter 978, Notice of Inadequate Records, which includes a description of exact records required and penalties for failure to keep records.
- 4.10.8.16.3.1
(08-11-2006)
Completion of Forms
- (1) The designated contact identified on Letter 978 or Letter 979 should be the individual in PSP responsible for monitoring the taxpayer's future compliance.
- (2) The Form 2807, or Letter 979 narrative must include the following:
- a. The date the taxpayer was orally notified that the records were inadequate or not in compliance with a record retention agreement,
 - b. The tax year(s) examined,
 - c. A clear and concise statement specifying how the taxpayer's records were inadequate or not in compliance with a record retention agreement.

Note: Form 2807 should specify the books and records which will be maintained.

- 4.10.8.16.3.2
(05-14-1999)
Group Manager Approval
- (1) Form 2807 and Letter 978 (or Letter 979) are approved and signed by the group manager.
- 4.10.8.16.4
(05-14-1999)
Delivery of Inadequate Records Notices
- (1) Inadequate Records Notices should be served personally by examiners or sent by certified mail.
- 4.10.8.16.4.1
(05-14-1999)
Record of Service
- (1) The examiner will complete the record of service on Letter 978 and Letter 979 at the time of delivery or before it is sent certified mail. The record of service should also be completed on all retained copies.
- (2) If sent by certified mail, the return receipt will constitute the record of service and will be attached to the copy of Letter 978 or Letter 979 retained in the case file.
- (3) If Form 2807 is mailed, Letter 978 should be held 15 days to give the taxpayer an opportunity to execute Form 2807.
- 4.10.8.16.4.2
(06-10-2005)
Notices for Joint Returns
- (1) Section 3201(d) of RRA 98 requires that whenever practicable, any notice relating to a joint return be sent separately to each individual filing a joint return. Congress believed that sending separate notices would result in mail being forwarded to a spouse who moved. See IRM 4.10.1.2.2.1, Separate Notice Requirements, for detailed procedures.
- 4.10.8.16.4.3
(05-14-1999)
Notices for Corporate Returns
- (1) When a notice is addressed to a corporation, it should be delivered to an officer authorized to sign tax returns and preferably to the officer who signed the return under examination.
- 4.10.8.16.4.4
(06-10-2005)
Notices for Partnerships
- (1) In the case of a partnership, the notice will be addressed to all the partners and will show the name in which the partnership is doing business. The original notice will be delivered to the partner who signed the return or, if this is not possible, to a partner who takes an active part in the business. A copy of the notice, including the record of personal service or the mailing receipt, will be sent by registered or certified mail to all the other partners. Receipts from these mailings will be associated with the copy of the notice retained in the case file.
- 4.10.8.16.4.5
(08-11-2006)
Field Exam
- (1) Revenue agents should deliver the Letter 979 or Letter 978 and Form 2807, at the closing conference if possible. Otherwise, send by certified mail.
- (2) In cases where Form 2807 is required, the taxpayer will be given the opportunity to execute the agreement, specifying the books and records which will be maintained.

- 4.10.8.16.4.6
(08-11-2006)
Office Audit
- (1) Tax Compliance Officers/Tax Auditors should give the Letter 979 or Letter 978 and Form 2807 to the taxpayer at a subsequent appointment if possible. Otherwise, send by certified mail.
 - (2) In cases where Form 2807 is required, the taxpayer will be given the opportunity to execute the agreement, specifying the books and records which will be maintained.
- 4.10.8.16.4.7
(06-10-2005)
Joint Investigations
- (1) In joint investigations, the criminal investigator will determine the appropriate time to inform the taxpayer of the inadequacies of the records and issue the notice letter. The criminal investigator is also responsible for delivering the Inadequate Records Notice.
- 4.10.8.16.5
(05-14-1999)
Taxpayer Agreement
- (1) Letter 978 and Letter 979 serve as notification to taxpayers that their records are inadequate and execution of Form 2807 is not necessary to close the case. Whether or not the taxpayer signed Form 2807 will be noted on Letter 978.
- 4.10.8.16.6
(05-14-1999)
Taxpayer's Appeal Rights
- (1) If the taxpayer does not execute Form 2807 and the case is unagreed, the taxpayer will be informed of the further opportunity to discuss the matter at an Appeals conference.
 - (2) An Appeals conference is not given to taxpayers who agree to proposed adjustments but do not execute Form 2807.
- 4.10.8.16.7
(05-14-1999)
Completing Form 5346
- (1) Examiners will prepare a detailed Form 5346 following the instructions on the back of the form. The "other" section should state that the package is documentation for an Inadequate Records Notice. The package should include:
 - a. Copies of pertinent workpapers,
 - b. Copy of the audit report,
 - c. Copy of Letter 978 or Letter 979,
 - d. Original Form 2807, if applicable.
 - (2) A copy of the completed Form 5346 should be included in the workpapers with other documentation of the issue.
 - (3) The original Form 5346 and documentation should be forwarded to PSP for suspense and follow-up action.
- 4.10.8.16.8
(05-14-1999)
Follow-Up Examinations
- (1) Follow-up examinations will be conducted when appropriate. These examinations should be started with sufficient time to be completed within established audit cycles.
- 4.10.8.16.8.1
(05-14-1999)
Case File Documentation
- (1) The case file should document consideration of the inadequate recordkeeping issue and state whether the taxpayer has corrected the inadequacies in the recordkeeping practices.
- 4.10.8.16.8.2
(05-14-1999)
Substantial Compliance By the Taxpayer
- (1) If the examiner concludes that the taxpayer is substantially complying with requirements to keep adequate records, the inadequate records notice information should be included in the case file when the examination is closed.

- 4.10.8.16.8.3
(05-14-1999)
**Continued
Noncompliance By
Taxpayer**
- (1) If the examiner concludes that the taxpayer is not substantially complying with requirements to keep adequate records, then consideration of additional enforcement measures, such as the assertion of penalties, is warranted.
- 4.10.8.17
(05-14-1999)
**Examiner Case Closing
Requirements**
- (1) In addition to preparing all necessary reports to document audit findings and organizing the contents of the case file, examiners have other critical case closing requirements.
- 4.10.8.17.1
(06-10-2005)
**Completion of Form
5344, Examination
Closing Record**
- (1) Completion of Form 5344 is required prior to the closing of a case.
- (2) Use of Form 5344 in RGS is required.
- (3) Required entries for examiners are outlined in IRM 4.4.12, Examined Closings, Surveyed Claims, and Partial Assessments.
- Note:** Since grading of cases is the responsibility of the group manager (but an entry in this field is required for an agent to forward a case), examiners should enter their own grade unless instructed to enter another grade by their group manager. Group managers are also required to review this entry on Form 5344 prior to case closing to ensure accuracy.
- 4.10.8.17.2
(06-10-2005)
**Examination Operational
Automation Database
(EOAD)**
- (1) EOAD was designed to provide data that would allow the tracking of examination adjustments by issue. This data will be used to enhance the ability to identify specific areas of noncompliance based on examination results and track the effectiveness of the examination classification process.
- (2) Capture of EOAD data is mandatory for all examinations of Individual, Corporate, S Corporation, and Partnership returns.
- (3) EOAD data must be entered for all issues examined, both adjusted and non-adjusted items.
- (4) Data capture for EOAD should be done just prior to closing the case (after completion of the examination report and automated 5344). See IRM 4.10.16, Examination Operational Automation Database (EOAD), for detailed instructions.
- 4.10.8.17.3
(08-11-2006)
Case Folder Color
- (1) Effective March 1, 2006, CCP established uniform guidelines for file folder color. Examination groups must use the following file folder colors when closing cases to Case Processing:
- Red – Case with a statute date expiring within 180 days.
 - Yellow – Headquarter approved usage only. Purpose of use will change periodically as interim guidance is issued and posted to the *Interim Guidance* website
 - Orange – IRS Employee audit
 - Lavender – NRP Form 1040
 - Plum – NRP Form 1120S
 - Light Blue – Claims (this includes innocent spouse; injured spouse; and any other type of claim). The type of claim should be notated on Form 3198.

4.10.8.18
(08-11-2006)
**Report Generation
Software (RGS)**

- (1) RGS is designed to be used by Examination or other users who select, examine, control, process or monitor income tax cases. The system enhances the performance of the work process by automating numerous activities such as tax computation, penalty computation, interest computation, case file documentation, time reporting, IDRS interface, workpaper preparation, statute date protection (normal and TEFRA), letter preparation, inventory control, management report preparation, case file retrieval (both open and closed), issue tracking, as well as many other functions. See IRM 4.10.15, Report Generation Software (RGS), for additional guidance.
- (2) The benefits realized from use of RGS are:
 - Accurate and consistent tax and interest calculations and recalculation,
 - Computation of statutory adjustments which flow to the report,
 - Timely reports which can be provided to taxpayers immediately or upon managerial approval,
 - Preparation and validation of Form 5344,
 - Consistent formatting, identifying, and arranging of workpapers,
 - Passive flow of data to correspondence and forms, and
 - Passive data gathering with associated conversion and roll up programs such as EOAD.
- (3) In order to close a case off of RGS, the RGS Group Codes need to be input. The RGS Group Codes can be found in the *Employee Group Code Contacts* Excel® file on the AIMS/ERCS website.
- (4) RGS provides Standard Explanations automatically for statutory adjustments. In addition, RGS provides the nationally approved Standard Explanations and the user has an opportunity to customize standard paragraphs. The number of customized standard explanations should be limited as the National Standard Explanations have been approved by Chief Counsel.

4.10.8.19
(08-11-2006)
**Informant's Claim for
Reward**

- (1) IRM 25.2.2, Whistleblower Awards, and IRM 25.2.1, General Operating Division Guidance for Working Whistleblower Claims, provide guidance regarding receiving, evaluating and processing informant claims for rewards. These IRMs should be consulted for correct processing of informant claims.
- (2) See IRM 4.11.57.4.3.6, Confidential Informants, for third party contact rules applicable to informants.
- (3) See IRM 4.11.57.6.5, Contacts with Informants, and IRM 25.27.1.3.5, Reprisal Notification Procedures, for additional information on contacting informants. Frequently, informants may need to be re-contacted for case developmental purpose. It is recommended that examiners consult with their group manager prior to re-contacting the informant.
- (4) When an examination includes an informant's claim, an AIMS N Freeze should be used to ensure the results are communicated to the Informants' Claims Examiner (ICE).
- (5) References for Informant's Claim for Reward:
 - IRC 7623- Expenses of Detection of Underpayments and Fraud, etc;
 - Treas. Reg. 301.7623-1 - Rewards for Information Relating to Violations of Internal Revenue Laws,

- IRM 1.2.1.5.15 - Policy Statement 4-36 - Identity of Other Government Agency Informants Must be Protected,
- IRM 1.2.1.5.12 - Policy Statement 4-27 (Formerly P-4-86) - Rewards Determined by Value of Information Furnished and Computation and Payment of Rewards,
- IRM 1.2.2.10.10 - Delegation Order 9-10 (formerly DO-16. Rev. 16 - Authorization to Approve Confidential Expenditures,
- IRM 1.2.2.14.7 - Delegation Order 25-7 (Rev. 3) - Authority to Make a Determination Under IRC 7623,
- IRM 1.2.2.14.12 - Delegation Order 25-12 (Rev. 1) - Third Party Contact Jeopardy or Reprisal Determination,
- IRM 25.2.1 - General Operating Division Guidance for Working Whistle-blower Claims,
- IRM 25.2.2 - Whistleblower Awards,
- IRM 4.11.57 - Third Party Contacts,
- IRM 25.27.1 - Third Party Contact Program,
- RRA'98 Section 3503 - Disclosure of Criteria for Examination Selection,

4.10.8.19.1
(08-11-2006)

Informant Confidentiality

- (1) Informants' communications are confidential. The existence of an informant's communication should not be revealed to the taxpayer.
- (2) All informant claims, reports, and information shall be transmitted from office to office in double sealed confidential envelopes marked "To Be Opened By Addressee Only" and kept in locked file cabinets.
- (3) The name of the informant is not to be used in the examiner's report, workpapers, or Form 4665. Every effort should be made to exclude from the workpapers any reference to the fact that the case involves an informant.
- (4) Remove all information relating to the informant or the informant's information from the case file before the case file is taken out of the office to conduct the examination.
- (5) The taxpayer may inquire about why his/her return was selected was selected for examination. Pub 1 has been revised and includes a statement describing the criteria and general procedures for selecting taxpayers for examination. The Service is not required to disclose the basis for the selection of a particular taxpayer for examination. Generally, it is the practice of the Service to respond if the source of the examination is random, DIF generated (without explaining the scoring process), or if generated from a public source (e.g., public media report). However, if the source of the examination is an informant, the Service is not obligated to, nor would it be appropriate to, disclose an informant exists. The examiner and his or her group manager should consult with Disclosure when requested to provide a response to return selection for informant cases. See the *Disclosure Office Contacts* web page.

4.10.8.19.2
(08-11-2006)

Surveyed Cases with Form 211 Claims

- (1) If an assigned return contains a Form 211, Application for Award for Original Information, and/or Form 3949, Information Report Referral, determine if the return should be accepted as filed. The return may be surveyed. Normal survey procedures using Form 1900 should be followed.
- (2) Form 11369, Confidential Evaluation Report on Claim for Referral, must be completed on all cases that contain a Form 211 claim. This includes cases closed by survey. See IRM 25.2.1.5.5.2, Form 11369 for Surveyed Claims.

- (3) Seal all information regarding the informant's claim and all forms referred to above in a confidential envelope. Delete all references to the Form 211 Claim from the case file.
- (4) Note on Form 3198 "Informant Claim for Reward, route to _____ Campus, Attn: Informants' Claims Examiner (ICE)."

4.10.8.19.3
(08-11-2006)
**Form 211 Claims Report
Writing**

- (1) At the conclusion of the examination the examiner should prepare two files:
 - a. A complete case file for regular processing through CCP, and
 - b. A partial file to be forwarded to the Campus/compliance center for processing of the claim for reward by the Informant Claims Examiner (ICE).
- (2) The reward claim file should contain the following documentation:
 - a. Form 11369;
 - b. Copies of all examined returns, substitutes for return prepared during the examination, and/or secured returns prepared by the taxpayer;
 - c. Copy of the examination report;
 - d. Special agent's evaluation report (if applicable) attached to Form 3949;
 - e. Copies of Activity Records;
 - f. Copies of Form 4318;
 - g. Any other information which may assist the ICE in processing a reward claim.
- (3) The memorandum on the reward claim, along with the entire case file, must be approved by the group manager.
- (4) All of the above items will be included in a confidential envelope marked "ICE Copy" and included in the case file when closing the case.
- (5) Annotate Form 3198 with the following instructions: "Informant's Claim Case." The designated Area reviewer (currently a PSP function) will review Form 11369 for the reward determination and sign Form 11369 in addition to the PSP Manager. Then the reward claim file will be sent to the Campus ICE who will release the "N" freeze. All Informants claim cases have an "N" freeze on the case and cannot be closed out of the Area until the "N" freeze has been removed.

4.10.8.20
(08-11-2006)
Deceased Taxpayers

- (1) This section provides procedures for deceased taxpayers. Deceased taxpayer procedures should be followed when a taxpayer has died, whether the death occurred before or after the filing of the return.
- (2) References for deceased taxpayers:
 - IRM 4.4.3.7, Refunds to Other Taxpayers,
 - IRM 4.10.9.8, Special Situations Requiring Documentary Evidence,
 - Pub 3920, Tax Relief for Victims of Terrorist Attacks.
- (3) If a fiduciary relationship exists, the case file must include letters testamentary and Form 56, Notice Concerning Fiduciary Relationship, which are to be attached to the return.

4.10.8.20.1
(08-11-2006)

Names and Addresses

- (1) In the case of a decedent, if a fiduciary relationship exists, reports and correspondence should include the name of the current administrator or other proper representative. The correspondence and reports will also be mailed to the fiduciary's address. Once legal evidence of death is obtained, correspondence and examination reports should be addressed as indicated below.

- (2) For Joint Returns:

If...	Then address as:
One spouse has died and a fiduciary relationship can be determined	Estate of Simon Fir (Deceased) H. Bank, Executor, and Mary Fir, Surviving Spouse
One spouse has died and a fiduciary relationship cannot be determined	Estate of Simon Fir (Deceased) Mary Fir, Surviving Spouse

- (3) For Single/Separate Returns:

If...	Then address as:
A fiduciary relationship can be determined	Estate of John Doe (Deceased) H. Bank, Executor
A fiduciary relationship cannot be determined	John Doe (Deceased)

4.10.8.20.2
(08-11-2006)

Signatures

- (1) Joint Return Agreements - Must be signed by the surviving spouse and executor or administrator of the deceased taxpayer's estate. If no executor has been appointed, the surviving spouse signs for self and for the decedent (e.g., "John Doe, Deceased, by Mary Doe, Surviving Spouse.") If both taxpayers are deceased, the executor for each estate must sign the agreement.
- (2) If the surviving spouse does not receive all of the decedent's assets or sufficient assets to cover the tax liability, he/she cannot sign as the surviving spouse and correspondence should be sent to the decedent's last known address and to the surviving spouse at his/her current address.
- (3) If the surviving spouse received all of the decedent's assets and the estate is closed, Form 2045, Transferee Agreement, and Form 870 with special language, will need to be solicited. See IRM 4.11.52, Transferee Liability Cases.

4.10.8.20.3
(08-11-2006)

Consents

- (1) Refer to IRM 25.6.22.6.1.4, Decedents, when preparing a consent for a decedent.
- (2) If a decedent dies intestate and no executor or administrator is appointed, no one may sign a consent for the decedent or the estate extending the period of assessment for income tax. Similarly, a consent cannot be executed after the executor or administrator has been discharged. See Rev. Rul. 83-41, 1983-1 C.B. 349, clarified and amplified by Rev. Rul. 84-165, 1984-2 C.B. 305.

Note: An heir liable under IRC 6901 as a transferee may sign a consent for his or her own liability.

- (3) A surviving spouse generally has no authority to sign a consent on behalf of the deceased spouse. Estates are generally considered successors in interest to the decedent under state law and as the decedent's successor in interest, the executor or administrator of the estate is the proper party to execute a consent.
- (4) If necessary, a statutory notice of deficiency should be issued.

4.10.8.20.4
(08-11-2006)
Refunds

- (1) When a refund is to be issued to someone other than the taxpayer in whose name the tax was paid, documentary evidence must be provided to permit refunds to be made. This includes (but is not limited to) deceased taxpayers, trustees, estates, guardians, minors, dissolved corporations, reorganizations, and bankruptcy cases. See IRM 4.4.3.7, Refunds to Other Taxpayers, and its subsequent sections for guidance in determining what evidence is necessary.
- (2) In addition, Form 1310, Statement of Person Claiming Refund Due to a Deceased Taxpayer, should be secured if an overassessment is recommended on a joint return and one of the taxpayers has died since the return was filed.

4.10.8.20.5
(08-11-2006)
**Relief for Victims of
Terrorist Attacks and
with Respect to
Astronauts**

- (1) IRC 692(d) provides relief for federal income tax liabilities of decedents who died as a result of certain terrorist attacks. IRC 692(d) applies to victims of:
 - Oklahoma City Attack - For 1994 and later up to and including the year of death.
 - September 11th Attack - For 2000 and later.
 - Anthrax Attacks - For 2000 and later.
 - Any astronaut whose death occurs in the line of duty after 12/31/02.

See IRM 21.7.4.4.1.13, Victims of Terrorism Tax Relief Act of 2001 - Tax Forgiveness, for additional information.

4.10.8.20.5.1
(08-11-2006)
**Minimum Amount of
Relief for Victims**

- (1) The minimum amount of relief is \$10,000 per IRC 692(d)(2). The 2003 Act did not modify the minimum benefit.
- (2) If the total tax forgiven for all eligible years is less than the minimum the difference is treated as a tax paid for the decedent's last tax year and will be refunded the same as if the amount had actually been paid.
- (3) IRC 692(d)(3) stipulates what income is not subject to the terrorist relief provisions. For example, deferred compensation that would have been payable if the death had occurred because of an event other than the attacks.
- (4) For more information see Rev. Proc. 2004-26, 2004-19 I.R.B. 890.

4.10.8.20.5.2
(08-11-2006)
Necessary Documents

- (1) Proof of Death - Death certificate or Form 1300, Report of Casualty, issued by the Department of Defense.
- (2) Form 1310 unless either of the following applies:
 - a. Surviving spouse is filing an original or amended return with the decedent, or
 - b. The personal representative filing an original Form 1040 or Form 1040NR for the decedent and a court certificate showing the appointment is attached to the return.

4.10.8.20.6
(08-11-2006)

**Form 3198 for Deceased
Taxpayers**

- (1) Note on Form 3198 that the case involves a decedent and any name or address change.

Exhibit 4.10.8-1 (09-13-2019)

Non-TEFRA Reports

For Non-TEFRA report writing, refer to:

- IRM 4.31.5, Investor Level Statute Control (ILSC) Examinations - Field Office Procedures
- “Non-TEFRA Procedures, Statutes and Penalties”, job aid located at https://portal.ds.irsnet.gov/sites/v1034/_layouts/15/WopiFrame.aspx?sourcedoc=/sites/v1034/MasterResource/IG15NonTEFRA.docx

Exhibit 4.10.8-2 (09-13-2019)
TEFRA Reports

For TEFRA report writing, refer to:

- IRM 4.31.2, TEFRA Examinations - Field Office Procedures
- The TEFRA Website at http://tefra.web.irs.gov/m1/1a_home.asp

Exhibit 4.10.8-3 (06-10-2005)
 Sample Form 4605-A — Change in Accounting Method

Form 4605-A		Department of the Treasury - Internal Revenue Service Examination Changes – Partnerships, Fiduciaries, Small Business Corporations, and Domestic International Sales Corporations		
Name and Address of Taxpayer Pine Partnership		Employer Identification Number (TIN) 00-0000000		Form Number: 1065
		Person Examination Changes Were Discussed With	Name and Title	
1. Adjustments to ordinary, distributable net, or taxable income	Tax Period: 12/31/2000	Tax Period:	Tax Period:	
a. IRC Section 481(a) Adjustment	120,000.00			
b. IRC Section 446 Current Yr Adj.	10,000.00			
c. Miscellaneous expenses	10,000.00			
d.				
e.				
f.				
g.				
2. Total adjustment to ordinary, distributable net, or taxable income	140,000.00			
3. Ordinary, distributable net, or taxable income as reported	130,000.00			
4. Corrected, ordinary, distributable net, or taxable income	270,000.00			
5. Other adjustments				
a. Net earnings (loss) from self-employment				
(1) Adjustment	140,000.00			
(2) As reported	130,000.00			
(3) Corrected	270,000.00			
b. Sec. 481(a) Adjustment for purposes of Sec. 481(b) Tax Comp ->>				
(1) Adjustment	120,000.00			
(2) As reported	0.00			
(3) Corrected	120,000.00			
Remarks				
Examiner's Signature:		Employee ID:	Office:	Date:
RGS Version 5.20.00			Form 4605-A-CG	

Exhibit 4.10.8-3 (Cont. 1) (06-10-2005)
Sample Form 4605-A — Change in Accounting Method

Page 2 of 3					
Computer Generated Form 886-S	Department of the Treasury - Internal Revenue Service Partners' Share of Income, Deductions, and Credits	Schedule Number: 1065			
TIN and Name of Partnership: 00-0000000 Pine Partnership		Taxable Year Ended: 12/31/2000			
Name and TIN of Each Partner: (1)	Ordinary income (loss) from trade or business (2)	Net earnings (loss) from self-employment (3)	Sec. 481(a) Adjustment for purposes of Sec. 481(b) Tax Comp. (4)	(5)	
a. Pine, Pegasus Status: General	54,000.00	54,000.00	24,000.00		
b. Pine, Patty Status: General	54,000.00	54,000.00	24,000.00		
c. Pine, Peter Status: General	81,000.00	81,000.00	36,000.00		
d. Pine, Ponderosa Status: General	27,000.00	27,000.00	12,000.00		
e. Pine, Porcupine Status: General	54,000.00	54,000.00	24,000.00		
Totals	270,000.00	270,000.00	120,000.00		
Continuation					
Partner TIN (6)	(7)	(8)	(9)	(10)	(11)
Totals					
RGS Version 5.20.00		Date Tax Computation Last Generated		Form 886-S-CG	

Exhibit 4.10.8-3 (Cont. 2) (06-10-2005)
Sample Form 4605-A — Change in Accounting Method

		Page 3 of 3
Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	
Name of taxpayer	Tax Identification Number	Schedule number or exhibit
Pine Partnership	00-0000000	12/31/2000

Form 4605-A-CG

Line 5b. Sec. 481(a) Adjustment for purposes of Section 481(b) Tax Computation.

In the case of a change in method of accounting by a partnership, the adjustments required by IRC Section 481 shall be made with respect to the taxable income of the partnership but the limitations on tax shall apply to the individual partners. Each partner shall take into account his distributive share of the partnership items, as so adjusted, for the taxable year of the change. This applies to a partner whose taxable income is so increased by more than \$3,000 as a result of such adjustments to the partnership taxable income. It is not necessary for the partner to have been a member of the partnership for the two taxable years immediately preceding the taxable year of the change of the partnership's accounting method in order to have the limitation apply [Reg. 1.481-2(c)(5)(i)].

Note to Examiner Regarding RGS Input:

The IRC Section 481(a) Adjustment must be added twice as an issue:

1. Ordinary income adjustment subject to self-employment tax.
2. Separately stated item:
 - a) In F1065 RGS return setup under "Other" tab add "Sec. 481(a) Adjustment for purposes of Sec. 481(b) Tax Comp.
 - b) Under Issue, Adjustments, Categorization: select "Sch. K-Other Items", "Amounts to be reported separately", then "Sec. 481(a) Adjustment for purposes of Sec. 481(b) Tax Comp.

Exhibit 4.10.8-4 (06-10-2005)

Sample Form 2297 — Waiver of Statutory Notification of Claim Disallowance

Form 2297 Rev. March 1982	Department of the Treasury-Internal Revenue Service Waiver of Statutory Notification of Claim Disallowance
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I, Pegasus Pine, 000-00-0000 of 222 Pine Street, Anywhere, OK XXXXX
 (Name, SSN or EIN) (Number, Street, City or Town, State, ZIP Code)

waive the requirement under Internal Revenue Code section 6532(a)(1) that a notice of claim disallowance be sent to me by certified or registered mail for the claims or refund shown in column (d), below.

I understand that the filing of this waiver is irrevocable and it will begin the 2-year period for filing suit for refund of the claims disallowed as if the notice of disallowance had been sent by certified or registered mail.

Claims			
(a) Taxable Period Ended	(b) Kind of Tax	(c) Amount of Claim	(d) Amount of Claim Disallowed
12/31/98	Income	\$2100.00	\$1208.00

If you file this waiver for a joint return, both you and your spouse must sign the original and duplicate of this form. Sign your name exactly as it appears on the return. If you are acting under power of attorney for your spouse, you may sign as agent for him or her.

For an agent or attorney acting under a power of attorney, a power of attorney must be sent with this form if not previously filed.

For a partnership with excise or employment tax liability, all partners must sign. However, one partner may sign with appropriate evidence of authorization to act for the partnership.

For a person acting in a fiduciary capacity (executor, administrator, trustee), file Form 56, Notice Concerning Fiduciary Relationship, with this form if not previously filed.

For a corporation, enter the name of corporation followed by the signature and title of the officer(s) authorized to sign.

Your signature _____ (Date signed) _____

Spouses Signature if a Joint Return Was Filed _____ (Date signed) _____

Taxpayer's Representative Sign Here _____ (Date signed) _____

Partnership/Corporate Name _____

Partners Corporate Officers Sign Here _____ (Title) _____ (Date Signed) _____

_____ (Title) _____ (Date Signed) _____

Note-Filing this waiver within 6 months from the date the claim was filed will not permit filing a suit for refund before the 6-month period has elapsed unless a decision is made by the Service within that time disallowing the claims.

Exhibit 4.10.8-5 (06-10-2005)
Sample Form 4549-A — Personal Holding Company

Form 4549-A		Department of the Treasury - Internal Revenue Service		Return Form No.
		Income Tax Examination Changes		1120
Name and Address of Taxpayer		SS or EI Number	Filing Status	
Pine Rental Company		00-9876543		
		Person With Whom Examination Changes Were Discussed	Name and Title	
1. Adjustments to Income		Year: 12/31/2002	Year:	Year:
a.				
b.				
c.				
d.				
e.				
f.				
g.				
2. Total Adjustments		0.00		
3. Adjusted Gross or Taxable Income Shown on Return or as Previously Adjusted		53,395.00		
4. Corrected Adjusted Gross or Taxable Income		53,395.00		
5. Tax		8,349.00		
6. Alternative Tax, if Applicable		0.00		
7. Corrected Tax Liability (Lesser of Line 5 or 6)		8,349.00		
8. Less				
a. Credits				
b. Total Credits (See attached schedule)		0.00		
Specify: c.				
9. Balance (Line 7 less total of lines 8a through 8c)		8,349.00		
10.				
a.				
b. Other Taxes (See attached schedule)		17,388.00		
Plus c.				
11. Total Corrected Income Tax Liability (Line 9 plus total of lines 10a through 10c)		25,737.00		
12. Total Tax Shown on Return or as Previously Adjusted		8,349.00		
13. Adjustments to:				
a.				
b.				
14. Deficiency-Increase in Tax or (Overassessment- Decrease in Tax) (Line 11 adjusted by Line 12)		17,388.00		
15. Adjustments to Prepayment Credits		0.00		
16. Balance Due or (Overpayment) (Line 13 adjusted by Line 14) Not Including Interest		17,388.00		
17. Penalties, if Any (See explanation)				

Other information:

SEE ATTACHMENT FOR NOTICES AND OTHER INFORMATION

Examiner:	Employee ID:	Office:	Date:
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RGS Version 5.20.00

Form CG-4549-A

Exhibit 4.10.8-5 (Cont. 1) (06-10-2005)
Sample Form 4549-A — Personal Holding Company

Page 2 of 2

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS		Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended	
Pine Rental Company	00-9876543	12/31/2002	

PERSONAL HOLDING COMPANY TAX

It has been determined that the taxpayer for its taxable year ended 12/31/2002 is a Personal Holding Company as defined in IRC section 542 of the Internal Revenue Code. As such it is subject to the special tax of 38.6% on undistributed Personal Holding Company income.

Computation, as follows:

	<u>12/31/02</u>
Taxable income before special deductions	53,395
Less:	
Federal Income Tax	8,349
Less tax attributable to	
Net long-term capital gains	0
Dividends paid	0

Undistributed Personal Holding Co. income	45,046
	X .386

	17,388

Note: TAX RATE: 38.6% [highest rate under Sec. 1(c) as modified by Sec. 1(i)(2)]

2003 - 2008 -----15%

Exhibit 4.10.8-6 (06-10-2005)

Sample Form 870 — Personal Holding Company

Form 870 (Rev. March 1992)	Department of the Treasury - Internal Revenue Service Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment	Date received by Internal Revenue Service
Names and address of taxpayers (Number, street, city or town, State, ZIP code) Pine Rental Company 111 ABC Plaza Anytown, Somestate NNNNN		Social security or employer identification number 00-9876543
Increase (Decrease) in Tax and Penalties		
Tax year ended	Tax	Penalties
12/31/2002	\$ 17,388.00	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$

1. The waiver of restrictions on assessment and collection contained herein is subject to the approval of Form 2198 relating to the taxpayer's liability for income and personal holding company tax.

2. This waiver will not take effect until after the expiration of the 120-day period to begin with the effective date of Form 2198.

3. If the taxpayer complies with section 547 of the Internal Revenue Code, relating to the payment of deficiency dividends, by paying the deficiency dividends within 90 days after the effective date of Form 2198, and filing a proper claim on Form 976 within 120 days after the effective date of Form 2198, the amount of deficiency stated on this waiver shall be reduced by the amount necessary to give effect to the timely-paid deficiency dividends, and the remainder, if any, will be assessed.

4. If, at the expiration of the 120 day period beginning with the effective date of the Form 2198 a Form 976 has not been filed or timely deficiency dividend payments have not been made, the entire amount of the deficiency shown on this waiver will be assessed.
(For instructions, see back of form)

Consent to Assessment and Collection

I consent to the immediate assessment and collection of any deficiencies (*increase in tax and penalties*) and accept any overassessment (*decrease in tax and penalties*) shown above, plus any interest provided by law. I understand that by signing this waiver, I will not be able to contest these years in the United States Tax Court, unless additional deficiencies are determined for these years.

YOUR SIGNATURE HERE →		Date
SPOUSE'S SIGNATURE →		Date
TAXPAYER'S REPRESENTATIVE HERE →		Date
CORPORATE NAME →		
CORPORATE OFFICER(S) SIGN HERE →	Title	
	Title	

Catalog Number 18694U

Form **870** (Rev. 3-92)

Exhibit 4.10.8-7 (06-10-2005)

Sample Form 2198 — Determination of Liability for Personal Holding Company Tax Section 547(c)(3) of the Internal Revenue Code

Form 2198 (Rev. 9-80)	Department of the Treasury—Internal Revenue Service Determination of Liability for Personal Holding Company Tax Section 547 (c) (3) of the Internal Revenue Code		
Name Of Taxpayer Pine Rental Company			
Address of Taxpayer (Number, street, city, State, Zip code) 111 ABC Plaza, Anytown, SomeState NNNNN-NNNNN			
<i>The taxpayer named above and the Commissioner of Internal Revenue agree that the taxpayer is liable for personal holding company tax and other income tax in the amounts and for the tax years shown below.</i>			
Tax Year Ended	Personal Holding Company Tax Liability	Other Income Tax Liability	Total Income Tax Liability
December 31, 2002	\$17,388.00		\$17,388.00
<i>It is understood that if this determination is signed on behalf of the Commissioner, three signed copies will be sent by registered or certified mail to the taxpayer at the last known address. The date of registration (if sent by registered mail) or the date of the postmark on the sender's receipt (if sent by certified mail) shall be the determination date. If, however, a deficiency dividend is paid before the registration or postmark date but on or after the date this agreement is signed on behalf of the Commissioner, the determination date shall be the date of signing on behalf of the Commissioner.</i>			
Corporate Name Pine Rental Company			
Signature Of Officer		Title	Date
Signature Of Officer		Title	Date
For Internal Revenue Use Only	Date Accepted for Commissioner		Signature
	Office		Title
NOTE: This determination does not constitute a final closing agreement under section 7121 of the Internal Revenue Code. The determination must be signed with the corporate name, followed by the signatures and titles of the officers authorized to sign for the corporation.			
Form 2198 (Rev. 9-80)		Catalog Number 18149E	Department of the Treasury — Internal Revenue Service

Exhibit 4.10.8-8 (06-10-2005)

Sample Form 4549-A — Personal Holding Company - Page 1

Form 4549A		Department of the Treasury - Internal Revenue Service		Page of	
Name and Address of Taxpayer		SS or EI Number	Return Form No:		
Pine Rental Company		00-9876543	1120		
		Person with whom examination changes were discussed.	Name and Title:		
1. Adjustments to Income		Period End 12/31/2002	Period End	Period End	
a.					
b.					
c.					
d.					
e.					
f.					
g.					
h.					
i.					
j.					
k.					
l.					
m.					
n.					
o.					
p.					
2. Total Adjustments		0.00			
3. Taxable Income Per Return or as Previously Adjusted		53,395.00			
4. Corrected Taxable Income		53,395.00			
Tax Method					
Filing Status					
5. Tax		8,349.00			
6. Additional Taxes / Alternative Minimum Tax		0.00			
7. Corrected Tax Liability		8,349.00			
8. Less Credits		0.00			
a. Total credits					
b.					
c.					
d.					
9. Balance (Line 7 less total of lines 8a through 8d)		8,349.00			
10. Plus Other Taxes		17,388.00			
a. See attached schedule					
b.					
c.					
d.					
11. Total Corrected Tax Liability (line 9 plus line 10a - 10d)		25,737.00			
12. Total Tax Shown on Return or as Previously Adjusted		8,349.00			
13. Adjustments to:					
a. Special Fuels Credit					
b. PIC Deficiency Dividends deduction		(17,388.00)			
c.					
14. Deficiency-Increase in Tax or (Overassessment Decrease in Tax) (Line 11 less 12 adjusted by 13)		0.00			
15. Adjustments to Prepayment Credits		0.00			
16. Balance Due or (Overpayment) (Line 14 adjusted by Line 15) (Excluding interest and penalties)		0.00			

The Internal Revenue Service has agreements with State tax agencies under which information about Federal tax, including increases or decreases, is exchanged with the States. If this change affects the amount of your State income tax, you should file the State form.

You may be subject to backup withholding if you underreport your interest, dividend, or patronage dividend income and do not pay the required tax. The IRS may order backup withholding at 31 percent after four notices have been issued to you over a 120-day period and the tax has been assessed and remains unpaid.

Exhibit 4.10.8-8 (Cont. 1) (06-10-2005)

Sample Form 4549-A — Personal Holding Company - Page 1

Form 4549A		Department of the Treasury - Internal Revenue Service		Page	of
Income Tax Examination Changes					
Name and Address of Taxpayer		SS or EI Number		Return Form No:	
Pine Rental Company		00-9876543		1120	
17. Penalties		Period End 12/31/2002	Period End	Period End	
a.					
b.					
c.					
d.					
e.					
f.					
g.					
h.					
i.					
j.					
k.					
l.					
m.					
n.					
18. Total Penalties		0.00			
Underpayment attributable to negligence: (1981-1987) A tax addition of 50 percent of the interest due on underpayment will accrue until paid or assessed					
Underpayment attributable to fraud: (1981-1987) A tax addition of 50 percent of the interest due on underpayment will accrue until paid or assessed					
Underpayment attributable Tax Motivated Transactions TMT interest will accrue and be assessed at 120% of underpayment rate in accordance with IRC 6621(c)					
19. Summary of Taxes, Penalties and Interest:					
a. Balance due or Overpayment Taxes - Line 16, Page 1		0.00			
b. Penalties (Line 18, Page2)-computed to		0.00			
c. Interest (IRC§ 6601)-computed to					
d. TMT Interest - computed on TMT underpayment					
e. Amount due or refund (sum of lines a, b, c and d)		0.00			

Other information:

The dividends declared and paid with the claim filed on Form 976 have been allowed in full.

Examiner's Signature:	Employee ID:	Office:	Date:
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RGS Version

Form CG-4549A

Exhibit 4.10.8-9 (06-10-2005)

Sample Form 3189 — Deficiency Dividend Deduction Case Transmittal

Deficiency Dividend Deduction Case Transmittal <i>(Prepare in duplicate)</i>		DATE
TO: <i>(Service Center)</i>	FROM: <i>(District)</i>	
NAME AND ADDRESS OF PERSONAL HOLDING COMPANY Pine Rental Company 111 ABC Plaza Anytown, SomeState NNNNN-NNNN	E.I. OR S.S. NUMBER 00-9876543	TAXABLE YEAR ENDED 12/31/2002
Transmitted herewith for assessment action with respect to the net amount disclosed in the computation shown below is the administrative file of the above-named personal holding company. The file contains a timely filed Form 976 claiming a deficiency dividend, which was paid during taxable year ended <u>December 31, 2004</u>		
COMPUTATION		
DEFICIENCY BEFORE DEDUCTION \$17,388.00	AMOUNT ATTRIBUTABLE TO ALLOWANCE OF DEDUCTION \$17,388.00	NET AMOUNT TO BE ASSESSED \$.00
REMARKS Interest should be computed from 03/15/2003 to 07/31/2004 on \$17,388. Note: 03/15/2003 is the due date of the return. Note: 07/31/2004 is the date Form 976 was received by Technical Services		
SIGNATURE		DATE

Form **3189** (Rev. 7-1981)

Cat. No. 19352N

Department of the Treasury - Internal Revenue Service

Exhibit 4.10.8-10 (06-10-2005)

Sample Form 4549-A - Full Allowance of Tentative NOLD

Form 4549-A		Department of the Treasury - Internal Revenue Service Income Tax Examination Changes		Return Form No. 1120
Name and Address of Taxpayer Pine Corporation		SS or EI Number 00-0000000		Filing Status
		Person With Whom Examination Changes Were Discussed		Name and Title
1. Adjustments to Income		Year: 12/31/1998	Year: 12/31/2000	Year:
a. Net operating loss deduction (NOLD) from 2000		(30,000.00)		
b.				
c.				
d.				
e.				
f.				
g.				
2. Total Adjustments		(30,000.00)	0.00	
3. Adjusted Gross or Taxable Income Shown on Return or as Previously Adjusted		888,888.00	(30,000.00)	
4. Corrected Adjusted Gross or Taxable Income		858,888.00	(30,000.00)	
5. Tax		292,022.00	0.00	
6. Alternative Tax, If Applicable		0.00	0.00	
7. Corrected Tax Liability (Lesser of Line 5 or 6)		292,022.00	0.00	
8. Less				
a. Credits				
b. Total Credits (See attached schedule)		0.00	0.00	
Specify) c.				
9. Balance (Line 7 less total of lines 8a through 8c)		292,022.00	0.00	
10.				
a.				
b. Other Taxes (See attached schedule)		0.00	0.00	
Plus c.				
11. Total Corrected Income Tax Liability (Line 9 plus total of lines 10a through 10c)		292,022.00	0.00	
12. Total Tax Shown on Return or as Previously Adjusted		292,022.00	0.00	
13. Adjustments to:				
a.				
b.				
14. Deficiency-Increase in Tax or (Overassessment- Decrease in Tax) (Line 11 adjusted by Line 12)		0.00	0.00	
15. Adjustments to Prepayment Credits		0.00	0.00	
16. Balance Due or (Overpayment) (Line 13 adjusted by Line 14) Not Including Interest		0.00	0.00	
17. Penalties, If Any (See explanation)				
Other Information:				
SEE ATTACHMENT FOR NOTICES AND OTHER INFORMATION				
Line 12: Total Tax Shown on Return or as Previously Adjusted				
Tax per original return \$302,222				
Less refund per Form 1139 filed 5/30/01 10,200				
1998 Tax - Form 4549 - Line 12 292,022				
Examiner:	Employee ID:	Office:	Date:	

RGS Version 5.20.00

Form CG-4549-A

Exhibit 4.10.8-11 (06-10-2005)

Sample Form 4549-A - Partial Allowance of Tentative NOLD

Form 4549-A		Department of the Treasury - Internal Revenue Service		Return Form No.	
Income Tax Examination Changes				1120	
Name and Address of Taxpayer		SS or EI Number		Filing Status	
Pine Corporation		00-0000000			
		Person With Whom Examination Changes Were Discussed		Name and Title	
1. Adjustments to Income		Year: 12/31/1998	Year: 12/31/2000	Year:	
a. Net operating loss deduction (NOLD) from 2000		(13,000.00)			
b. Income			17,000.00		
c.					
d.					
e.					
f.					
g.					
2. Total Adjustments		(13,000.00)	17,000.00		
3. Adjusted Gross or Taxable Income Shown on Return or as Previously Adjusted		888,888.00	(30,000.00)		
4. Corrected Adjusted Gross or Taxable Income		875,888.00	(13,000.00)		
5. Tax		297,802.00			
6. Alternative Tax, If Applicable		0.00	0.00		
7. Corrected Tax Liability (Lesser of Line 5 or 6)		297,802.00	0.00		
8. Less a.					
Credits b. Total Credits (See attached schedule)		0.00	0.00		
Specify) c.					
9. Balance (Line 7 less total of lines 8a through 8c)		297,802.00	0.00		
10. a.					
b. Other Taxes (See attached schedule)		0.00	0.00		
Plus c.					
11. Total Corrected Income Tax Liability (Line 9 plus total of lines 10a through 10c)		297,802.00	0.00		
12. Total Tax Shown on Return or as Previously Adjusted		292,022.00	0.00		
13. Adjustments to:					
a.					
b.					
14. Deficiency-Increase in Tax or (Overassessment- Decrease in Tax) (Line 11 adjusted by Line 12)		5,780.00	0.00		
15. Adjustments to Prepayment Credits		0.00	0.00		
16. Balance Due or (Overpayment) (Line 13 adjusted by Line 14) Not Including Interest		5,780.00	0.00		
17. Penalties, If Any (See explanation)					

Other Information:

SEE ATTACHMENT FOR NOTICES AND OTHER INFORMATION

Line 12: Total Tax Shown on Return or as Previously Adjusted

Tax per original return \$302,222

Less refund per Form 1139 filed 5/30/01 10,200

1998 Tax - Form 4549 - Line 12 292,022

Examiner:	Employee ID:	Office:	Date:

Exhibit 4.10.8-12 (06-10-2005)

Sample Form 4549-A - Full Disallowance of Tentative NOLD

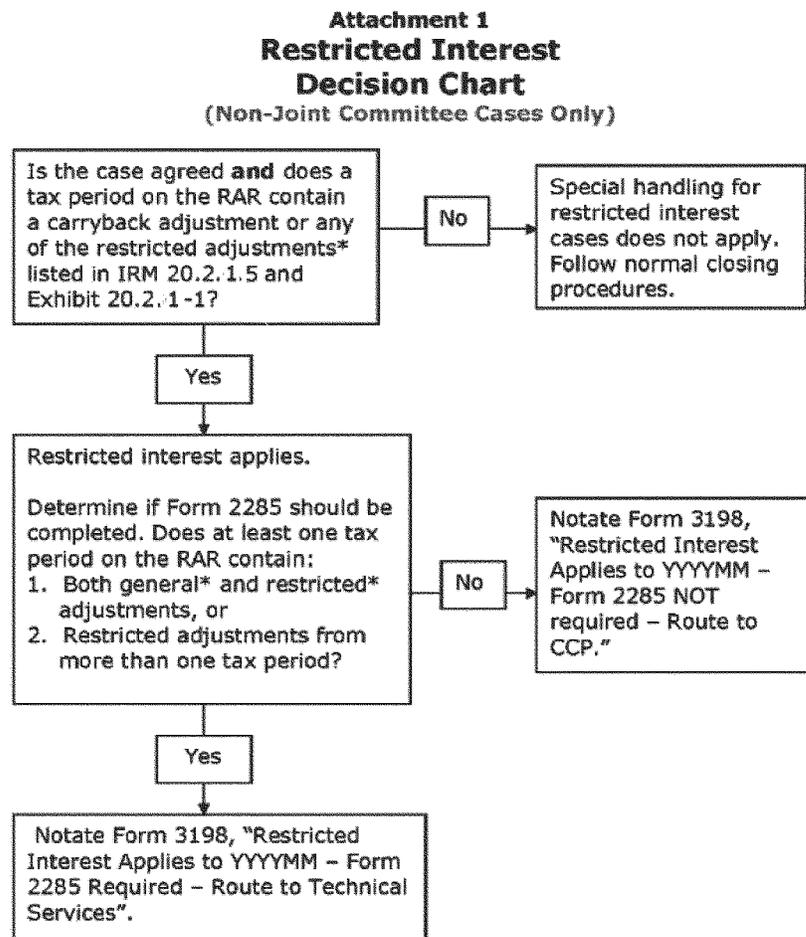
Form 4549-A	Department of the Treasury - Internal Revenue Service		Return Form No.
Income Tax Examination Changes			1120
Name and Address of Taxpayer Pine Corporation		SS or EI Number 00-0000000	Filing Status
		Person With Whom Examination Changes Were Discussed	Name and Title
1. Adjustments to Income	Year: 12/31/1998	Year: 12/31/2000	Year:
a. Net operating loss deduction (NOLD) from 2000	0.00		
b. Income		50,000.00	
c.			
d.			
e.			
f.			
g.			
2. Total Adjustments	0.00	50,000.00	
3. Adjusted Gross or Taxable Income Shown on Return or as Previously Adjusted	888,888.00	(30,000.00)	
4. Corrected Adjusted Gross or Taxable Income	888,888.00	20,000.00	
5. Tax	302,222.00	3,000.00	
6. Alternative Tax, If Applicable	0.00	0.00	
7. Corrected Tax Liability (Lesser of Line 5 or 6)	302,222.00	3,000.00	
8. Less			
a.			
Credits b. Total Credits (See attached schedule)	0.00	0.00	
Specify) c.			
9. Balance (Line 7 less total of lines 8a through 8c)	302,222.00	3,000.00	
10.			
a.			
b. Other Taxes (See attached schedule)	0.00	0.00	
Plus c.			
11. Total Corrected Income Tax Liability (Line 9 plus total of lines 10a through 10c)	302,222.00	3,000.00	
12. Total Tax Shown on Return or as Previously Adjusted	292,022.00	0.00	
13. Adjustments to:			
a.			
b.			
14. Deficiency-Increase in Tax or (Overassessment- Decrease in Tax) (Line 11 adjusted by Line 12)	10,200.00	3,000.00	
15. Adjustments to Prepayment Credits	0.00	0.00	
16. Balance Due or (Overpayment) (Line 13 adjusted by Line 14) Not Including Interest	10,200.00	3,000.00	
17. Penalties, If Any (See explanation)			
Other Information:			
SEE ATTACHMENT FOR NOTICES AND OTHER INFORMATION			
Line 12: Total Tax Shown on Return or as Previously Adjusted			
Tax per original return \$302,222			
Less refund per Form 1139 filed 5/30/01 10,200			
1998 Tax - Form 4549 - Line 12 292,022			
Examiner:	Employee ID:	Office:	Date:

RGS Version 5.20.00

Form CG-4549-A

Exhibit 4.10.8-13 (08-11-2006)

Restricted Interest Decision Chart (Non-Joint Committee Cases Only)



* **General Adjustments** – Current year adjustments for which interest is computed from the due date/filing date of the return to the date the account is paid in full or refunded (includes transfers to other periods or liabilities), i.e. disallowance of an expense, unreported income, etc. Adjustments made to losses/credits carried **forward** from prior years claimed on the return as filed, or allowed in an examination, are also general adjustments.

* **Restricted Adjustments** – Carryback adjustments and adjustments listed in **IRM** Exhibit 20.2.1-1.

