



THE OFFICE OF THE TAXPAYER ADVOCATE OPERATES INDEPENDENTLY OF ANY OTHER IRS OFFICE AND REPORTS DIRECTLY TO CONGRESS THROUGH THE NATIONAL TAXPAYER ADVOCATE.

IRM PROCEDURAL UPDATE

DATE: 11/19/2024

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SUBJECT: Advocating for Taxpayers Who Received a Refund Claim Disallowance Letter From the IRS

AFFECTED IRM(s)/SUBSECTION(s): 13.1.24

CHANGE(s):

IRM 13.1.24.10.1 Added new content for new subsections relating to, Advocating for Taxpayers Who Received a Refund Claim Disallowance Letter from the IRS and Form 907, Agreement to Extend the Time to Bring Suit

(1) This section provides guidance for TAS cases involving IRC 6532(a) statutory deadlines. It provides information on recognizing these issues, discussing them with taxpayers, and advocating for resolution. Because of the urgency of these issues, it also establishes mandatory advocacy steps as the deadline becomes imminent.

IRM 13.1.24.10.1.1 Added new subsection, Identifying IRC 6532(a) Statute Issues

(1) Aside from the refund statute expiration date (RSED) under IRC 6511, Limitation on Credit or Refund, there is an additional statute under IRC 6532(a), Periods of Limitations on Suits, that might prevent a taxpayer from getting a refund when they dispute the IRS disallowance of a refund claim. This statute begins with the date the IRS mails a notice of claim disallowance to the taxpayer and ends two years later. The IRS does not track the IRC 6532(a) statute on the Integrated Data Retrieval System (IDRS).

(2) When identifying an IRC 6532(a) statute issue, the key is the presence of a statutory notice of claim disallowance. First, consider if the claim is a request for abatement. Requests for abatement under IRC 6404, Abatements, are not subject to IRC 6532(a) or IRC 6511 limitations on credit or refund. See IRM 25.6.1.10.1, Requests for Abatement, and IRM 21.5.3.4.6(3), No Consideration and Disallowance of Claims and Amended Returns. IRC 6404(b) states taxpayers will not file requests for abatement of income, gift, or estate taxes, but IRS Policy Statement 3-15 says the IRS will consider such requests anyway. Requests for abatement can bring the amount owed (including tax, assessed

penalty and interest, and accrued penalty and interest) down to zero, and the IRS should not deny a request for abatement based on statute expiration or because the taxpayer has not paid the tax.

(3) If the IRS rejects a request for abatement on its merits, but TAS believes the rejection is incorrect, consult a RATA if appropriate. TAS can elevate the OAR response or order the IRS to review the rejection at a higher level using a Taxpayer Assistance Order (TAO) per IRM 13.1.20, TAS Taxpayer Assistance Orders (TAOs).

(4) Generally, the IRS issues a Letter 105-C, Claim Disallowed, or Letter 106-C, Claim Partially Disallowed, when fully or partially disallowing a refund claim. The IRS also uses these letters (Letter 105-C and Letter 106-C) to deny requests for abatement. See IRM 13.1.24.10.1.1 (2), Identifying IRC 6532(a) Statute Issues, for information on determining whether the issue is a request for abatement or a claim for refund. The date the IRS mails the disallowance letter begins the running of a two-year period of limitation for the taxpayer to file suit under IRC 6532(a) with the U.S. District Court or U.S. Court of Federal Claims.

- Letter 905, Letter 906, Letter 1363, and Letter 1364 also begin the running of the two-year period of limitation.

Note: The IRS does not send Letter 854C penalty abatement disallowance letters by certified or registered mail and thus do not trigger the IRC 6532(a) statute of limitation.

- IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures, describes the elements generally required in a disallowance letter to begin the running of the IRC 6532(a) statutory period. The determination of whether a statute is running may require in-depth analysis.
- If a taxpayer signs Form 2297, Waiver of Statutory Notification of Claim Disallowance, the two-year period for bringing suit begins on the date the IRS receives the signed waiver.

(5) Claims for refund can appear in many forms, including (but not limited to) amended returns filed using an “X” series return (e.g., Forms 1040X, 941X, or 1120X) and informal claims. See IRM 25.6.1.10.2.6, Claims for Credit or Refund – Form and Content, and IRM 8.7.7.2.3, General Information About Refund Claims and Overassessment Cases. Cases with Issue Codes 330, 620, 760, 912, or 919 may involve a taxpayer seeking TAS help to:

- Expedite the claim consideration;
- Resolve an IRS delay in considering the merits of the claim; or
- Challenge the IRS disallowance of the claim.

(6) The IRS can consider a taxpayer's reconsideration or appeal request in response to a disallowance letter if the request has not extended the two-year deadline of the disallowance letter. **Once the two-year limitation period expires, IRC 6514 prohibits the IRS from issuing a refund**, even if an IRS function or Appeals determination would have allowed the claim/refund.

(7) Claim disallowance letters issued under an incorrect application of the law by the IRS nonetheless begin the running of the two-year limitations period.

Example: The IRS disallowed a claim because it was not timely mailed under the three-year rule (IRC 6511(b)(2)(A)), but the claim was timely under the two-year rule (IRC 6511(b)(2)(B)). The issuance of the disallowance letter still begins the running of the IRC 6532(a) two-year limitation period.

(8) It is possible to extend the two-year limitation before it expires. The taxpayer and the IRS must agree to extend the two-year statute under IRC 6532(a) by using Form 907, Agreement to Extend the Time to Bring Suit.

IRM 13.1.24.10.1.2 Added new subsection, TAS Advocacy in Cases Involving the IRC 6532(a) Limitation

(1) Upon identifying a case where the IRC 6532(a) statutory period is running on a claim disallowance:

- Determine the date the IRS issued the disallowance letter and calculate when the two-year deadline for the taxpayer to bring suit expires. See CABIC 180, Refund Statute (RSED), for IRS system research and information to help identify and locate a copy of the claim disallowance letter.
- Discuss with the taxpayer the consequences of the two-year deadline and the taxpayer rights to *appeal an IRS decision in an independent forum and challenge the IRS's position and be heard*.
- If appropriate, discuss with the taxpayer whether they should (with TAS's assistance) submit a Form 907 to extend the statute (and document the taxpayer's intentions in TAMIS).
- Advocate to resolve the underlying issue using OARs and TAOs (as appropriate). In many cases, TAS can resolve the case and have the refund issued before the IRC 6532 statute expires.

(2) Statute cases are a priority, and as such:

- Send OARs expedited and document the nature of the statute issue on the OAR. See IRM 13.1.19.5, Operations Assistance Request (OAR) - Preparation.
- Limit the number of extensions given on the OARs issued.
- Set short follow-up dates (FUDs).
- Consider the use of TAOs, as appropriate. See IRM 13.1.20, TAS Taxpayer Assistance Orders (TAOs).

(3) If there are less than 90 days remaining on the two-year limitation period, immediately refer the case to a Revenue Agent Technical Advisor (RATA). Once the RATA completes their referral, with the recommendation that the Case Advocate work with the taxpayer to secure a signed Form 907, the RATA will close the referral. The Case Advocate may submit a new referral to a RATA once they secure a Form 907 signed by the taxpayer. See IRM 13.1.24.10.1.5, Advocacy Using the Form 907 Extension.

IRM 13.1.24.10.1.3 Added new subsection, Determining the Disallowance Date

(1) Determine if and when the IRS issued a Letter 105-C or Letter 106-C or other disallowance letter. The two-year statute begins to run on the day the IRS mailed the letter by certified or registered mail. See the Case Assistance by Issue Code (CABIC) 180 page, RSED, for IRS systems research information to help identify and locate a copy of the claim disallowance letter.

(2) Document the **IRC 6532(a) expiration date (two years later) for that tax period in TAMIS.**

Caution: State and federal holidays or weekends may impact the two-year period; see Rev. Rul. 2003-41.

IRM 13.1.24.10.1.4 Added new subsection, Discussing the IRC 6532(a) Statutory Deadline With the Taxpayer

(1) Ensure the taxpayer understands the right to *appeal an IRS decision in an independent forum* and the two-year statute to bring suit in court. The IRS does NOT suspend or extend this two-year statute because the case is in Appeals or active in TAS. To be timely, the refund issue date must be within the IRC 6532(a) statutory period. Once this two-year period under IRC 6532(a) expires, there are no refund options at all. The taxpayer will lose the *right to challenge the IRS's position and be heard*, even if Appeals or the IRS BOD agree the taxpayer would otherwise be due a refund.

(2) Determine the taxpayer's intentions related to the disallowed claim. There is no need to track or discuss extending the IRC 6532(a) statutory period if the taxpayer does not intend to appeal the claim disallowance or file a refund suit in court. Document the taxpayer's reply/intentions in TAMIS.

(3) If the taxpayer wishes to pursue the disallowed claim, discuss the merits of the claim with the taxpayer. In all cases, explain what the law provides and discuss how to build a strong case to support the taxpayer's position. This conversation includes advising taxpayers when law does not appear to support their positions.

(4) In cases where the taxpayer intends to appeal or otherwise contest a claim disallowance:

If	Then
The IRS disallowed a claim within the past six months	Recommend the taxpayer initiate the reconsideration or appeal promptly to give the IRS adequate time to consider the reconsideration or appeal.
If the taxpayer has already filed an appeal with the IRS in response to the disallowance letter, and more than one year remains on the IRC 6532(a) statute	Work the TAS case as normal. See the next row below if Appeals has not assigned the appeal by the time the statute has less than one year remaining.

If	Then
<p>If any of the following are true:</p> <ul style="list-style-type: none"> • The taxpayer intends to file an administrative appeal or reconsideration but has not done so and less than one year remains on the statute; • TAS is working with a function other than the IRS Office of Appeals and the recommended actions will not be completed prior to the expiration of the two-year statute; • The taxpayer filed an administrative appeal, but the IRS Office of Appeals does not have an open appeals case yet and less than one year remains on the statute; • The IRS Office of Appeals has an open appeal case but less than six months remains on the statute; or • The taxpayer intends to file a refund suit with the U.S. District Court or U.S. Court of Federal Claims but needs additional time to file the refund suit. <p>Note: Some Low Income Taxpayer Clinics (LITCs) may assist eligible taxpayers with the filing of a refund suit. See Pub 4134, Low Income Taxpayer Clinic List.</p>	<p>See IRM 13.1.24.10.1.5, Advocacy Using the Form 907 Extension.</p>
<p>If less than 30 days remain on the statute</p>	<p>Advise the taxpayer or representative the IRS may not agree to sign a Form 907 extension in time, even with TAS advocacy. Filing a refund suit with the U.S. District Court or U.S. Court of Federal Claims before the statute expires may be the only way dispute the disallowance. IRM Exhibit 13.1.24-8 contains a script to help TAS employees communicate this to taxpayers.</p>

(5) Some taxpayers may have no intention of asking for a reconsideration or appeal of the disallowance. If discussions with the taxpayer reveal this is the case, document this in TAMIS. Ultimately, taxpayers are responsible for protection of this statute and the initiation of Form 907.

IRM 13.1.24.10.1.5 Added new subsection, Advocacy Using the Form 907 Extension

(1) Form 907, Agreement to Extend the Time to Bring Suit, extends the two-year period for filing suit in a U.S. district court or the U.S. Court of Federal Claims, but both the taxpayer and the IRS must agree to the extension. The extension also gives the IRS additional time to consider an administrative appeal for the taxpayer, even if the taxpayer has no plans to file a refund suit in court. TAS employees **do not** have delegated authority to sign Form 907 on behalf of the IRS. However, TAS may prepare or work with the taxpayer to prepare the Form 907 because the IRS does not consider it a return.

Example: The taxpayer filed a refund claim using Form 1040-X, Amended U.S. Individual Income Tax Return, which the IRS disallowed with a Letter 105-C dated 8/20/2022. The taxpayer requested an appeal, but the IRS function never sent the appeal package to Appeals, prompting the taxpayer to seek TAS help on 1/25/2024. Since less than one year remains under the IRC 6532(a) statutory period (it expires on 8/20/2024), and Appeals does not have an open case, TAS discusses the IRC 6532 statute with the taxpayer and recommends the taxpayer request a two-year extension to 8/20/2026 using Form 907 to give the IRS sufficient time to receive and consider the merits of the taxpayer's appeal request.

(2) See CABIC 180 for IRM references discussing use of the Form 907 and information about which IRS officials can sign Form 907. Each Form 907 (multiple extensions are possible) can extend the statute.

(3) Because Form 907 is not a tax return or claim for refund, TAS can solicit, prepare, or help a taxpayer prepare Form 907 and receive a signed Form 907 from taxpayers using the Document Upload Tool (DUT), fax, or mail. See Form 907 Request and Executed letters (Taxpayer and Power of Attorney versions) on the TAS Letters, Communications, and Forms site (English and Spanish versions). Per IRM 10.10.1.6.1, Accepting Images of Signatures and Digital Signatures in Certain Taxpayer Interactions, TAS can receive a Form 907 with a digital, photographic, or otherwise imaged taxpayer signature. Send an electronic copy of Form 907 via an OAR to the IRS for agreement and a digital signature of the appropriate IRS official.

Caution: Representatives with a power of attorney are not eligible to sign Form 907 unless the power of attorney specifically authorizes this action. See page 2 of Form 907, Rev. Rul. 76-60, and IRM 13.1.23.3.1.1(7), Authority Granted by Power of Attorney (Form 2484 and Other Comparable Documents).

(4) If TAS receives a Form 907 signed only by the taxpayer or taxpayer's representative (but not the IRS) as part of the taxpayer's request for TAS assistance or at any time during the life of the case, document TAMIS and notify your Local Taxpayer Advocate (LTA) immediately.

(5) Upon receipt of a processable Form 907, immediately refer the case to a RATA and forward the form to the RATA assigned to the referral. ITAP is responsible for securing the IRS signature on the extension request. Once all parties have signed the form, the RATA will return the executed form to the Case Advocate with instructions on how to proceed.

(6) See the CABIC 180 page for current OAR routing information.

(7) If the IRS disagrees with TAS analysis that the taxpayer timely filed the refund claim under IRC 6511 and refuses to sign Form 907, verify the IRS computed the RSED correctly (consult a RATA if needed). AMS or CII may provide evidence of an earlier (and timely) refund claim or the presence of an informal claim. Consider a TAO if appropriate to resolve any disagreements.

IRM 13.1.24.10.1.6 Added new subsection, When the IRC 6532(a) Statute Has Expired

(1) If the IRS refuses to consider the merits of a taxpayer appeal because the IRS contends the IRC 6532(a) statutory period has expired, verify the dates the IRS used and explore whether the IRS followed the proper procedure for issuing the disallowance letter.

- Review the disallowance letter to determine if it contains all the required elements described in IRM 21.5.3.4.6.1, Disallowance and Partial Disallowance Procedures.
- Verify the IRS mailed the disallowance letter by certified or registered mail. If unsure how to verify the IRS mailed the disallowance letter using certified or registered mail, consult an Accounts Technical Advisor (ATA).
- If a disallowance letter does not meet the statutory requirements, it never started the running of the IRC 6532(a) statutory period, so TAS can advocate for consideration of the taxpayer's appeal.
- Consider a RATA referral.

(2) In situations where there is ambiguity on whether the taxpayer received the statutory notice of claim disallowance, consider taking the following steps:

- Verify the IRS mailed the disallowance letter by certified or registered mail. Consider consulting an ATA.
- Consider a RATA referral.

(3) Even if a refund is not available due to the expiration of the period under IRC 6532(a), TAS has advocacy options available. Statute expiration should not preclude taxpayers from additional TAS assistance. Consider the following possibilities.

- Explore whether TAS can advocate for penalty abatement due to reasonable cause or First Time Abate (FTA).
- Discuss collection alternatives with the taxpayer to help resolve the balance due. Make a referral to ITAP if you need assistance.
- In circumstances when TAS cannot advocate for a specific outcome, consider whether it is appropriate to issue a neutral language OAR. See IRM 13.1.19.5(9), Operations Assistance Request (OAR) – Preparation.

Example: A statute has expired under IRC 6532, but the case is still open in Appeals and has not been worked. Although you cannot advocate for issuance of a refund, issue an OAR recommending the IRS review the case and respond to the taxpayer.

IRM 13.1.24.10.1.7 Added new subsection, Responsibilities

(1) This section describes the TAS employee responsibilities when advocating for taxpayers who received a refund disallowance letter from the IRS.

Employee	Is Responsible for
Intake Advocate (IA)	Identifying disallowed claims for refund during intake and documenting TAMIS. If a case has IRC 6532(a) statute implications, the intake advocate should notate the TAMIS history with the literal **6532** .
Case Advocate (CA)	<ul style="list-style-type: none">• Identifying disallowed claims for refund during initial review of all IRS systems and documenting the TAMIS with the literal **6532** if the intake advocate did not previously identify the IRC 6532 implication.• Documenting TAMIS with the IRC 6532(a) statute expiration date for each tax period with a refund disallowance letter.• Clearly explaining the issue and remaining time under the IRC 6532(a) statute to the taxpayer or representative.• Explaining all options available to the taxpayer and documenting the taxpayer's decision in TAMIS. The options may include filing a refund suit in court, submitting Form 907 to request a statute extension, or allowing the statute to expire when the taxpayer has no intention of filing an appeal or refund suit in court.• Taking a timely action if the taxpayer submits a signed Form 907, including conducting a review of the Form 907 to ensure it is prepared properly.
Internal Technical Advisor Program (ITAP)	<ul style="list-style-type: none">• Analyzing the case and making recommendations to Case Advocates to secure Form 907 from TP and if necessary, help them with the form.• Securing the IRS signature on Form 907.• Returning the executed form to the Case Advocate along with instructions on how to proceed with the case.

Employee	Is responsible for
Local Taxpayer Advocate (LTA)	<ul style="list-style-type: none"> • Actively monitoring IRC 6532(a) cases in the office inventory. Local offices should be addressing the issues well before the case enters the 120-day window of the statute expiration date. • Ensuring Case Advocates are taking actions and documenting managerial reviews in TAMIS. • Elevating Form 907 signature delays with the IRS as appropriate, including use of TAOs.
Deputy Executive Director Case Advocacy (Deputy)	Ensuring their area analysts are monitoring these cases. The Deputy will also provide oversight of IRC 6532(a) case advocacy in all review of local offices. The Deputy will designate the Area point of contact (POC) for all IRC 6532 cases.
Area POC	<ul style="list-style-type: none"> • Accessing and reviewing the IRC 6532 statute tracker at a minimum once a week. • Sending LTAs their complete list of cases monthly regardless of the number of days remaining in the two-year statute. • Reviewing TAMIS for the cases(s) assigned to the Area to ensure each case is open and determine whether the IRS has issued a refund for the claim previously disallowed. A review of the account on IDRS is required. • Completing, maintaining, and updating all applicable fields in the Tracking Spreadsheet DCI when required. • Documenting the case with the literal **6532** if not done so already. • Ensuring the Case Advocate refers the case to ITAP when it reaches the 90-day window prior to the statute expiration date. • Alerting the LTA of the IRC 6532 implications. Follow-up with the LTA within three business days as a reminder if the referral has not been made.

Employee	Is responsible for
	<ul style="list-style-type: none"><li data-bbox="938 247 1528 380">• Contacting the EDCA technical advisors on any questionable cases or account concerns or non-responses for the local offices.<li data-bbox="938 388 1528 520">• Alerting the EDCA staff immediately when the IRC 6532 statute has expired on any open TAS case on the Tracking Spreadsheet list.<li data-bbox="938 529 1528 625">• Ensuring all local offices frequently refresh all employees on statute identification and TAMIS documentation.