

IRM PROCEDURAL UPDATE

DATE: 09/18/2025

NUMBER: sbse-04-0925-3601

SUBJECT: Instruction and Guidance to Examiners for Issuing Closing Letters

AFFECTED IRM(s)/SUBSECTION(s): 4.23.13

CHANGE(s):

IRM 4.23.13.1.5 - Moved IRM 4.23.13.1.9, Program Controls, to this location to be consistent with IRM 1.11.2.2.4, Address Management and Internal Controls. Updated paragraph (2) to list functions separate from the exam functions. Added paragraph (6) regarding the use of the Specialty Employment Tax Application. All subsequent subsections have been renumbered.

(1) All information management systems have safeguard measures in place that address key components of Information Technology (IT) security requirements to restrict access to sensitive data.

(2) Certain duties and functions are separate from the SB/SE ET Examination program:

- Policy and procedure reside with ET Policy that is within SB/SE Specialty Examination Policy
- Case selection reside with ET-WSD within SB/SE Examination Case Selection, and
- Quality review reside within SB/SE Exam Quality and Technical Support.

(3) The Issue Management System (IMS) is required to be used during employment tax examinations by examiners assigned to Specialty – Employment Tax Operations.

(4) ET examiners will use the Employment Tax Lead Sheets (ETLS) developed specifically for employment tax cases.

(5) ET examiners working ET Large Cases will use Large Case Lead Sheets (LCLS). LCLS are developed specifically for large case ET cases. ET examiners working ET Large Cases will follow workpaper preparation, specific audit techniques, and case closing procedures unique to these types of audits.

(6) The Specialty Employment Tax Application (SETA) is a web-based application that ET examiners must use in ET examinations to generate most of the documents needed to prepare an examination report and close their examination.

IRM 4.23.13.1.8(2) - Revised content of additional resources for readability and changed the hyperlinks to plain language.

(2) Other helpful information sources include:

- a. SB/SE Employment Tax Small Business Knowledge Base provides guidance, resources and information for examiners to aid in raising, developing, and resolving employment tax issues.
- b. Specialist Referral System (SRS) can be used by any employee, regardless of operating division. In addition to requesting assistance or a referral, SRS may be used to submit informal questions or to request a consultation with an employment tax specialist to discuss employment tax potential in an examination.
- c. Contacts, Tools, and Training provides the program assignments and contact information for subject matter experts, ET field groups areas of assignment and contact information, examination and report writing tools, and training materials.

IRM 4.23.13.1.8(5) - Revised paragraph (5) for clarify and understanding of disclosure and privacy provisions. Revised the hyperlinks URL/web addresses to plain language.

(5) IRS employees are required to protect the privacy of sensitive but unclassified (SBU) data for taxpayers and personnel, including personally identifiable information (PII), such as federal tax information (FTI), tax return, financial, and employment information regardless of format. For further information, see the Privacy, Governmental Liaison and Disclosure (PGLD) knowledge base at Disclosure and Privacy Knowledge Base Homepage.

IRM 4.23.13.1.9 - Deleted this subsection. The contents were moved to the new subsection IRM 4.23.13.1.5. to be consistent with IRM 1.11.2.2.4, Address Management and Internal Controls.

IRM 4.23.13.3.1.2 - Paragraph (2) was added that incorporate instruction and guidance to examiners for the use of a new closing Letter 2841, Agreed Claim Disallowed in Full.

(1) Cases containing claims for refund that are examined and disallowed in full, **with no additional adjustments** (Disposal Code (DC) "01"), must include:

Item	Additional Information
Form 886-A, <i>Explanation of Items</i>	Required for unagreed cases, optional for others.
Form 2297, <i>Waiver of Statutory Notice of Claim Disallowance</i>	Refer to IRM 4.23.13.3.4, <i>Form 2297</i> and Exhibit 4.23.13-3, <i>Instructions for Completing Form 2297</i> .
Form 3363, <i>Acceptance of Proposed Disallowance of Claim for Refund or Credit</i>	Refer to IRM 4.23.13.3.5, <i>Form 3363</i> , and Exhibit 4.23.13-4, <i>Instructions for Completing Form 3363</i> .
Form 4666, <i>Summary of Employment Tax Examination</i>	Refer to IRM 4.23.13.3.6, <i>Form 4666</i> , for language in the "Other information" section.
Letter 5376, <i>Full or Partial Claim Disallowance Letter - Employment Tax</i>	This letter is considered a 30-day letter (see IRM 4.23.22.6, <i>30-Day Letters: Unagreed Case Procedures</i>).
Pub 5, <i>Your Appeal Rights and How to Prepare a Protest if You Disagree</i>	Blank

Note: TE/GE examiners are to refer to IRM 4.70.17.6.5.1, *Employment Tax Cases: Claim Disallowed in Full without Additional Tax Adjustment*, for guidance.

(2) If the taxpayer has signed and returned the Form 2297 and Form 3363 to the examiner, the examiner may issue closing Letter 2841, *Agreed Claim Disallowed in Full*, to the taxpayer. It will be prepared and provided by the examiner as follows:

- a. Mark the appropriate box on Form 3198 that states "No letter required to be sent by CCP."
- b. A letter is completed for each Form 94x-X filed and list either the examiner or manager with their employee ID number and phone number.
- c. The manager reviews the case file.

Note: This letter is not signed by the group manager on the behalf Chief, Employment Tax.

- d. Upon notification from the group manager the case has been closed a copy of the Letter 2841 will be provided to both the taxpayer and the taxpayer's authorized representative.
- e. The Form 9984 will be updated by the examiner to document the letter and date sent and to whom.

Note: TE/GE examiners are to refer to IRM 4.70.17.6.3.1, *Employment Tax Cases: Claim Partially Disallowed Without Additional Tax Adjustments*, or IRM 4.70.17.6.5.1, *Employment Tax Cases: Claim Disallowed in Full without Additional Tax Adjustment*, for guidance.

IRM 4.23.13.3.1.3 - Paragraph (2) was added that incorporate instruction and guidance to examiners for the use of a new closing Letter 2841. Paragraph (3) was added to remind examiners to issue a Letter 4121-E, Employment Tax Report Transmittal Letter, and Letter 3382, Notification Letter - Agreed Employment Tax Change Cases, when it is appropriate.

(1) Cases containing claims for refund that are examined and disallowed in full, **with additional adjustments resulting in an increase in employment tax liabilities** (DC "03" if agreed, DC "07" if appealed, and DC "08" if unagreed without an appeal request), must include:

Item	Additional Information
Form 886-A	Required for unagreed cases, optional for others.
Form 2297	Refer to IRM 4.23.13.3.4, <i>Form 2297</i> and Exhibit 4.23.13-3, <i>Instructions for Completing Form 2297</i> .
Form 3363	Refer to IRM 4.23.13.3.5, <i>Form 3363</i> , and Exhibit 4.23.13-4, <i>Instructions for Completing Form 3363</i> .
Form 4666	Refer to IRM 4.23.13.3.6, <i>Form 4666</i> , for language in the "Other information" section.
Form 4667, <i>Examination Changes - Federal Unemployment Tax</i>	If applicable.
Form 4668, <i>Employment Tax Examination Changes Report</i>	If applicable.
Form 4668-B, <i>Report of Examination of Withheld Federal Income Tax for Withholding Reported on Forms 1099 and W-2G</i>	If applicable.
Form 4668-C, <i>Employment Tax Examination Changes Report - Railroad</i>	If applicable.
Letter 5376,	This letter is considered 30-day letter (see IRM 4.23.22.6, <i>30-Day Letters: Unagreed Case Procedures</i>).
Forms 2504, 2504-S, or 2504-T	Whichever if applicable. Refer to IRM 4.23.10.10.10, <i>Form 2504</i> , <i>Form 2504-S</i> , and <i>Form 2504-T</i> for information on the appropriate version.
Pub 5	Blank
Pub 594, <i>The IRS Collection Process</i>	Blank

Note: TE/GE examiners are to refer to IRM 4.70.17.6.6.1, *Employment Tax Cases: Claim Disallowed in Full with Additional Tax Adjustment*, for guidance.

(2) If the taxpayer has signed and returned the Form 2297 and Form 3363 to the examiner, the examiner may issue closing Letter 2841 to the taxpayer. It will be prepared and provided by the examiner as provided in IRM 4.23.13.3.1.2 (2).

(3) Since there is additional employment tax adjustment the examiner will prepare and furnish the taxpayer with a copy of the report at the conclusion of the examination. If the report is transmitted by mail, Letter 4121-E, *Employment Tax Report Transmittal Letter*, may be used. If the taxpayer agrees with the adjustment the closing Letter 3382, *Notification Letter - Agreed Employment Tax Change Cases*, will be prepared and provided. See IRM 4.23.10.6, *Notification Letters in Agreed Cases*.

IRM 4.23.13.3.2.1 - Paragraph (2) was added that incorporate instruction and guidance to examiners for the use of a new closing Letter 2841.

(1) Cases containing claims for refund that are examined and disallowed in part, **with no additional audit adjustments**, will be closed with DC "04" if agreed, DC "07" if appealed, or DC "08" if unagreed without an appeal request. Case files must include:

Item	Additional Information
Form 886-A	Required for unagreed cases, optional for others.
Form 2297	Refer to IRM 4.23.13.3.4, <i>Form 2297</i> and Exhibit 4.23.13-3, <i>Instructions for Completing Form 2297</i> .
Form 3363	Refer to IRM 4.23.13.3.5, <i>Form 3363</i> , and Exhibit 4.23.13-4, <i>Instructions for Completing Form 3363</i> .
Form 4666	Refer to IRM 4.23.13.3.6, <i>Form 4666</i> , for language in the "Other information" section.
Form 4667	If applicable.
Form 4668	If applicable.
Form 4668-B	If applicable.
Form 4668-C	If applicable.
Letter 5376	This letter is considered a 30-day letter (see IRM 4.23.22.6, <i>30-Day Letters: Unagreed Case Procedures</i>).
Forms 2504, 2504-S, or 2504-T	Whichever if applicable. Refer to IRM 4.23.10.10.10, <i>Form 2504</i> , <i>Form 2504-S</i> , and <i>Form 2504-T</i> for information on the appropriate version.
Pub 5	Blank
Pub 594	Blank

Note: TE/GE examiners are to refer to IRM 4.70.17.6.3.1, *Employment Tax Cases: Claim Partially Disallowed without Additional Tax Adjustment*, for guidance.

(2) If the taxpayer has signed and returned the Form 2297 and Form 3363 to the examiner, the examiner may issue closing Letter 2841 to the taxpayer. It will be prepared and provided by the examiner as provided in IRM 4.23.13.3.1.2 (2).

IRM 4.23.13.3.2.2 - Paragraph (2) was added that incorporate instruction and guidance to examiners for the use of a new closing Letter 2841. Paragraph (3) was added to remind examiners to issue a Letter 4121-E and Letter 3382 when it is appropriate.

(1) Cases containing claims for refund that are examined and disallowed in part, **with additional audit adjustments resulting in an increase in employment tax liabilities**, will be closed with DC "03" if agreed, DC "07" if appealed, or DC "08" if unagreed without an appeal request. Case files may include:

Item	Additional Information
Form 886-A	Required for unagreed cases, optional for others.
Form 2297	Refer to IRM 4.23.13.3.4, <i>Form 2297</i> and Exhibit 4.23.13-3, <i>Instructions for Completing Form 2297</i> .
Form 3363	Refer to IRM 4.23.13.3.5, <i>Form 3363</i> , and Exhibit 4.23.13-4, <i>Instructions for Completing Form 3363</i> .
Form 4666	Refer to IRM 4.23.13.3.6, <i>Form 4666</i> , for language in the "Other information" section.
Form 4667	If applicable.
Form 4668	If applicable.
Form 4668-B	If applicable.
Form 4668-C	If applicable.
Letter 5376	This letter is considered a 30-day letter (see IRM 4.23.22.6, <i>30-Day Letters: Unagreed Case Procedures</i>).
Forms 2504, 2504-S, or 2504-T	Whichever if applicable. Refer to IRM 4.23.10.10.10, <i>Form 2504</i> , <i>Form 2504-S</i> , and <i>Form 2504-T</i> for information on the appropriate version.
Pub 5	Blank
Pub 594	Blank

Note: TE/GE examiners are to refer to IRM 4.70.17.6.4.1, *Employment Tax Cases: Claim Partially Disallowed with Additional Tax Adjustment*, for guidance.

(2) If the taxpayer has signed and returned the Form 2297 and Form 3363 to the examiner, the examiner may issue closing Letter 2841 to the taxpayer. It will be prepared and provided by the examiner as provided in IRM 4.23.13.3.1.2 (2).

(3) Since there is additional employment tax adjustment the examiner will prepare and furnish the taxpayer with a copy of the report at the conclusion of the examination. If the report is transmitted by mail, Letter 4121-E may be used. If the

taxpayer agrees with the adjustment the closing Letter 3382 will be prepared and provided. See IRM 4.23.10.6, *Notification Letters in Agreed Cases*.

IRM 4.23.13.3.3 - Converted paragraph (3) of this subsection to a note under paragraph (2) of this subsection for consistency within the IRM. Paragraph (3) was removed.

(1) A claim of refund that is allowed in full with offsetting adjustments which partially reduces the allowed in full claim for refund is considered a "Partially Disallowed Claim for Refund with Additional Audit Adjustments" will follow procedures outlined in IRM 4.23.13.3.2.2, *Partially Disallowed with Additional Tax Adjustments*, with the exception of the language on Form 4666. For the language for Form 4666 see IRM 4.23.13.3.6, *Form 4666*.

(2) A claim of refund that is allowed in full with offsetting adjustments which reduces the allowed in full claim for refund to zero is considered a "Full Disallowance With Additional Audit Adjustment" will follow procedures outlined in IRM 4.23.13.3.1.3, *Full Disallowance with Additional Audit Adjustment*, with the exception of the language on Form 4666. For the language for Form 4666 see IRM 4.23.13.3.6, *Form 4666*.

Note: TE/GE examiners should refer to IRM 4.70.17.6.2.1, *Employment Tax Cases: Claim Allowed in Full with Additional Audit Adjustments*, for guidance.

IRM 4.23.13.3.4 - Converted paragraph (6) of this subsection to a note under paragraph (1) of this subsection for consistency within the IRM. Paragraph (6) was removed.

(1) Form 2297 is used when claims for refund or adjusted returns are disallowed in part or whole. Securing this waiver means the IRS is not required to issue a Statutory Notice of Claim Disallowance (Letter 905, *Final Partial Claim Disallowance Letter*, or Letter 906, *Final Full Claim Disallowance Letter*). A signed Form 2297 starts the two-year period for the taxpayer to file suit as allowed in IRC 6532.

Note: TE/GE examiners should refer to IRM 4.70.17.6.8, *Completing Form 2297*, for guidance.

(2) Form 2297 is not applicable for unagreed, fully or partially disallowed requests for abatement, or audit reconsiderations.

(3) If the Form 2297 is not secured when a claim for refund is proposed for disallowance in whole or in part, and no appeals request was received, close the case to Technical Services for preparation and issuance of a statutory notice of claim disallowance, Letter 905 or 906, by Technical Services. On the Form 3198

under **Forward to Technical Services** the examiner will check the box "Statutory Notice of Claim Disallowance – Letters 905 and 906."

(4) If a Form 2297 is not secured and the case is appealed, the statutory notice of claim disallowance will be issued after all other administrative action has been concluded. Examiner does not indicate on the Form 3198 under **Forward to Technical Services** that the **Statutory Notice of Claim Disallowance – Letters 905 and 906** is to be issued. The examiner is to check the box on Form 3198 **Unagreed to Appeals**.

(5) For instructions to complete Form 2297 refer to Exhibit 4.23.13-3, *Instructions for Completing Form 2297*.

IRM 4.23.13.3.5 - Converted paragraph (6) of this subsection to a note under paragraph (1) of this subsection for consistency within the IRM. Paragraph (6) was removed.

(1) Form 3363 is requested at the same time as Form 2297. Form 3363 is to be used in "agreed cases" when claims for refund or adjusted returns are disallowed in full or part. By signing Form 3363, the taxpayer accepts the proposal of the IRS to disallow the claim(s) in full or in part.

Note: TE/GE examiners should refer to IRM 4.70.17.6.9, *Completing Form 3363*, for guidance.

(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 to indicate agreement. See IRM 4.23.13.3.1.3, *Full Disallowance with Additional Tax Adjustments*, and IRM 4.23.13.3.2.2, *Partially Disallowed with Additional Tax Adjustments*. Also see IRM 4.23.13.3.6, *Form 4666*, for information to be included in the remarks section of the report.

(3) Form 3363 does not waive the taxpayer's right to file suit on the disallowance.

(4) For instructions to complete Form 3363 refer to Exhibit 4.23.13-4, *Instructions for Completing Form 3363*.

IRM 4.23.13.4(1) - Added a note to paragraph (1) that provides a reference for TE/GE employees.

(1) Requests for abatement of assessment can be an audit reconsideration (if based on a previous TC30X or TC29X assessment) or a simple request to abate unpaid tax. The only difference in how requests for abatement are processed from an audit reconsideration is the letters used in the closing process.

Note: TE/GE examiners should refer to IRM 4.70.17.8, *Examination Reconsideration and Request for Abatement*, for additional guidance.

IRM 4.23.13.10(7) - Updated the paragraph for clarity.

(7) In cases where an employer needs to adjust for overpaid taxes, they are not required to repay or reimburse the amount if the taxes were not initially withheld from the employee's pay. Additionally, if an employer has made a genuine effort to locate an employee but is unable to do so, or if an employee fails to provide a required written statement for prior year FICA taxes, the repayment requirement does not apply. If an employee does not provide the necessary written statement after the employer has made reasonable attempts to obtain it, the employer is still allowed to adjust and recover any overpaid employer FICA taxes.