



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.24.20

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(09-06-2023)

PURPOSE

- (1) This revises IRM 4.24.20, Excise Tax, Excise Tax Report Writing Guide.

MATERIAL CHANGES

- (1) This section has been updated to provide comprehensive guidance that addresses writing Excise Tax Examination reports, hereinafter referred to as “examination reports.” Content was added to be more cohesive, current, and accurate.
- (2) The table below identifies significant changes in content:

Number	Subsection	Description of Change
1	IRM 4.24.20.1, Program Scope and Objectives	Added guidance that the scope of this IRM has been expanded to include details about preparing corrected reports, as well as further guidance addressing issues that may require special reports and forms. Added a note that report writing procedures for excise claims are found in IRM 4.24.8. Changed the terminology for excise reports to examination reports. Updated the term Appeals to Independent Office of Appeals.
2	IRM 4.24.20.1.1, Background	Added guidance about the importance and role examination reports play in excise tax compliance. Moved guidance from IRM 4.24.21.3.2 that Excise Tax Examination does not examine and process all excise taxes. Certain excise taxes are administered by Tax Exempt/Governmental Entities instead. An electronic link to IRM 4.71.5 was provided for guidance. Added guidance that an entry on a Form 720 next to an IRS No. constitutes a filed return, while an IRS No. that is left blank is considered a non-filed return. Added guidance that examination reports may become part of the Government’s evidence in a court case. Moved guidance from IRM 4.24.20.1.1 that under no circumstances should a change report of excise tax adjustments be incorporated in an examination report covering income tax adjustments.

Number	Subsection	Description of Change
3	IRM 4.24.20.1.2, Authority	Added guidance addressing the authority to conduct examinations that is granted under IRC 7602, IRC 7605, and Treas. Reg. 601.105. Added guidance that policy statements and other internal guidance apply to the examination processes. Provided guidance that IRS.gov summarizes the data contained in IRM 1.2.2.
4	IRM 4.24.20.1.3, Responsibilities	Added guidance discussing the responsibilities of the Director, Examination - Specialty Policy, the Director, Specialty Tax, the Chief, Estate & Gift Tax Exam, as well as that of Excise Tax Program managers and excise examiners in conducting the examination process.
5	IRM 4.24.20.1.4, Program Objectives and Review	Added guidance that the program goal for this IRM is to assist examiners in preparing and submitting accurate examination reports. Added guidance discussing the reasons why program reports are conducted.
6	IRM 4.24.20.1.5, Terms/Definitions/ Acronyms	Changed the title to Terms/Definitions and Acronyms. Added the terms and their definitions for 30-day letter, BMFOLI, BMFOLR, BMFOLT, CFINK, COMPA, IRS. No., TXMOD, and TXMODA.
7	IRM 4.24.20.1.6, Related Resources	Added guidance addressing IRM sections 4.10.1, 4.10.2, 4.10.8, 4.24.2, 4.24.8, and 4.24.10. Added guidance discussing IRM 4.24.25. Added guidance addressing the resources offered by Taxpayer Advocate Service (TAS). Added guidance that updated the explanation for the Taxpayer Bill of Rights (TBOR), as well as provided an electronic link to the applicable website.

Number	Subsection	Description of Change
8	IRM 4.24.20.2, Overview of Excise Reports	Changed the title to Overview of Examination Reports. Added guidance discussing that examination reports are legally binding documents, as well as guidance addressing examiner responsibilities in examination report preparation. Added guidance addressing the requirement for the examiner to keep taxpayers informed during the progress of the examination, as well as its conclusion. Added a note addressing the requirement under IRC 6751(b) that written supervisory approval is necessary prior to an examiner offering a taxpayer an agreement or consent to the assessment or proposal of a penalty. Added a note that for SFRs for which a Failure to Pay penalty applies, IRC 6020(b) certification is required. Removed references to surveyed reports because they are addressed under IRM 4.24.21.5.1, IRM 4.24.21.5.2, and IRM 4.24.21.5.3.
9	IRM 4.24.20.2.1, Excise Report Guidelines	Changed the title to Examination Report Guidelines. Removed the note that an examiner does not enter an agreement date when there is no signed agreement. Added a note referring to guidance about the format of Form 886-A that is discussed in IRM 4.10.8.12.4. Added guidance that employee contact information will be provided for a second time when the examination report is issued. Added guidance that an examiner is required to provide the taxpayer Publication 3498 when a 30-day letter is issued. Added guidance that information addressing the preparation of Form 5384 and Form 5385 is provided in Exhibit 4.24.20-1. Added guidance that information about Corrected Reports is provided in IRM 4.10.8.13. Added guidance discussing that all actions related to examination report activity must be documented on Form 9984. Added guidance that at the time an examination report is issued, the examiner must solicit payment if there is a deficiency.
10	IRM 4.24.20.3, Excise Reports by Type of Closure	Changed the title to Examination Reports by Type of Closure.

Number	Subsection	Description of Change
11	IRM 4.24.20.3.1, Agreed Excise Reports	Changed the title to Agreed Cases. Added guidance that Form 5384 must include a statement the examination findings are subject to approval by the Chief, Estate & Gift/Excise Tax Exam. Added a note that if Form 5384 includes adjustments on multiple pages, the taxpayer must sign each page.
12	IRM 4.24.20.3.2, Partially Agreed/ Excepted Agreed Excise Reports	Changed the title to Excepted Agreed/ Partially Agreed Cases. Removed the note that anytime a taxpayer does not agree to a proposed adjustment, an unagreed examination report is prepared. Added guidance that for a partially agreed case, two sets of examination reports are prepared. The first set includes Form 5385 and Form 2504-E for all unagreed issues. The second set reflects all issues to which the taxpayer agreed. Added guidance that a 30-day letter package is used to transmit the partially agreed examination report to the taxpayer. Added guidance that if a partial agreement is not secured, the examiner must continue with unagreed procedures for all proposed adjustments. Added guidance that for partially agreed cases, the agreed examination report must be processed using partial agreement procedures, while the unagreed issues must be processed.
13	IRM 4.24.20.3.3, No Change Excise Reports	Changed the title to No Change Cases. Added guidance that if the examiner determines no adjustment exists for the IRS No. examined, a no change examination report must be issued. Added a note that no change examination reports apply to filed returns. Added guidance that a filed return may be substantiated by reviewing BMFOLR. Added a note that a Form 720 may have both filed and non-filed returns. Added guidance regarding the steps/ documentation on Form 5384 and Letter 3401-E that are necessary to complete a no change examination.

Number	Subsection	Description of Change
14	IRM 4.24.20.3.4, Unagreed Excise Reports	Changed the title to No Liability Cases. Added guidance that on Form 720 if there is no entry next to an IRS No., that is considered a non-filed return. Added a note that if the examiner determines an adjustment exists on a non-filed return, the examiner will use the applicable agreed, excepted agreed/partially agreed, or unagreed examination report writing and closing procedures. Added guidance that if the taxpayer is not liable for an excise tax on a non-filed return, no examination report is required.
15	IRM 4.24.20.3.5, Surveyed Excise Reports	Changed the title to Unagreed Cases. Added guidance that the manager must be notified if there is reason to believe a case will be unagreed. Documentation on Form 9984 or the Case Level Activities at the Team Web Site is required. Added guidance detailing the attachments that must be included in a 30-day letter package. Added guidance about updating an unagreed case to status "13" when the 30-day letter package is issued to the taxpayer. Added a reference to an IRM citation that describes the requirements for the possibility of a fast track settlement. Prior guidance addressing surveyed reports is addressed under IRM 4.24.21.5.1.
16	IRM 4.24.20.3.6, Audit Reconsideration and Reopening Excise Reports	Changed the title to Audit Reconsideration and Reopening. Added guidance that refers to an IRM citation that discusses the procedures for report writing procedures for this topic.
17	IRM 4.24.20.3.7, Information Excise Reports	Obsoleted this subsection due to redundancy. The content is addressed under IRM 4.24.25.5.8.1.
18	IRM 4.24.20.4, Excise Report Writing Guidelines	Changed the title to Examination Report Writing Guidelines.
19	IRM 4.24.20.4.1, Excise Reports in Notebook and Issue Management System	Changed the title to Examination Reports in Notebook and Issue Management System (IMS). Added a note that if technical support is needed for Notebook data entry, it is appropriate to submit a help ticket. Added electronic links to guidance about Notebook found in IRM 4.24.25.

Number	Subsection	Description of Change
20	IRM 4.24.20.4.2, Separate Excise Reports for Different Types of Excise Taxes	Changed the title to Separate Examination Reports for Different Types of Excise Taxes. Moved guidance that excise tax adjustments must not be incorporated into income tax reports to IRM 4.24.20.1.1.
21	IRM 4.24.20.4.3, Publications to Include with Excise Reports	Changed the title to Examination Reports Sent to Authorized Third Parties. Transferred guidance from IRM 4.24.20.4.4. Transferred prior guidance to IRM 4.24.20.4.5.
22	IRM 4.24.20.4.4, Excise Reports Sent to Authorized Third Parties	Changed the title to Letters to Include with Examination Reports. Incorporated guidance that was tailored to excise tax procedures that compared them to those under general program that are addressed under IRM 4.10.8.2.3.1.
23	IRM 4.24.20.4.4.1, Excise Tax Enclosures with Correspondence to Representatives and Appointees	Obsoleted this subsection. Transferred guidance to IRM 4.24.20.4.5.1.
24	IRM 4.24.20.4.5, Execution of Excise Reports and Payments	Changed the title to Publications to Include with Examination Reports. Transferred guidance from IRM 4.24.20.4.3. Added guidance that publications sent to the taxpayer must match the enclosures listed in the letter. Added guidance that Section 3504 of Pub. L. 105-206 (RRA '98) requires the IRS to include an explanation of the examination and collection processes, as well as provide information about Taxpayer Advocate assistance with any first examination report and any 30-day letter package. Transferred prior guidance to IRM 4.24.20.4.6.
25	New IRM 4.24.20.4.5.1	Added the title Examination Enclosures with Correspondence to Representatives and Appointees. Transferred guidance from IRM 4.24.20.4.4.1.
26	IRM 4.24.20.4.6, Facsimile Signatures	Changed the title to Execution of Examination Reports and Payments. Transferred guidance from IRM 4.24.20.4.5. Added guidance that Form 3244-A must be processed if payment is received. Changed the reference from IRM 4.4.24 to IRM 4.24.20.4.6 for instructions on processing on Form 3244-A. Prior guidance transferred to IRM 4.24.20.4.7.

Number	Subsection	Description of Change
27	IRM 4.24.20.4.7, Extension of Time to Respond	Changed the title to Fax Signatures. Transferred guidance from IRM 4.24.20.4.6. Added a reference to IRM 4.10.1.3.7 for guidance regarding the use of faxes. Transferred prior guidance to IRM 4.24.20.4.8.
28	New IRM 4.24.20.4.8	Added the title Extension of Time to Respond. Transferred guidance from IRM 4.24.20.4.7. Added a note that IRM 4.24.8.5 provides detailed guidance that SOLs for paid fuel claims generally cannot be extended.
29	IRM 4.24.20.5, Form 5384 and Form 5385	Added guidance that the examiner is responsible for verifying the accuracy of the information on Form 5384 and Form 5385. Added guidance that Form 5384 is a mandatory examination report form used for regular agreed, no- change, and claim cases when examining Form 720, Form 720-X, Form 730, Form 2290, Form 11-C, and Form 8849. Added guidance detailing the mechanics of Form 5384 and how one arrives at total tax and penalties that are due or to be refunded. Added guidance detailing the mechanics of Form 2290, including that Form 2290 is a prepaid tax and column "1" represents the start date of the return. Added guidance that by signing Form 5384 or Form 2504-E, a taxpayer does not wish to exercise appeal rights. Added guidance that the examination report is subject to review and acceptance by the Chief, Estate & Gift/Excise Tax Exam. Added a note that if Form 2504-E or Form 5384 includes adjustments on multiple pages, each page must be signed by the taxpayer. Added guidance that if a taxpayer has been issued Form 5385 and agrees to the proposed adjustments, the taxpayer must sign Form 2504-E.

Number	Subsection	Description of Change
30	IRM 4.24.20.6, Soliciting Excise Examination Deficiency Payments	Changed the title to Soliciting Examination Deficiency Payments. Added guidance that TXMOD and BMFOLI can be used to determine outstanding balances. Added a note that when a taxpayer has filed or is preparing to file for bankruptcy, guidance in IRM 4.27.1 must be followed. Added guidance referencing IRM 4.20.1.3.1 that addresses “6603” deposits. Added guidance referencing IRM 4.20.1.3 that discusses using the tiered interview approach if full payment is not received or if the case is unagreed. Added a note that IRM 4.20.1.3.2 provides guidance about preparing Form 3244-A. Added guidance that IRM 4.20.1.3.3 provides information about completing Form 9440.
31	IRM Exhibit 4.24.20-1, Instructions for Completing Form 5384 and Form 5385	Updated IRC Sections for these types of Taxes: Retail, Special Fuels, Recreational Equipment - Sport Fishing and Archery, Taxes on Wagering, Occupational Tax, and COBRA, Failure to Satisfy Continuation Coverage Requirements of Group Health Plans. Added a note that TXMODA should be reviewed if an amended return was filed because the original BMFOLR amount will not be updated if an amended return was filed. Removed guidance regarding the application of IRC 6404(g).
32	IRM Exhibit 4.24.10-2, Acronyms	Added the following acronyms: EIN, ExSTARS, IRC, SSN, TAS, and TBOR. Deleted the following acronyms: CC, POA, RRA ‘98, and TIA.

- (3) Editorial changes were made throughout this IRM, such as updating electronic hyperlinks and IRM references.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 4.24.20 dated July 8, 2020.

AUDIENCE

This section is for Excise Tax Program managers, revenue agents (RAs), and fuel compliance agents (FCAs) (RAs and FCAs are collectively and hereinafter referred to as “examiners” throughout this section).

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Small Business/Self-Employed

4.24.20

Excise Tax Report Writing Guide

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4.24.20.1
(09-06-2023)
Program Scope and Objectives

- (1) **General Overview** - This IRM provides specific information and procedural guidance for examination reports in terms of content and format. Furthermore, this IRM provides details regarding the preparation of corrected examination reports and discusses issues that require special reports and forms.

Note: The report writing procedures for Excise Tax Program claims are found in IRM 4.24.8, Examination Guidance for Excise Claims for Refund or Abatement.

- (2) **Purpose** - Examination reports must contain all information necessary to ensure a clear understanding of the adjustments proposed and document how the tax liability was computed. Executed examination reports (unlike workpapers) are legally binding documents and serve as the basis for assessment and collection actions. Based on this importance, Excise Tax Program managers and examiners must take all necessary steps to ensure the accuracy of examination reports.
- (3) **Audience** - This IRM is for Excise Tax Program managers and examiners who prepare, review, and process examination reports.
- (4) **Policy Owner** - Director, Examination - Specialty Policy, is responsible for the administration, procedures, and updates related to the technical guidance and information processing steps and methods specific to examination reports.
- (5) **Program Owner** - Director, Examination - Specialty Tax, owns Excise Tax Examination.
- (6) **Primary Stakeholders** - Independent Office of Appeals (Appeals), Agency-Wide Shared Services, Counsel, Excise Tax Examination, SBSE Field and Specialty Exam Quality (FSEQ), and Large Business & International (LB&I) are the primary stakeholders for this IRM.

4.24.20.1.1
(09-06-2023)
Background

- (1) This IRM provides guidance for report writing that examiners must understand and apply in the performance of their job duties. The processes and procedures provided in this IRM are consistent with the objectives and goals for Excise Tax Examination that are addressed in IRM 1.1.16.5.3.1, Excise Tax Examination.

Note: Excise Tax Examination does not examine and process all excise taxes. Certain excise taxes are administered by Tax Exempt/Governmental Entities. For guidance refer to IRM 4.71.5, Form 5330 Examinations.

- (2) On a Form 720, Quarterly Federal Excise Tax Return, the entry of a dollar amount next to an IRS Number (IRS No.) constitutes a return of that tax. The entry next to an IRS No. of the word "none," "zero," or a comparable entry clearly indicating a denial of liability also constitutes a return of that tax. The entry of the word "none" across the return or in the summary portion indicates a denial of liability for all taxes listed on Form 720.
- (3) The requirement for filing Form 720 applies separately to each tax listed by an IRS No. on the face of the return. For filing purposes, IRS Nos. that are left blank are considered non-filed even if the taxpayer or collector signed, dated, and submitted a Form 720 that was accepted by the agency.

- (4) The examination report is the record of the examiner's findings and recommendations regarding the examination of a taxpayer's liability for excise tax. It may become the Government's evidence in a court case. Because the taxpayer receives a copy of the examination report, it serves as a formal presentation to the taxpayer of the findings and recommendations of the examiner.
- (5) Preparation of an examination report is a very important part of the examiner's duties. The examination report should be clear and concise. All adjustments must be properly explained and supported in the examiner's workpapers. They must contain appropriate references to the applicable laws, regulations, court decisions, rulings, etc., on which findings are based.
- (6) Under no circumstances should a change report of excise tax adjustments be incorporated in an examination report covering income tax adjustments.
- (7) Refer to IRM 4.10.8, Report Writing, for guidance.

4.24.20.1.2
(09-06-2023)

Authority

- (1) By law, the IRS 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 Internal Revenue Code (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 Treas. Reg. 601.105.

- (2) IRC 7522 requires that certain notices describe the basis for and identify the amounts of tax due, interest, additional amounts, additions to tax, and assessable penalties included in such notices. The notices specified include the first letter of proposed deficiency offering a review by Appeals, a notice of deficiency, and notices of tax due. While the statutory requirement is limited to the specified notices, the conference report notes the desire of Congress that the Service make every effort to improve the clarity of all explanations sent to taxpayers. H.R. Conf. Rep. No. 1104, 100th Cong., 2nd Sess., pt. 2, at 219, 1988-3 C.B. 473, 481.
- (3) Treas. Reg. 40.6011(a)-1(a) provides that filing a return under part 40 applies separately to each tax listed by IRS No. on Form 720. Except as provided in paragraph (1) of Treas. Reg. 40.6011(a)-1(a), an entry must be made on the line for the IRS No. to file a return of the tax corresponding to that number.
- (4) The Excise Tax Program is governed by policy statements and other internal guidance that apply to all IRS personnel regardless of the operating division. The policy statements found in IRM 1.2.1, Servicewide Policy Statements, apply to all excise tax issues and applications. Examiners should review these policy statements to properly perform their examination duties.
- (5) IRS.gov summarizes data contained in IRM 1.2.2, Servicewide Delegations of Authority, in a single, electronic source. Refer to the Delegation Orders and Policy Statements by Process.
- (6) IRM 4.24, Excise Tax, provides Servicewide instructions for all operating divisions with employees involved with the correct filing, reporting, and

payment of excise taxes. IRM 4.24 serves as the foundation for consistent administration of excise taxes by various IRS operating divisions. By providing one source of authority for all operating divisions, philosophical, and procedural inconsistencies are greatly reduced.

4.24.20.1.3
(09-06-2023)
Responsibilities

- (1) Director, Examination - Specialty Policy, is responsible for providing policy and guidance for Excise Tax Examination employees and ensuring consistent application of policy, procedures, and tax law to effect tax administration while protecting taxpayer rights.
- (2) Director, Examination - Specialty Tax, is responsible for the delivery of policy and guidance that impacts the field and campus examination processes.
- (3) Chief, Estate & Gift/Excise Tax Exam, is responsible for ensuring general information, such as the administration, procedures, and updates related to the technical guidance and information processing steps and methods specific to examination reports, is communicated to and executed by examiners.
- (4) Excise Tax Program managers and examiners should thoroughly acquaint themselves with examination report writing procedures and information contained in this IRM, as well as other resources, such as those listed in IRM 4.24.20.1.6.

4.24.20.1.4
(09-06-2023)
Program Objectives and Review

- (1) **Program Goals** - The information explained in this IRM describes report writing that examiners must understand and apply in the performance of their job duties to prepare and submit accurate examination reports, thereby increasing compliance.
- (2) **Program Reports** - Information regarding the reporting of program objectives are included in, but not limited to Examination Headquarters Monthly Briefings, Program Manager Monthly Briefings, SBSE Examination Operational Reviews, and Business Performance Reviews. These reports provide reliable and timely information. Periodic program reviews are conducted to:
 - Determine if procedures are being followed.
 - Validate the policies and procedures.
 - Identify and share best practices.
- (3) **Program Effectiveness** - Program effectiveness is measured by the Exam Quality Review staff that monitors whether quality attributes are applied uniformly and consistently. National, area, and territory trend analyses on the quality attributes establish baselines to assess program performance, identify opportunities to improve work processes, analyze causes for failure, assess the feasibility of possible solutions, and measure the success of quality improvement efforts.
- (4) **Annual Review** - Program Manager, Excise Tax Policy, is responsible for reviewing the information in this IRM annually to ensure accuracy and promote consistent tax administration.

4.24.20.1.5
(09-06-2023)

**Terms/Definitions and
Acronyms**

- (1) The following table contains terms and their definitions used throughout this IRM:

Term	Definition
30-day letter	Written communication issued to the taxpayer that reports the Excise Tax Examination findings. This includes Letter 950-E, 30-Day Letter - Straight Deficiency or Over-Assessment for Excise Tax Examination Cases, Letter 5153-E, Examination Report Transmittal - Statute, Letter 569-X, Claim Disallowance Letter, and Letter 6517, Paid Fuel Claim Short Statute Assessment. Note: Refer to IRM Exhibit 4.24.10-2, Excise Tax - Letter Table According to Situational Facts and Circumstances, to identify the appropriate letter(s) to issue to the taxpayer.
BMFOLI	IDRS command code used to request on/off line status of entity and tax modules.
BMFOLR	IDRS command code used to request Business Master File (BMF) return screen information.
BMFOLT	IDRS command code used to request BMF tax module screen information.
CFINK	IDRS command code used to research the CAF using taxpayer information, third party information, and/or taxpayer information and module information.
COMPA	IDRS command code used to compute the interest on a specified amount for a specified period of time.
IRS No.	Excise taxes are identified by a specific IRS No. (also known as an abstract) on Form 720 and in IRS account records.
Restructuring and Reform Act of 1998 (RRA 98)	Legislation that is broad in scope with the goal of transforming the IRS into a modern financial organization.
TXMOD	IDRS command code used to display tax module information and selected entity information.
TXMODA	IDRS command code used to display all tax module information for a specific tax period.

- (2) Refer to Exhibit 4.24.20-2 for acronyms used throughout this IRM.

4.24.20.1.6
(09-06-2023)

Related Resources

- (1) Refer to IRM 4.10.1, Overview of Examiner Responsibilities, for guidance about the basic responsibilities related to taxpayer rights, employee contact information, oral and written communication, and the authority for conducting examinations that examiners should understand and apply in the performance of their duties.
- (2) Refer to IRM 4.10.2, Pre-Contact Responsibilities, for guidance about required responsibilities and analyses that must be completed before an examination is

initiated, actions that are necessary for pre-contact planning of the examination, procedural instructions for contacting the taxpayer, and scheduling the initial appointment.

- (3) Refer to IRM 4.10.8, Report Writing, for guidance about the preparation of examination reports, details regarding the preparation of corrected examination reports, and discussion about issues that require special reports and forms.
- (4) Refer to IRM 4.24.2, Form 637 Excise Tax Registrations, for an overview of Form 637 guidance.
- (5) Refer to IRM 4.24.8, Examination Guidance for Excise Claims for Refund or Abatement, for general guidelines and report writing procedures for examiners and campus personnel who process claims for refund or credit. Examiners located in field offices examine claims.
- (6) Refer to IRM 4.24.10, Appeals Referral Procedures, for information explaining the referral process for excise cases to Appeals.
- (7) Refer to IRM 4.24.17, Excise Summary Terminal Activity Reporting System (ExSTARS) Compliance Examination Procedures, for information pertaining to ExSTARS compliance examination and procedures.
- (8) Refer to IRM 4.24.21, Case Closings, for information about closing excise tax cases.
- (9) Refer to IRM 4.24.25, Issue Management System (IMS), Notebook and Workpapers, for guidance about the preparation of workpapers that support accurate examination reports.
- (10) The Taxpayer Advocate Service (TAS) may be of assistance to taxpayers experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal procedures or who believe that an IRS system or procedure is not working as designed. Publication 1546, The Taxpayer Advocate Service is Your Voice at the IRS, provides contact and additional information. For guidance, refer to the *Taxpayer Advocate - Contact Us*.
- (11) The Taxpayer Bill of Rights (TBOR) lists rights that already exist in the tax code, putting them in simple language, and grouping them into 10 fundamental rights. Employees are responsible for being familiar with and acting in accordance with taxpayer rights. For additional information, refer to IRC 7803(a)(3) or to the *Taxpayer Bill of Rights*.

4.24.20.2
(09-06-2023)

Overview of Examination Reports

- (1) Examination reports, unlike workpapers, are legally binding documents.
- (2) Examiners have the responsibility to ensure examination reports are properly prepared and issued. Accuracy is essential.
- (3) Examination 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.
- (4) Examination reporting procedures are determined by examination findings of selected excise tax returns. Examination reports are prepared for the following types of closures:

- Agreed
- Excepted Agreed/Partially Agreed
- No Change
- Unagreed
- Audit Reconsideration and Reopened

Note: Refer to IRM 4.24.20.3 for guidance about examination reports for each type of closure.

Note: Refer to IRM 4.24.21.5.1, Closing Procedures for Surveyed Returns, IRM 4.24.21.5.1.2, Paperless Survey Procedures, and IRM 4.24.21.5.1.3, Survey of Return and Pick Up of Later Period, for information about surveys.

- (5) The examiner must discuss the progress of the examination and potential issues with the taxpayer and/or representative at frequent intervals throughout the examination process. Whenever possible, this should be done during face-to-face appointments. If penalties requiring supervisory approval are proposed and the examiner has not yet obtained approval, a written list of proposed adjustments (including penalties) can be shared to facilitate discussion during a face-to-face appointment. Form 9984, Examining Officer's Activity Record, must be contemporaneously documented to indicate the date and circumstances under which the written list was provided.

Note: IRC 6751(b) requires written supervisory approval prior to issuing any written communication of penalties to a taxpayer that offers the taxpayer an opportunity to sign an agreement or consent to assessment or proposal of the penalty. Refer to IRM 4.24.25.5.14, E500 – Penalty Check Sheet and Approval Form, for guidance.

Note: IRC 6020(b) certification procedures must be followed for Substitute for Return (SFR) cases for which the Failure to Pay penalty is assessed. Refer to IRM 4.24.9.6, Certification Procedures for Non-Filed Excise Tax Returns, for guidance.

- (6) In attempts to reach agreement, examiners have the authority and obligation to reach a definite conclusion based on a balanced and impartial evaluation of all evidence. This authority does not extend to consideration for the hazards of litigation. This is consistent with Policy Statement 4-40, which encourages the disposition of tax differences at the lowest level. Refer to IRM 1.2.1.5.16, Policy Statement 4-40, Early agreement primary objective, for guidance.
- (7) At the conclusion of an examination, it is the responsibility of the examiner to discuss the findings with the taxpayer.

4.24.20.2.1
(09-06-2023)
**Examination Report
Guidelines**

- (1) The examiner will:
- a. Prepare the examination report.
 - b. Solicit the taxpayer's signature when the examination resulted in a tax deficiency or reduction of a claim amount.
 - c. Solicit payment if a deficiency is due.
 - d. Provide one signed copy of the examination report to the taxpayer and, if appropriate, to the taxpayer's representative.
 - e. Retain the signed original examination report for the administrative file.

Note: No signature is required for a no change examination report, an unpaid claim allowed in full, or a corrected report when tax has been decreased from a previous report signed by the taxpayer.

- (2) When other forms or pages are included with an examination report, they should follow the examination report in a consecutive page numbering system. If necessary, a Form 886-A, Explanation of Items, or an Excise Issue Summary Lead Sheet, is to be attached to the examination report when provided to the taxpayer.

Note: Refer to IRM 4.10.8.12.4, Explanation of Items, for guidance about the format of Form 886-A.

- (3) Regardless of the number of tax periods examined, one set of explanations, if needed, will be prepared. When reasons for an adjustment vary from tax period to tax period, they should be detailed in one explanation.
- (4) When the size of the examination report warrants a Table of Contents, it should be prepared and inserted immediately behind the examination report. Each item in the Table of Contents should be cross-referenced to its page number in the examination report.
- (5) The examiner's contact information will be provided to the taxpayer for a second time when an examination report is issued. Refer to IRM 4.10.1.2.2.2, Employee Contact Information, for guidance.
- (6) Except as otherwise provided in IRM 4.24.20.4.5(2), the examiner must provide to the taxpayer Publication 3498, The Examination Process, with the first examination report and with the appropriate 30-day letter. Refer to IRM 4.24.20.1.5(1) for the definition of 30-day letter.
- (7) Refer to Exhibit 4.24.20-1 for guidance about completing Form 5384, Excise Tax Examination Changes and Consent to Assessment & Collection, and Form 5385, Excise Tax Examination Changes.
- (8) Refer to IRM 4.10.8.13, Corrected Reports, for guidance about procedures that must be followed for corrected examination reports.
- (9) Form 9984 must thoroughly document actions related to examination report delivery. When an examination report is issued, the examiner must document the following:
- Date of delivery
 - Method of delivery (i.e., personal delivery, regular mail, certified mail)
 - Person(s) or entities to whom the examination report was delivered
 - Items included in delivery (i.e., letter, examination report, publications, etc.)
- (10) When (or shortly thereafter) an examination report is issued, the examiner must solicit payment if there is a deficiency. The Form 9984 must document that solicitation occurred.

4.24.20.3
(09-06-2023)
**Examination Reports by
Type of Closure**

- (1) This subsection provides general information about examination reports based on type of closure.

4.24.20.3.1
(09-06-2023)

Agreed Cases

- (2) Refer to IRM 4.24.21.5, Closing Procedures by Type of Closure, for guidance about closing forms, letters, and procedures per type of closure.

- (1) In an agreed case, the taxpayer agrees to the adjustments proposed by the examiner. An agreed examination report is prepared.
- (2) Form 5384, Excise Tax Examination Changes and Consent to Assessment & Collection, is prepared for agreed cases when the taxpayer indicated agreement. The taxpayer signs Form 5384 to establish agreement. Form 5384 must include a statement that examination findings are subject to approval by the Chief, Estate & Gift/Excise Tax Exam.

Note: If Form 5384 includes adjustments on multiple pages, the taxpayer must sign each page.

- (3) If a written explanation is needed for clarification of the examiner's findings or requested by the taxpayer, Form 886-A, Explanation of Items, or an Excise Issue Summary Lead Sheet, must be issued, including schedules or exhibits, if applicable.
- (4) Letter 4121-X, Letter to Transmit Expected Agreed Examination Report, must be issued on an agreed case when the taxpayer indicated probable agreement with the proposed examination report. The last date to respond to Letter 4121-X is determined by the examiner based on the facts and circumstances of the case. When a taxpayer does not respond to Letter 4121-X within the requested time frame, the examiner must follow up with the taxpayer to determine if unagreed case procedures should be initiated.
- (5) If the taxpayer does not agree, or if the examiner is uncertain if the taxpayer will agree, or if the taxpayer does not respond within a reasonable amount of time after issuance of Form 5384, the examiner with the manager's concurrence is to initiate unagreed case closing procedures under IRM 4.24.20.3.5.
- (6) Refer to IRM 4.24.21.5.2, Closing Procedures for Agreed Cases, and/or the Excise Tax Knowledge Base Homepage, Excise Examination shelf, Closing an Examination book, Type of Closure chapter, at Agreed and Partially Agreed/ Excepted Agreed Examinations for guidance about closing forms, letters, and procedures for agreed cases where the taxpayer fully agreed to all proposed adjustments.

4.24.20.3.2
(09-06-2023)

**Excepted
Agreed/Partially Agreed
Cases**

- (1) In an excepted agreed case, the taxpayer agrees to the proposed adjustments, but the examination results are subject to review, additional processing, or some other condition communicated to the taxpayer.
- (2) A partially agreed case is an excepted agreed case that contains at least one agreed issue and one unagreed issue.
- (3) In a partially agreed case, the examiner must prepare two sets of examination reports to issue to the taxpayer by following the procedures in (4) and (5) below.
- (4) The first set must contain a Form 5385, Excise Tax Examination Changes, and Form 2504-E, Agreement to Assessment and Collection of Additional Tax and Acceptance of Overassessment, that reflects all unagreed issues.

- (5) The second set must contain a Form 5385 and Form 2504-E that reflects all issues that the taxpayer has indicated agreement.
 - The top of each examination report must be labeled as “Partial Agreement.”
 - Form 5385 must include the following statement in the “Other Information” section: “This partial examination report includes only adjustments with which you indicated agreement and is not the total proposed adjustment.”
 - Secure the taxpayer’s signature on Form 2504-E.
- (6) Letter 950-E, 30-Day Letter - Straight Deficiency or Over-Assessment for Excise Tax Examination Cases, or Letter 5153-E, Examination Report Transmittal – Statute, is used to transmit the partially agreed examination report to the taxpayer. Refer to IRM 4.24.10.2(3), Prerequisites for an Appeals Referral, for guidance on the appropriate 30-day letter that should be issued.
- (7) The 30-day letter package for partially agreed cases must include the following:
 - Form 5385 and Form 2504-E reflecting all unagreed issues
 - Form 5385 and Form 2504-E reflecting all agreed issues
 - Form 886-A, Explanation of Items
 - Form 13683, Statement of Disputed Issues
 - Publication 3498, The Examination Process
- (8) If a partial agreement is not secured, continue with unagreed procedures for all proposed adjustments. Refer to IRM 4.24.20.3.5.
- (9) In a partially agreed case, the agreed examination report must be processed first by following partial assessment procedures in IRM 4.24.21.5.7, Partial Assessments and Quick Assessments. The unagreed issues may then be closed by following the closing procedures for unagreed cases in IRM 4.24.21.5.6, Closing Procedures for Unagreed Cases.
- (10) Refer to IRM 4.24.21.5.3, Closing Procedures for Excepted Agreed and Partially Agreed Cases. IRM 4.10.8.5, Excepted Agreed Cases, IRM 4.10.8.6, Partially Agreed Cases, and/or the Closing Procedures for Agreed Excise Examinations, and/or the Excise Tax Knowledge Base Homepage, Excise Examination shelf, Closing an Examination book, Type of Closure chapter at Agreed and Partially Agreed Examinations for guidance about closing forms, letters, and procedures for partially agreed and excepted agreed cases.

4.24.20.3.3
(09-06-2023)
No Change Cases

- (1) If an examination of the books and records for a filed return results in the examiner determining that no adjustment exists for the IRS No. examined, a no change examination report must be issued.

Note: No change examination reports apply only to filed returns. Refer to IRM 4.24.20.3.4 for guidance on no liability closures.

- (2) Form 5384, which is issued to the taxpayer, serves as the no change examination report. A signed agreement is not required for a no change examination report.
- (3) The IRS No. of a filed return may be substantiated by reviewing BMFOLR.

Note: A Form 720 may have both filed and non-filed returns because the requirement for filing a return under part 40 applies separately to each tax listed by IRS No.

- (4) To complete a no change examination, follow the guidance listed below:
 - a. Prepare a no change examination report using Form 5384. Enter the amounts under columns 1 through 6 and column 8 using the instructions in Exhibit 4.24.20-1.
 - b. Enter "0" under columns 6 and 8 for the appropriate period.
 - c. Make the statement under "Other Information" that the no change examination report is subject to approval by the Chief, Estate & Gift/Excise Tax Exam.
 - d. Prepare two copies of Letter 3401-E, Excise No Change Report Transmittal, which will be signed by the examiner. Provide one copy with Form 5384 to the taxpayer or collector and the taxpayer's or collector's representative, if Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, authorizes the representative to receive notices and communications. Letter 3401-E advises the taxpayer a no change examination report is issued, which is subject to managerial review and approval.
- (5) Refer to IRM 4.24.21.5.4, Closing Procedures for No Change Cases, and IRM 4.24.21.5.5, Closing Procedures for No Liability Cases, and/or to the Excise Tax Knowledge Base Homepage, Excise Examination shelf, Closing an Examination book, Type of Closure chapter at No Change Reports for guidance about closing forms, letters, and procedures for no change excise examinations.

4.24.20.3.4
(09-06-2023)
No Liability Cases

- (1) If a taxpayer or collector files a Form 720 but does not make an entry next to an IRS No. on the face of the document, then that is considered a "non-filed" return. These returns must be worked as No Liability Closures whenever the examiner determines no adjustment exists for the IRS No. examined.

Note: If the examiner determines that an adjustment exists on a "non-filed" return, that examination will be processed using the applicable agreed, excepted agreed/partially agreed, or unagreed examination report writing and closing procedures.

- (2) If a substitute for return examination concludes that the taxpayer is not liable for an excise tax for a non-filed return for the period examined, no examination report is required. Refer to IRM 4.24.21.5.5, Closing Procedures for No Liability Cases.

4.24.20.3.5
(09-06-2023)
Unagreed Cases

- (1) When it is determined the taxpayer will not or most likely will not agree to the adjustments proposed by the examiner, unagreed examination reports are prepared.
- (2) The examiner must notify the manager when there is reason to believe a case will be unagreed because the manager's involvement is mandatory. All managerial actions must be documented in the case file. Form 9984, or the Case Level Activities at the Team Web Site, may be used for this purpose.

- (3) In an unagreed case, the examiner will issue to the taxpayer a 30-day letter package that includes the appropriate 30-day letter, Form 5385, Form 2504-E, Form 13683, and Publication 3498. The following additional instructions apply to the 30-day letter package:
 - Form 886-A or the Excise Issue Summary Lead Sheet with a written explanation of adjustments, which includes schedules or exhibits if applicable, is attached to Form 5385.
 - Form 2504-E is used in conjunction with Form 5385. This form is signed by the taxpayer upon agreement of an unagreed case after the 30-day letter package is issued.
 - The 30-day letter is prepared by the examiner and includes the examiner's information in the contact section. The response date should be at least 30 days from the date issued. The manager must sign the letter.
- (4) Refer to IRM 4.24.10.2(3), Prerequisites for an Appeals Referral, for guidance on the appropriate 30-day letter that should be issued.
- (5) The examiner will update the status code to "13" using Form 5348, AIMS/ERCS Update (Examination Update), which is submitted for managerial approval when the 30-day letter is issued to the taxpayer.
- (6) Refer to IRM 4.10.8.12(2), Unagreed Case Procedures, for additional guidance on unagreed case procedures including procedures fast track settlement.
- (7) Refer to IRM 4.24.10.2 for the required timeframes that must remain on the statute of limitations (SOL) period for the assessment of tax before an unagreed excise examination may be forwarded to Appeals.
- (8) Refer to IRM 4.24.21.5.6(4), Closing Procedures for Unagreed Cases, and/or the Excise Tax Knowledge Base Homepage, Excise Examination shelf, Closing an Examination book, Type of Closure chapter at Unagreed Reports for guidance about closing forms, letters, and procedures for unagreed excise examinations.

4.24.20.3.6
(09-06-2023)
**Audit Reconsideration
and Reopening**

- (1) When the taxpayer requests an audit reconsideration, report writing procedures found in IRM 4.10.11, Claims for Refund and Requests for Abatement, apply.
- (2) If the excise return has been reopened, then a regular examination report will be prepared. Refer to IRM 4.4.26, Reopening/ Reclosing/ Reinputting Records, for procedural guidance on how to reopen and reclose cases that were previously closed.

4.24.20.4
(05-19-2017)
**Examination Report
Writing Guidelines**

- (1) This subsection, in general, describes examination report writing guidelines.

4.24.20.4.1
(09-06-2023)
**Examination Reports in
Notebook and Issue
Management System
(IMS)**

- (1) The examiner is required to utilize the Notebook Job Aid (Notebook). Notebook generates excise examination reports, which must then be imported into the Issue Management System (IMS).
- (2) Notebook contains a library of standardized forms and letters. Based on selections and information input in Notebook made by the examiner, Notebook deploys the designated forms and letters.

Note: Submit a help ticket to obtain technical support or assistance with Notebook data entry procedures. For proper routing of the service ticket, use “Excise Tax Notebook” in the text describing the issue.

- (3) Notebook prepares the examination report, which is mandatory. Information imported from the examination report into IMS automatically populates a significant number of documents based on data previously entered resulting in improved accuracy.
- (4) The examiner is responsible for selecting those forms and letters that apply to the taxpayer’s situation (i.e., agreed, no change, etc.) and for importing these forms and letters into IMS. The examiner must complete those forms and letters with information that is not populated automatically, as well as review them for accuracy.
- (5) For guidance on Notebook, refer to IRM 4.24.25.3, Guide for Using Notebook, and the Excise Notebook Job Aid User Guide at the Excise Tax Knowledge Base Homepage, Excise Examination shelf, Initiating an Examination book, Pre-Audit chapter at Notebook, which provides operating instructions for the standard library of excise tax forms.

4.24.20.4.2
(09-06-2023)

Separate Examination Reports for Different Types of Excise Taxes

- (1) Separate examination reports are prepared based on the filing type of an excise return. For example, adjustments made to Form 720, Quarterly Federal Excise Tax Return, and Form 2290, Heavy Highway Vehicle Use Tax Return, cannot be included on the same examination report.
- (2) A single examination report covering all tax periods examined will be prepared when the same type of excise return was examined concurrently.

Note: Separate examination reports for each tax period are prepared/required only if administrative action to close the case is due to exceptional circumstances.

- (3) When multiple IRS Nos. or Credit Reference Numbers (CRNs) are examined on the same excise return, each IRS No. or CRN must be listed separately on the examination report.

4.24.20.4.3
(09-06-2023)

Examination Reports Sent to Authorized Third Parties

- (1) If a valid Form 2848 , Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, is on file for a taxpayer, then granted authorities must be reviewed prior to the issuance of an examination report to determine who should receive a copy.
- (2) The examiner must research information under Integrated Data Retrieval System (IDRS) using CFINK to determine if the Centralized Authorization File (CAF) accepted the Form 2848 or Form 8821 and posted it on IDRS. If posted, a Transaction Code (TC) 960 will also be posted on the BMFOLT for each tax period to which the authorization applies. It is possible that the Form 2848 or Form 8821 may have been superseded by a new Form 2848 or Form 8821 submission or rescinded through other channels. Refer to IRM 21.3.7, Processing Third Party Authorizations onto the Centralized Authorization File (CAF), for more information regarding examiner duties and obligations.
- (3) Treas. Reg. 601.506 provides that the examiner must forward any correspondence (or copies), discussions, examination reports, and/or other materials to the taxpayer at the same time they are sent to the representative. Refer to

IRM 4.11.55, Power of Attorney Rights and Responsibilities, for information about mailing correspondence when an authorized third party is involved.

4.24.20.4.4
(09-06-2023)
**Letters to Include with
Examination Reports**

- (1) Letters are sent to the taxpayer and authorized representative to transmit examination reports, explain available appeal rights, and inform the taxpayer of the status of the excise examination. A copy of the letter must be maintained in the case file.
- (2) Examiners must follow the guidance in IRM 4.10.1.3.2, Written Communication, when preparing letters.

Note: Notebook generated letters must be used by examiners when the most current version of the letter is available within Notebook.

Note: When preparing ministerial communications, which are those addressing administrative matters that do not require judgment, analysis, discretion, etc. by the person sending the message, examiners must follow the guidance in IRM 4.10.1.3.2.1, Ministerial Messages.

- (3) Examiner 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.
- (4) Examiners prepare most letters that are issued from the group or by Centralized Case Processing (CCP); the date and signature depend on the type of letter. For example, examiners prepare, but do not sign or date, letters sent by the group manager and closing letters sent by CCP on behalf of the Chief, Estate & Gift/Excise Tax Exam.
- (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 must contain a graphical image of the signer's handwritten signature.

4.24.20.4.5
(09-06-2023)
**Publications to Include
with Examination
Reports**

- (1) Publications sent to the taxpayer must always agree with the enclosures listed on the letter to avoid confusion.
- (2) Section 3504 of Pub. L. 105-206 (RRA '98) requires the IRS to include an explanation of the examination and collection processes. To comply with the law, information about Taxpayer Advocate assistance must be included with any first examination report and with any formal 30-day package. Publication 3498, The Examination Process, is used for this purpose. Publication 3498 consolidates information from Publication 1, Your Rights as a Taxpayer, Publication 5, Your Appeal Rights and How to Prepare a Protest if You Don't Agree, and Publication 594, The IRS Collection Process. The procedures below must be followed:
 - a. Publication 3498 must be provided with the first examination report that is given to the taxpayer and with all 30-day letters.

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

4.24.20.4.5.1
(09-06-2023)

**Examination Enclosures
with Correspondence to
Representatives and
Appointees**

- (1) When a Form 2848 or Form 8821 is on file for the taxpayer, the publications sent to the taxpayer must match the enclosures listed on the cover letter to avoid confusion.
- (2) Blank forms and publications available on IRS.gov should not be included when sending copies of letters, examination reports, waivers, etc. with Letter 937, Transmittal for Power of Attorney, to representatives and appointees. Refer to IRM 4.10.1.3.3, Written Communication to the Taxpayer's Representative, for guidance.

Example: Publication 3498 should not accompany the representative's or appointee's copy of Letter 950-E, 30-Day Letter - Straight Deficiency or Over-Assessment for Excise Tax Examination Cases, or Letter 4121-X, Letter to Transmit Expected Agreed Examination Report.

Note: This is consistent with Form 2848 and Form 8821 instructions, which direct that representatives and appointees will not receive forms, publications, and other related materials with the notice.

4.24.20.4.6
(09-06-2023)

**Execution of
Examination Reports
and Payments**

- (1) An examination report is considered "executed" when the taxpayer signs the report. The executed examination report must indicate the date the IRS received it. For this reason, the examination report must be date-stamped upon receipt. Alternatively, the examiner may on the face of the examination report write the date it was received and authenticate the document with their initials.
- (2) A taxpayer, upon receipt of an examination report, may wish to immediately pay the proposed deficiency. If payment is received, then Form 3244-A, Payment Posting Voucher-Examination, must be completed and processed with the payment. A copy of the completed Form 3244-A must be attached to the face of the excise return or the current BMFOLT or TXMODA with a Substitute for Return.
- (3) Refer to IRM 4.24.20.6 for instructions on Form 3244-A processing.

4.24.20.4.7
(09-06-2023)

Fax Signatures

- (1) Reports that assess additional tax and taxpayer closing agreements are accepted by fax signature regardless of the dollar amount. This applies to Form 5384 and Form 2504-E.

Note: Form 9984 must clearly document the contact with the taxpayer, the date of contact, and the desire of the taxpayer to submit the consent to assess additional tax by fax.

4.24.20.4.8
(09-06-2023)
**Extension of Time to
Respond**

- (2) Documents, forms, letters, and returns related to post-filing inquiries and interactions can be allowed via fax unless there is a specific prohibition. For guidance regarding the use of faxes, refer to IRM 4.10.1.3.7, Policy for Use of Fax in Taxpayer Submissions.

- (1) Appeals procedures impose strict requirements pertaining to the time remaining on an SOL before an examination case may be referred. Prior to granting an extension of time for a taxpayer to respond, the examiner must determine, if there is adequate time for forwarding a case to Appeals. If the examiner is uncertain about the application of the Appeals requirements to the taxpayer's request, the examiner must consult the manager. Refer to IRM 4.24.10, Appeals Referral Procedures, for detailed information about the Appeals procedures.

- (2) The steps and procedures described below apply only to situations where the examiner confirms there is sufficient time on the SOL, which are consistent with requirements established under Appeals guidelines. For guidance on SOLs, refer to the following IRC sections:

- IRC 6501, Limitations on assessment and collection
- IRC 6511, Limitations on credit or refund
- IRC 6206, Special rules applicable to excessive claims under certain sections

Caution: SOLs for paid fuel claims cannot generally be extended. Refer to IRM 4.24.8.5, Statute of Limitations for IRC 6416(a), IRC 6420, IRC 6421, IRC 6426, and IRC 6427 Claims, for guidance.

- (3) As a matter of practice, under reasonable circumstances, requests for extensions to respond may be granted.
- (4) Requests for extensions to respond must be in writing and should state the reason 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.
- (5) The examiner must issue Letter 923-E, Letter Extending Time to File Protest - Excise, after the expiration of the 30-day period to allow the taxpayer 15 more calendar days to respond. Letter 923-E is used only if the 30-day period expired, and the taxpayer stated an intention to protest the examination results.
- (6) Extensions beyond the 15-day extension are granted by the manager or a designated management official. The taxpayer must be notified in writing of the approved extension and the specific extended response date. Letter 686, Extension of Time for Certain Actions, is used for this purpose. Extensions are normally granted for no more than 30 days unless supported by a specific reason.
- (7) If the taxpayer lives outside of the United States, the 30-day letter can be modified to allow for a reasonable period to respond.
- (8) If an examination report is changed after the 30-day letter response date is issued, the examiner will follow corrected report procedures found in IRM

4.10.8.13, Corrected Reports, and solicit the taxpayer's agreement. If the taxpayer does not agree to the corrected report, the examiner will take the following steps, as appropriate:

- a. If the corrected report changes the proposed adjustment in the taxpayer's favor and no new issues are raised, the examination can be closed after the initial 30 days expired. A new 30-day letter is not needed.
- b. If the corrected report raises new issue(s) or the proposed adjustment goes against the taxpayer (i.e., more tax due or less refund), a new 30-day letter must be issued, if sufficient time remains on the SOL.

4.24.20.5
(09-06-2023)
Form 5384 and Form 5385

- (1) The examiner must use Notebook to prepare and generate Form 5384, Excise Tax Examination Changes and Consent to Assessment & Collection, and Form 5385, Excise Tax Examination Changes.
- (2) The examiner is responsible for verifying the accuracy of the information on Form 5384 and Form 5385.
- (3) The data on Form 5384 and Form 5385 generated in Notebook must be entered into IMS to automatically populate Form 3198 and Form 5344.
- (4) Form 5384 is a mandatory examination report form used for regular agreed, no-change, and claim cases when examining:
 - Form 720, Quarterly Federal Excise Tax Return
 - Form 720-X, Amended Quarterly Federal Excise Tax Return
 - Form 730, Monthly Tax Return for Wagers
 - Form 2290, Heavy Highway Vehicle Use Tax Return
 - Form 11-C, Occupational Tax and Registration Return for Wagering
 - Form 8849, Claim for Refund of Excise Taxes
- (5) Form 5385 is the mandatory examination report form used for unagreed, excepted agreed/partially agreed, partially agreed/ unagreed paid claims and abatement cases. The taxpayer does not sign Form 5385. If there is an agreement, the taxpayer will sign Form 2504-E.
- (6) Form 5384 and Form 5385 itemize the total tax, penalties or refund due for each specific IRS No. or CRN and the kind of tax. For reporting purposes, Form 5384 and Form 5385 use per tax period ended dates (e.g., March 31, 20XX, June 30, 20XX, etc.). Each form compares the corrected tax liability or credit per the examination, which is the examiner's findings, to the tax liability or credit or previous assessment reported on the excise return. Furthermore, the tax or credit increase, as well as a possible decrease, is computed and reflected on each form. If applicable, penalties are included to arrive at the total tax and penalties that are due or to be refunded.
- (7) For Form 2290, input the date in column 1 of the Form 5384 and Form 5385 as July 1st for vehicles first used in July of the taxable period. For vehicles first used after July, use the first day of the month in which the vehicle was first used during the taxable period. For example, a vehicle was first used in July 2021 for the taxable period July 1, 2021, through June 30, 2022, Column 1 would reflect 7-1-2021. If a vehicle was first used in September 2021 for the taxable period July 1, 2021, through June 30, 2022, Column 1 would reflect 9-1-2021. Additionally, in the "Other Information" include the language below: "The Form 2290 is a prepaid tax. Column 1 represents the start date of the return."

- (8) By signing Form 2504-E or Form 5384, taxpayers are indicating they do not wish to exercise appeal rights regarding the adjustments reflected on the examination report. The examination report is subject to review and acceptance by the Chief, Estate & Gift/Excise Tax Exam.

Note: If Form 2504-E or Form 5384 includes adjustments on multiple pages, each page must be signed by the taxpayer.

- (9) Refer to Exhibit 4.24.20-1 for guidance about how to properly complete Form 5384 and Form 5385. For examination report writing guidance and procedures relating to claims, refer to IRM 4.24.8, Examination Guidance for Excise Claims for Refund or Abatement.

4.24.20.6
(09-06-2023)
**Soliciting Examination
Deficiency Payments**

- (1) The examiner must discuss payment options with the taxpayer during the initial interview and again at the conclusion of the examination. Payment for agreed deficiency cases must be solicited and secured at the closing conference whenever possible. TXMOD and BMFOLI can be used to determine outstanding balances. If possible, full payment of the deficiency should be sought when the examination is complete.

Caution: When a taxpayer has filed or is preparing to file bankruptcy, examiners must refer to IRM 4.27.1, Examiner Responsibilities and Procedures, for guidance about soliciting payment.

- (2) Instead of a payment of tax, taxpayers may submit a "6603 deposit." Refer to IRM 4.20.1.3.1(4), Request Full Payment, for guidance and an explanation of the enactment of IRC 6603 and its effect on interest.
- (3) If full payment is not received or the case is closing unagreed, the examiner must follow the tiered interview approach outlined in IRM 4.20.1.3, Issue Resolution - Solicit Payment, to explain payment options. Full payment is considered tax, penalty, and interest.
- (4) The examiner will advise the taxpayer of the current interest rate and explain the advantage of making advance payment, (i.e., accrual of interest will stop as of the date of payment). Generally, interest is computed by the examiner and provided to the taxpayer so full payment is received.
- (5) The examiner should utilize interest generating software programs, such as COMPA for interest computations. Refer to IRM 20.2.5, Interest on Underpayments, for guidance.
- (6) Taxpayers, upon receipt of the examination report, may pay the deficiency immediately. To process payment, excise examination employees prepare Form 3244-A and transmit this form along with the payment as instructed in IRM 4.20.1.3.2, Process Payment Received.

Note: For payments of \$100,000 or more, refer to IRM 4.20.1.3.2(3) and (4), Process Payment Received, to ensure timely processing.

- (7) The examiner may accept payment by check or money order; however, the examiner cannot accept cash. The check must be made payable to the U.S. Treasury.

(8) The taxpayer has the right to designate any part of the advance payment (e.g., to penalty or interest) and the examiner must apply the payment as designated.

(9) A separate Form 3244-A must be prepared for each taxpayer and tax period.

Note: Refer to IRM 4.20.1.3.2 for guidance about preparing Form 3244-A.

(10) Payments must be processed within 24 hours of receipt.

(11) In all unpaid examinations (agreed and unagreed), financial data about the taxpayer gathered during the examination should be recorded on Form 9440, Taxpayer Levy Source and Contact Information, to assist in future collection efforts. If the examiner is aware of more current financial information, then this may be included but should not be solicited from the taxpayer. Refer to IRM 4.20.1.3.3, Form 9440, Taxpayer Levy Source and Contact Information, for guidance about completing this form.

(12) The Form 9440 must be placed on top of Form 5344 in the case file and the Form 9440 "box" must be checked on Form 3198 before closing the case.

(13) If the taxpayer cannot pay in full, the examiner must solicit from the taxpayer:

- Form 9465, Installment Agreement Request
- Form 433-B, Collection Information Statement for Businesses

Note: The examiner cannot secure an installment agreement on MFT 03 accounts.

(14) If the taxpayer returns a "completed" Form 9465, the examiner will:

- a. Complete Form 3177, Notice of Action for Entry on Master File. In the "other (specify) box" record "TC 971/AC43" and record the MFT(s) and tax period(s) that apply.
- b. Fax the completed Form 3177 to CCP within 24 hours of receipt from the taxpayer, using fax number (855) 386-5123.
- c. Place Form 9465 and Form 433-B in the case file. The completed case file with Form 9465 and Form 433-B must be sent to CCP. Form 3198 must be marked accordingly to indicate that Form 9465 and Form 433-B are enclosed in the file. The examiner is not required to verify information on Form 433-B. The examiner's role is to collect the information while working with the taxpayer for quicker processing by Collection when it is received.

Exhibit 4.24.20-1 (09-06-2023)**Instructions for Completing Form 5384 and Form 5385**

The examiner is required to use Form 5384 and Form 5385 found in Notebook. Refer to the Excise Notebook Job Aid User Guide for guidance.

The following instructions are for Form 5384 and Form 5385:

- a. Name and address: Show current taxpayer name and mailing address.
 - b. Social Security Number (SSN) or Employer Identification Number (EIN): Show the full SSN or EIN.
 - c. Return form number: self-explanatory.
 - d. Indicate individual with whom findings were discussed.
 - e. In column 1, denote the tax period of an examined return.
 - f. In column 2, indicate the IRS No. or Credit Reference Number (CRN).
- Note:** Both Form 5384 and Form 5385 include references to CRNs for use, when warranted.
- g. In column 3, denote the kind of tax adjusted using abbreviated format listed below:

TYPE OF TAX	DESCRIPTION
RET	Retail (4041 – 4053), Special Fuels (4041 – 4043), Heavy Trucks & Trailers (4051 – 4053)
MAN	Manufacturing (4064 – 4227), Automotive Related Items including Tires, Gasoline, Diesel, Kerosene and LUST (4064 – 4105), Coal (4121), Certain Vaccines (4131 - 4132), Recreational Equipment – Sport Fishing and Archery (4161 – 4162)
FAC	Facilities and Service (4251 – 4293), Communications (4251 - 4254), Transportation by Air (4261 – 4282), Indoor Tanning Services (5000B)
FOR	Policies Issued by Foreign Insurers (4371 – 4374)
SSF	Structured Settlement Factoring Transactions (5891)
WAG	Taxes on Wagering (4401 – 4424), Tax on Wagers (4401 – 4405), Occupational Tax (4411 – 4414)
USE	Certain Other Excise Taxes (4461 – 4484), Harbor Maintenance Tax (4461 – 4462), Transportation by Water (4471 – 4472), Tax on Use of Certain Vehicles (4481 – 4484)
ENV	Environmental Taxes (4611 – 4682), Tax on Petroleum (4611 – 4612), Tax on Certain Chemicals (4661 – 4662), Tax on Certain Imported Substances (4671 – 4672), Ozone Depleting Chemicals (4681 – 4682)
REG	Registration Required Obligations (4701), Tax on Issuer of Registration-Required Obligation-Not in Registered Form (4701)
COB	COBRA (4980B), Failure to Satisfy Continuation Coverage Requirements of Group Health Plans (4980B)
INS	Patient-Centered Outcomes Research Institute (4375 - 4377)

- h. In column 4, denote the total corrected liability or credit per examination for the tax period and IRS No. or CRN examined.
- i. In column 5, show the tax or credit per return or as previously adjusted. Review a current BMFOLR to verify the IRS No. or CRN per return and a current BMFOLT to verify the TC 150 or TC 290/291 or TC 300/301 tax amount posted to the tax module. TC 840/846/766 does not affect tax per return.

Exhibit 4.24.20-1 (Cont. 1) (09-06-2023)**Instructions for Completing Form 5384 and Form 5385**

Note: If TC 976 was posted, there should be a corresponding TC 290 to assess the tax for the duplicate return. If there is not a TC 290, the examiner must address the duplicate return as part of the examination.

Note: The TC 150 posting for an SFR will be zero (0) unless a partial assessment was made for a delinquent return received after the SFR posted.

Note: TXMODA should also be reviewed, if an amended return was filed. The original BMFOLR amount will not be updated, if an amended return was filed.

- j. In column 6, show the adjustment made per examination. Parentheses indicate the adjustment is a decrease to tax. The delinquent tax for categories omitted from the excise return will appear in this column.
- k. In column 7, enter all applicable penalties from Notebook penalty reports. Refer to IRM 20.1.4.10, Form 720 Reporting Requirements, for guidance about computing the deposit penalty and IRM 20.1.11.19, Supervisory Approval for Penalty Assessment, for guidance about managerial involvement.
- l. In column 8, calculate the total adjustments for the IRS No. or CRN examined. This is the total of lines 6 and 7.
- m. In the "Other Information" section include statements as needed. If additional space is needed, use Form 886-A or Excise Issue Summary Lead Sheet, and add: "See Form 886-A or Excise Issue Summary Lead Sheet attached." Below are some examples of statements which should be used to clarify the examination results.
 - Statement on corrected or supplemental reports such as "This report supersedes report dated _____."
 - References to attachments.
 - Statements regarding the disposition of claims. Refer to IRM 4.24.8, Examination Guidance for Excise Claims for Refund or Abatement, for information regarding claim reports.
 - Statement regarding the application of any penalties or additions to tax (or reference to attachments). Include the IRC Section, title of the penalty, and the dollar amount.
 - Report does not reflect the interest on the underpayment of tax. The underpayment rate is the sum or the federal short-term rate plus three percentage points. Refer to IRC 6621(a)(2) for guidance.
- n. Only taxes reported on the same type of return are reflected on a Form 5384. For example, if a Form 720 and a Form 2290 are examined for the same taxpayer, two separate Forms 5384 and Forms 5385 are required.

Exhibit 4.24.20-2 (09-06-2023)**Acronyms**

The following table contains acronyms and their definitions used throughout this IRM:

Acronym	Definition
CAF	Central Authorization File
CCP	Centralized Case Processing
CRN	Credit Reference Number
EIN	Employer Identification Number
ExSTARS	Excise Summary Terminal Activity Reporting System
FSEQ	Field and Specialty Exam Quality
IDRS	Integrated Data Retrieval System
IMS	Issue Management System
IRC	Internal Revenue Code
LB&I	Large Business and International
SFR	Substitute for Return
SOL	Statute of Limitations
SSN	Social Security Number
TAS	Taxpayer Advocate Service
TBOR	Taxpayer Bill of Rights
TC	Transaction Code

