



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.36.3

JUNE 24, 2025

## EFFECTIVE DATE

(06-24-2025)

## PURPOSE

- (1) This transmits revised IRM 4.36.3, Joint Committee Procedures, Examination Team Responsibilities.

## MATERIAL CHANGES

- (1) Changes were made to the following subsections:

IRM Subsection	Title	Description of Change
4.36.3.6.1	Revenue Agent's Report (RAR) Requirements	Updated IRM references.

- (2) Various editorial changes and corrections have been made throughout this IRM.

## EFFECT ON OTHER DOCUMENTS

This section supersedes IRM 4.36.3, Examination Team Responsibilities, dated November 2, 2023.

## AUDIENCE

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4.36.3

Examination Team Responsibilities

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4.36.3.1  
(11-02-2023)  
**Program Scope and  
Objectives**

- (1) **Purpose:** This IRM section sets forth examination team responsibilities and procedures relative to Joint Committee (JC) cases. It covers the following areas:
- a. Examination procedures (IRM 4.36.3.2)
  - b. JC electronic case reviews (IRM 4.36.3.3)
  - c. Survey-after-assignment criteria (IRM 4.36.3.4)
  - d. Statute of limitations (IRM 4.36.3.5)
  - e. Documentation requirements for examined JC cases (IRM 4.36.3.6)
  - f. Reporting prior to resolution of all issues (IRM 4.36.3.7)
  - g. Submission of case to Joint Committee Review (JCR) program (IRM 4.36.3.8)
  - h. Inquiries on JCR cases (IRM 4.36.3.9)
  - i. Disclosure of correspondence with the Joint Committee on Taxation (JCT) (IRM 4.36.3.10)
  - j. Referral to Taxpayer Advocate Service by the examination team (IRM 4.36.3.11)
  - k. Examination/Appeals case coordination (IRM 4.36.3.12)

- (2) **Audience:** Examination teams in LB&I, SB/SE and TE/GE who work on cases that meet JC criteria.

**Note:** For purposes of IRM 4.36, Joint Committee Procedures, the term “examination team” refers to examiners in LB&I, SB/SE and TE/GE, along with their managers and any specialists who work on the JC case.

- (3) **Policy Owner:** LB&I Policy Office under the Strategy, Policy and Governance function in the office of the Assistant Deputy Commissioner Compliance Integration.
- (4) **Program Owner:** The LB&I Northeastern Compliance Practice Area.
- (5) **Primary Stakeholders:** Examination teams, taxpayers and the JCT.
- (6) **Contact Information:** To recommend changes or to make any other suggestions related to this IRM section, see IRM 1.11.6.5, Providing Feedback About an IRM Section - Outside of Clearance. Questions about the IRM content may be emailed to the JCR program at *\*LB&I Joint Committee Assistance*.

4.36.3.1.1  
(06-21-2021)  
**Background**

- (1) See IRM 4.36.1.1.1, Background.

4.36.3.1.2  
(11-02-2023)  
**Authority**

- (1) See IRM 4.36.1.1.2, Authority.

4.36.3.1.3  
(06-21-2021)  
**Roles and  
Responsibilities**

- (1) See IRM 4.36.1.1.3, Roles and Responsibilities.

- 4.36.3.1.4  
(11-02-2023)  
**Program Management and Review**
- (1) See IRM 4.36.1.1.4, Program Management and Review
- 4.36.3.1.5  
(11-02-2023)  
**Program Controls**
- (1) See IRM 4.36.1.1.5, Program Controls.
- 4.36.3.1.6  
(11-02-2023)  
**Terms/Definitions/ Acronyms**
- (1) See IRM 4.36.1.1.6, Terms/Definitions/Acronyms.
- 4.36.3.1.7  
(11-02-2023)  
**Related Resources**
- (1) See IRM 4.36.1.1.7, Related Resources.
- 4.36.3.2  
(11-02-2023)  
**Examination Procedures**
- (1) JC cases are subject to the same examination considerations as other cases of similar size and complexity. It is the examination team's responsibility to determine the scope and depth of the examination. This includes decisions regarding the use of efficient resolution strategies, including Fast Track Settlement and Accelerated Issue Resolution, as applicable and subject to applicable procedures. See IRM 4.36.4.7, Closing Agreements. All decisions made by the examination team must be properly supported and documented.
- (2) When a loss is attributable to a pass-through entity, the examination team should, at a minimum, inspect the return and determine whether an examination is warranted.
- (3) **Fully agreed cases** involving a refund or credit in excess of the jurisdictional threshold must be reported to the JCT.
- (4) For **unagreed cases**, no JC report is required at the time the case is closed to the Office of Appeals. However, if the case still meets JC criteria after settlement, Appeals prepares and submits a JC report if the case is in Appeals jurisdiction. See IRM 8.7.9, Joint Committee (JC) Cases.
- (5) Certain **partially agreed cases** may require a JC report if the refund or credit is in excess of the jurisdictional threshold, regardless of the resolution of the unagreed issues, but only if the taxpayer agrees to sign a Form 870. This situation is known as a "minimum refund." In this situation, the examination team must follow JC procedures and the Joint Committee specialist (JCS) prepares and submits a JC report reflecting the minimum refund amount. If the unagreed issues are in Appeals jurisdiction, the Appeals Officer submits a supplemental JC report when the unagreed issues are resolved, even if the resolution of such issues does not cause an additional refund or credit. See IRM 4.36.3.7.1, Cases with Unagreed Issues - Minimum Refund, for procedures.
- (6) For JC cases with the following special criteria, refer to the appropriate JC IRM citation:

For:	Refer to:
Closing Agreements	IRM 4.36.3.6.4.1 and IRM 4.36.4.7
Competent Authority	IRM 4.36.3.6.4.2
Advance Pricing Agreements	IRM 4.36.3.6.4.3
Compliance Assurance Process	IRM 4.36.3.6.4.4

- (7) See IRM Exhibit 4.46.5-2, Electronic Case Closing Procedures by Closure Type, for JC case closing instructions for LB&I examination teams.

4.36.3.2.1  
(11-02-2023)  
**Case Identification**

- (1) The examination team is responsible for identifying all JC cases in their inventory, based on either the return information submitted by the taxpayer or when the case meets the JC criteria. The examination team must ensure that all returns (both source and carryback years) in the case file have Project Code 0077 on ERCS/AIMS. If during an examination the team determines a case no longer meets the JC criteria, the manager of the examination team must remove the project code. Project Code 0077 takes precedence over all other project codes that may be applicable to the case. See IRM 4.36.2.4, Determining Joint Committee Jurisdictional Amount and Years.

4.36.3.2.2  
(11-02-2023)  
**Claim Filed During Examination**

- (1) If a taxpayer files a claim for refund or application for tentative refund during an open examination that is in excess of the jurisdictional threshold, the examination must be expanded to include such source year. Certain cases can be closed and reported to the JCT prior to the resolution of all issues. See IRM 4.36.3.7.2, Tentative Allowance from Unexamined Source Years — Report Required, for procedures and criteria for tentative allowances from unexamined source years and IRM 4.36.3.7.3, Request for Refund — Claims from Unexamined Source or Refund Years — Modified Expedite Refund Report, for the procedures and criteria for claims from unexamined source or refund years.

**Example 1:**

**Facts:**

An examination resulted in an overassessment of \$1,600,000 for 2015. During the examination a claim (Form 1040X, Amended U.S. Individual Income Tax Return) was filed for 2015 for \$410,000 based on a 2017 NOL.

**Conclusion:**

The examination should be expanded to include 2017, because the aggregate amount of the refunds or credits under IRC 6405(a) exceeds the \$2 million jurisdictional threshold.

**Example 2:****Facts:**

An examination resulted in an overassessment of \$1,600,000 for 2015. During the examination a claim (Form 1120X, Amended U.S. Corporation Income Tax Return) was filed for 2015 for \$410,000 based on a 2017 NOL.

**Conclusion:**

The examination should **not** be expanded to include 2017, since the aggregate amount of the refunds or credits under IRC 6405(a) is not in excess of the \$5 million jurisdictional threshold.

**Example 3:****Facts:**

An examination resulted in an over-assessment of \$900,000 for 2015. During the examination, Form 1139, Corporation Application for Tentative Refund was filed for 2015 for \$4,200,000 based on a 2017 NOL.

**Conclusion:**

The examination should **not** be expanded for JCT purposes because IRC 6405(a) and IRC 6405(b) refunds are not aggregated.

4.36.3.2.3  
(11-02-2023)

**Discovery of Unreported Refunds**

- (1) If an examination team discovers that an overpayment in excess of the jurisdictional threshold has been refunded, but not reported to the JCT, the examination team must notify their manager and the \*LB&I Joint Committee Assistance mailbox.
- (2) The JCR program manager coordinates with Office of Chief Counsel and the examination team to determine the appropriate steps to take on a case-by-case basis.
- (3) If determined that the case is reportable to the JCT, the examination team that closed the examination of the case is responsible for securing the required files and submitting the case to the JCR program in accordance with IRM 4.36, even though the examination has been completed and closed.

4.36.3.2.4  
(09-23-2015)

**Claim Filed for Previously Examined Year**

- (1) All pertinent years (both refund and source years) must be covered in a current examination or survey-after-assignment action, even if one or more of the refund years has been previously surveyed after assignment or examined. All prior examination or survey-after-assignment reports pertaining to such years must be included in the case file.
- (2) If the refund or credit is for a year that was previously examined, that year is not reexamined unless such action is necessary under reopening criteria, also known as "case return" criteria.



- 4.36.3.2.5  
(11-02-2023)  
**Information Given to Taxpayer**
- (1) Upon completion of the examination, the examination team will inform the taxpayer that a JC report is required, answer any taxpayer questions about JC procedures, and advise the taxpayer to expect written notification from the examination team when a JC report has been sent. Letter 1573 is used for this purpose. See IRM 4.36.4.3.1 , Taxpayer Notification Letters.
- 4.36.3.2.6  
(11-02-2023)  
**Form 870 and Form 890**
- (1) JC cases are considered “Excepted Agreed Cases” and as such the reopening procedures do not apply. See IRM 4.10.8.5, Excepted Agreed Cases.
  - (2) The Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment, or Form 890, Waiver of Restrictions on Assessment and Collection of Deficiency and Acceptance of Overassessment - Estate, Gift, and Generation - Skipping Transfer Tax, must not contain any restricted language.
  - (3) A qualified Form 870 or Form 890 will not be accepted for JC cases.
- 4.36.3.2.6.1  
(09-23-2015)  
**Assessment Prior to Review**
- (1) If six (6) months or less remain on the statute of limitations and the taxpayer will not extend the statute, the deficiency must be assessed prior to forwarding the case to the JCR program.
- 4.36.3.2.7  
(11-02-2023)  
**Restricted Interest**
- (1) Adjustments due to carrybacks will result in restricted interest. Even if there is no tax change to a carryback year, there may be a net interest assessment or abatement. See IRM 4.11.11.10.4, Restricted Interest.
  - (2) The tax computation specialist (TCS) is responsible for the preparation of Section I of Form 2285, Concurrent Determinations of Deficiencies (Increase in Tax) and Overassessments (Decrease in Tax) in Cases Involving Restricted Interest Provisions of the Internal Revenue Code, if applicable. The examination team must review these computations with the TCS.
  - (3) For estate tax, use Form 1366, Tax Analysis Worksheet of Overassessment of Estate Tax Involving Restricted Interest.
- 4.36.3.2.8  
(11-02-2023)  
**Claim Disallowance in Agreed Cases**
- (1) Due to the time required to process a JC case, the examination team does not solicit Form 2297, Waiver of Statutory Notification of Claim Disallowance, in an agreed claim case if a refund or credit is disallowed in full or in part. Such action is a disadvantage to the taxpayer because it prematurely starts the running of the two-year period for filing suit.
  - (2) When the examination team receives notification from the JCS that the release letter has been received from the JCT, the examination team solicits and obtains the taxpayer’s signature on Form 2297 and follows normal case closing procedures.
  - (3) If the taxpayer declines to sign Form 2297, the examination team indicates that a statutory notice of claim disallowance (Letters 905 and 906) is issued to the taxpayer. This is shown on page 1 of Form 3198, Special Handling Notice for Examination Case Processing, under the section, “Forward to Technical Services.” The case is then forwarded to the examination team’s servicing Technical Services Group.

4.36.3.3  
(11-02-2023)  
**JC Electronic Case  
Reviews**

- (1) All JC case reviews are conducted electronically by the JCR program with the participation and assistance of the examination team. See IRM 4.36.1.1.7, Related Resources.
- (2) A JCS is assigned once the electronic referral is accepted. See IRM 4.36.3.8, Submission of Case to JCR Program.

4.36.3.4  
(11-02-2023)  
**Survey-After-  
Assignment Criteria**

- (1) Returns meeting JC criteria may be surveyed after assignment if deemed appropriate by the examination team. The examination team may survey some or all of the returns. Survey-before-assignment procedures cannot be used for cases meeting JC criteria.

4.36.3.4.1  
(11-02-2023)  
**Survey-After-  
Assignment  
Documentation**

- (1) The examination team's case must have sufficient documentation to justify that an examination is not warranted. If the reason, economic or otherwise, for the overassessment is not readily determinable from the return or file, the examination team may use the options below:
  - a. Obtain the necessary information from public sources (e.g., annual report, Security Exchange Commission's filings, Moody's, Standard and Poor's, etc.) The examination team's request for copies of the taxpayer's tax returns, prior RARs or information otherwise available from public sources is within the confines of a survey-after-assignment action.
  - b. If the examination team needs to contact the taxpayer, use Letters 6461–6464.
- (2) However, if the examination team inspects any portion of the taxpayer's books and records (except as provided in this section) or discusses any potential issues with the taxpayer, the return cannot be surveyed under this procedure.
- (3) Cases containing computational errors unfavorable to the taxpayer (more tax due or less refund), may be surveyed after assignment. For these types of cases, see SB/SE Division Delegation Order 1-23-15, Error Tolerance Levels (IRM 1.2.65.3.4), or LB&I Division Delegation Order 1-23-17, Error Tolerance Levels for LB&I Cases (IRM 1.2.63.2.16). Include the following in the "Explanation" section of Form 1900:
  - a. Statement that there was a computational error,
  - b. The error amount and the tax years,
  - c. Statement that there were no other potential issues identified, and
  - d. Proper approval was received. "Approved by" section must be completed and signed by the individual with delegated authority under the delegation order.

**Note:** See IRM 4.10.2.5.3, Surveying Claims, for instructions on preparing Form 1900.

4.36.3.4.2  
(11-02-2023)  
**Survey-After-  
Assignment Forms**

- (1) All survey-after-assignment returns use Form 1900, Income Tax Survey. Each year must be shown separately on Form 1900.

4.36.3.4.3  
(11-02-2023)  
**Procedural  
Requirements —  
Survey-After-  
Assignment Cases**

- (1) All pertinent years (refund years and source years) must be included in the survey-after-assignment action, even if one or more of the refund years has been previously closed. Include all prior examination reports pertaining to such years in the case file.
- (2) For survey-after-assignment cases, ensure that the tax shown on the tax return agrees with current transcripts, and are not more than 30 days old when the case is referred to the JCR Program.
- (3) The documentation requirements for survey-after-assignment cases are listed below.
  - a. Form 4665, Report Transmittal. See IRM 4.36.3.6.2 for required information.
  - b. Form 5321, Joint Committee Case Checklist, prepared and signed by the examiner and examination team manager.
  - c. A computational RAR (including Form 4549-A, Form 4549-B, BNA worksheets or RGS calculation output worksheets) prepared by a TCS to verify the accuracy of all tax computations. The examiner's signature is not required. SB/SE specialty examiners (excise, estate & gift) and TE/GE examiners will do their own tax computations on JC cases.
  - d. For examination teams in SB/SE and LB&I, the TCS prepares the JC spreadsheet.

4.36.3.4.4  
(11-02-2023)  
**JCT Inquiries on  
Survey-After-  
Assignment Cases**

- (1) All contacts with the JCT must go through the JCR program. See IRM 4.36.4.4, Inquiries from Joint Committee on Taxation.
- (2) The JCR Program and the JCT will discuss informal inquiries on a survey-after-assignment case that cannot be resolved without contacting the taxpayer.
- (3) If the IRS agrees that the requested information is critical to the JCT's review, the taxpayer's returns will be examined in order to respond to the inquiry. This contact removes the case from the survey-after-assignment procedures and an RAR is required. See IRM 4.36.3.6.1, Revenue Agent's Report (RAR) Requirements.
- (4) All inquiries from the JCT are congressional Inquiries subject to disclosure rules. Congressional records cannot be released to the taxpayer without written permission of the JCT. See IRM 4.36.4.5, Disclosure of Correspondence with the JCT.
- (5) Absent formal notice to the contrary, a request by the JCT for additional documentation in a specific case will not set a precedent for similar documentation in other cases involving the same issue.

4.36.3.5  
(11-02-2023)  
**Statute of Limitations**

- (1) The examination team must request consents from the taxpayer to extend the statute of limitations so at least 12 months remain on the statute for both source and carryback years. If the taxpayer will not extend the statute and there are fewer than 12 months remaining on the statute, the examination team contacts the *\*LB&I Joint Committee Assistance* mailbox for guidance. Refer to IRM 25.6.23 for statute control procedures.

4.36.3.5.1  
(05-04-2010)  
**Restricted Consents**

- (1) Restricted consents **will not be used** in JC cases because it would restrict the rights of the JCT to perform its oversight function.

4.36.3.5.2  
(09-23-2015)  
**Alpha Statutes**

- (1) Update the statute date of the carryback years on AIMS/ERCS and/or RCCMS with the correct alpha code when the regular statute has expired or is about to expire. See IRM Exhibit 25.6.23-3, Instructions for Updating the Statute on AIMS.
- (2) For unpaid claims, replace the day field with AA. The month and year fields do not change.
- (3) If the claim or tentative allowance was paid, "BB (NOL)" and "DD (credits)" replace the day field. The month and year fields must be changed to the earliest source year statute.

4.36.3.5.3  
(11-02-2023)  
**Statute Control During  
JC Review**

- (1) For all JC cases, the examination team is responsible for maintaining the required statute controls per IRM 25.6, Statute of Limitations, retaining the case file and closing the case.

4.36.3.6  
(11-02-2023)  
**Documentation  
Requirements for  
Examined JC Cases**

- (1) JC reports are the principal source of information for the JCT and are integral to the JC review process. It is important for JC reports to be thorough and accurate. The examination team must timely submit sufficient information to the JCR program for the preparation of the JC report.
- (2) Documents to be included in an examined JC case are listed below.
  - a. Tax returns for all source and carryback years, including any amended returns and tentative refund applications.
  - b. Transcripts of accounts for all tax years. The examination team must check the transcript against information in the case file to ensure that all deficiencies, overassessments, claims paid, and refunds or credits, including tentative allowances and abatements, are properly reflected in the tax computation for the RAR and JC spreadsheets.
  - c. Prior RARs, appeals reports and supporting documentation, if applicable.
  - d. Current RAR. See IRM 4.36.3.6.1, Revenue Agent's Reports (RAR) Requirements.
  - e. Form 4665, Report Transmittal, signed by the examiner and examination team manager. See IRM 4.36.3.6.2, Taxpayer Information — Form 4665 Report Transmittal Requirements.
  - f. JC spreadsheet. See IRM 4.36.3.6.3, Joint Committee Spreadsheets.
  - g. Form 5231, Joint Committee Case Checklist, must be prepared and signed by both the examiner and examination team manager.
  - h. Other relevant items. See IRM 4.36.3.6.4, Other Relevant Items.

4.36.3.6.1  
(06-24-2025)  
**Revenue Agent's Report  
(RAR) Requirements**

- (1) An RAR must be prepared by a TCS for all examined JC cases within LB&I and SB/SE. SB/SE specialty examiners (excise, estate & gift) and TE/GE examiners prepare their own RARs. The RAR includes the following:
  - a. Form 4549-A (signed and dated by the examiner), Form 4549-B (LB&I only), and a BNA or RGS output worksheet. See IRM 4.10.8.1.5, Terms, IRM 4.10.8.5, Excepted Agreed Cases.
  - b. A written explanation of all adjustments on Form 886-A, Form 5701, or leadsheets. See IRM 4.10.9.7.2, Issue Lead Sheets, and IRM 4.10.8.12.4, Explanation of Items. For LB&I cases, see IRM 4.46.6.4, Examination Reports, paragraph(7). For exempt organization cases, see IRM 4.70.14.2.1.3.1.3, EO Change Cases - Proposing Adjustments, and IRM 4.70.17, TE/GE Examinations, Claims and Abatements. For

employee plans, also see IRM 4.70.17, TE/GE Examinations, Claims and Abatements, and IRM 4.10.8.12.4, Explanation of Items.

- c. Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment. See IRM 4.36.3.2.6, Form 870, and IRM Exhibit 4.10.8-2, Preparation of Form 870. For estate and gift tax cases, see Form 890, Waiver of Restrictions on Assessment and Collection of Deficiency and Acceptance of Overassessment - Estate, Gift, and Generation-Skipping Transfer Tax, or Form 890-T, Waiver of Restrictions on Assessment and Collection of Transferee or Fiduciary Liability for Estate, Gift, and Generation-Skipping Transfer Tax. Also see IRM 4.25.10.7.3.1, 30 Day Letter Procedures — Examiner, paragraph 8.

4.36.3.6.2  
(11-02-2023)  
**Taxpayer Information —  
Form 4665 Report  
Transmittal  
Requirements**

- (1) Form 4665, Report Transmittal, lists the returns included in the JC case referral, corresponding statute of limitations and explains the causes of the overassessments (reasons for the refund). If the overassessments result from a net operating loss, the economic reason for such loss must be explained. Include a statement of the taxpayer's principal business activity, principal products, and any major changes in the tax years.
- (2) For corporations, the following additional information will be furnished in every case (as applicable):
  - a. Date and place of incorporation.
  - b. If stock is closely held, who controls the corporation.
  - c. Names of subsidiaries or affiliates.
  - d. Any changes in capital structure such as mergers, acquisitions, dispositions, etc., during the years under examination or survey. Include adequate information for each major event such as asset acquisition, stock acquisition, reverse triangular merger, IRC 368(h), corporate equity reduction transactions (CERT), etc.
  - e. Whether the stock is publicly held and on which exchange.
  - f. IRC 172(f) (specified liability) loss fully explained, including an analysis of the rulings and court cases.
  - g. If there is a capital loss carryback, comment on the applicability of the loss disallowance rules of Treasury Regulation 1.337(d)-2.
- (3) If an issue arises as to the proper carryback period of losses or credits of a newly acquired member of a consolidated group, state whether the newly acquired corporation was organized by or for a preexisting member of the consolidated group (i.e., SRLY).
- (4) If the adjustments are related to losses or credits from a pass-through entity, the examination team will add a statement to include the following:
  - a. Whether the return was inspected or examined,
  - b. The reason for the economic loss or adjustment,
  - c. Principal business activity,
  - d. Taxpayer ownership interest, and
  - e. Whether the taxpayer had basis, was at-risk and materially participated in the pass-through loss entity. See IRM 4.36.3.2, Examination Procedures, paragraph (2).
- (5) Contact information for the examiner and examination team manager, including address and telephone numbers must be entered on Form 4665.

- (6) The name and title of the taxpayer's corporate officer and/or power of attorney/ authorized representative who is to receive correspondence must be included.
- (7) Short taxable periods have numerous possible tax consequences. To fully understand the tax implications of the tax years reported, the examination team must disclose the existence and cause of any short taxable period on Form 4665.
- (8) Explain any large, unusual or questionable items even if not adjusted.
- (9) Form 4665 must be signed and dated by both the examiner and examination team manager.

4.36.3.6.3  
(11-02-2023)  
**Joint Committee  
Spreadsheets**

- (1) The tax computation specialist (TCS) is responsible for the preparation of the JC spreadsheet. The JC spreadsheet is a required document (except for SB/SE estate and gift and TE/GE) included with the electronic Joint Committee referral. Use the Specialist Referral System (SRS) to request a TCS.

4.36.3.6.4  
(11-02-2023)  
**Other Relevant Items**

- (1) The following items may apply to certain JC cases. If so, they should be documented in the case file as described below.
  - a. Closing agreements, see IRM 4.36.3.6.4.1
  - b. Competent Authority
  - c. Advance Pricing Agreements
  - d. Compliance Assurance Process
  - e. Change of Accounting Method

4.36.3.6.4.1  
(11-02-2023)  
**Closing Agreements**

- (1) Closing agreements **may not be signed by the approving IRS official** prior to the issuance of a release letter by the JCT. Closing agreements must be duly executed by taxpayers or their authorized representatives. A copy of the closing agreement is submitted with the JC report. After receiving the release letter from the JCT, closing agreements are returned to the examination team for proper signatures.
- (2) In situations where an issue is resolved early in the examination through a closing agreement, Fast Track Settlement, or Early Referral to Appeals, and the case is likely to be reportable to the JCT, the examination team may request an advanced review of the closing agreement by the JCT. If the examination team chooses to pursue this option, there is a disclosure issue in sending the closing agreement to the JCT while the examination is still in process. The examination team solicits written authorization from the taxpayer to provide the closing agreement to the JCT. If the taxpayer refuses, a redacted copy is sent. The examination team electronically submits the following to the JCR program:
  - a. Copies of the draft closing agreement (signed by the taxpayer but not by the IRS),
  - b. Issue write-ups, and
  - c. Written authorization from the taxpayer authorizing disclosure to the JCT.
- (3) After JCT reviews the closing agreement, the JCS notifies the examination team that the closing agreement can be executed by the IRS.



- 4.36.3.6.4.2  
(11-02-2023)  
**Competent Authority**
- (1) Competent authority determinations can be executed by the IRS prior to review by the JCT. However, these agreements must be included in the JC report submitted to the JCT.
  - (2) Under certain circumstances, a minimum refund report can be submitted to the JCT. Under the minimum refund procedure, all issues relating to an ongoing competent authority determination will be considered as unagreed issues in determining whether the minimum refund procedures apply. If a minimum refund report is submitted, a supplemental report to the JCT will be required upon completion of the competent authority determination provided that any resulting additional refund meets the applicable jurisdictional threshold. See IRM 4.36.3.7.1, Cases with Unagreed Issues - Minimum Refund.
- 4.36.3.6.4.3  
(11-02-2023)  
**Advance Pricing Agreements (APAs)**
- (1) APAs must be finalized before a report can be submitted to the JCT. Provide a copy of the APA to the JCR program.
- 4.36.3.6.4.4  
(11-02-2023)  
**Compliance Assurance Process (CAP)**
- (1) If at the conclusion of a CAP review, it is determined that the filed tax return meets JC criteria, JC procedures will apply. Closing agreements in these cases must be submitted to the JCT prior to being signed by the IRS.
  - (2) For a Full Acceptance return, once the post-filing review is complete, the account coordinator must prepare and submit the documents required by IRM 4.36.3.6 to the JCR program.
  - (3) Similarly, for a Partial Acceptance return, once all of the remaining issues have been resolved, the account coordinator must prepare and submit the necessary documents to the JCR program.
  - (4) Additional information relative to required documentation for CAP cases is located at: *Joint Committee CAP Case Procedures*.
- 4.36.3.6.4.5  
(11-02-2023)  
**Change of Accounting Method**
- (1) For non-automatic changes, submit electronic copies of Form 3115, Application for Change in Accounting Method, and related consent letter to the JCR program.
- 4.36.3.7  
(11-02-2023)  
**Reporting Prior to Resolution Of All Issues**
- (1) Certain cases can be reported to the JCT prior to the resolution of all issues. These cases include:
    - a. Cases with unagreed issues - minimum refund - See IRM 4.36.3.7.1.
    - b. Tentative allowances from unexamined source years - report required. See IRM 4.36.3.7.2.
    - c. Request for refund - claims from unexamined source or refund years - modified expedite refund report. See IRM 4.36.3.7.3.
- 4.36.3.7.1  
(11-02-2023)  
**Cases with Unagreed Issues — Minimum Refund**
- (1) Upon completion of the examination, if the taxpayer is entitled to an IRC 6405(a) refund, and there are unagreed issues, the case may be a minimum refund case.
  - (2) A minimum refund is the amount the taxpayer is due to receive after offsetting any potential unagreed deficiency. The taxpayer would receive the net minimum refund amount regardless of the outcome of the unagreed issues.

- (3) A minimum refund may be processed before the case is sent to Appeals if:
- The unagreed issues require a substantial period of time to resolve (one year or more for Large Corporate Compliance (LCC) cases, six months or more for all other cases), and the delay would deprive the taxpayer of a timely refund to which it is clearly entitled, in spite of the resolution of the unagreed issues, and
  - The taxpayer signs Form 870 indicating agreement with the minimum refund. See examples below for determining the minimum refund due the taxpayer.

**Example 1**

	<b>Year 1</b>	<b>Year 2</b>	<b>Total</b>
Agreed Overass- essment	(4,500,000)	(2,000,000)	(6,500,000)
Unagreed Defi- ciency	<u>1,000,000</u>	<u>500,000</u>	<u>1,500,000</u>
Total results of ex- amination	(3,500,000)	(1,500,000)	(5,000,000)
Minimum amount entitled to receive			5,000,000

**Example 2**

<b>Description</b>	<b>Amount</b>
Agreed overassessment	(3,000,000)
Unagreed overassessment	<u>(2,000,000)</u>
Total results of examination	(5,000,000)
Minimum amount entitled to receive	3,000,000

- If the minimum refund exceeds the jurisdictional threshold , and the taxpayer has indicated agreement with the examination team's findings by signing Form 870, the JCR program must report the refund to the JCT before releasing the unagreed issues to Appeals. The supplemental report will be made by the office that makes the final determination of the taxpayer's liability (that includes agreed or unagreed issues) for the year(s) previously reported to the JCT.
- Once the JCT release letter is received for the minimum refund report, the examination team must process the minimum refund and ensure the overassessment posts to the master file before the unagreed issues can be forwarded to Appeals. Verification that the minimum refund was issued to the taxpayer must be documented in the case file.
- A minimum refund may also apply when there are open pass-through entity examinations. See IRM 4.36.4.10, TEFRA and Investor Level Statute Control (ILSC) Procedures, for pass-through suspense procedures.



4.36.3.7.1.1  
(09-23-2015)

**Documentation  
Requirements on  
Minimum Refund Cases**

- (1) If a taxpayer indicates agreement to issues in the examination report but refuses to sign the Form 870 indicating formal agreement with the minimum refund, the examiner will document the taxpayer's indication of agreement as well as their reason for not signing Form 870. In this situation, the examiner will treat the entire case as unagreed, including the "agreed issues," and write up all issues in unagreed report format.
- (2) The examination team will advise taxpayers that in order for Appeals to accept the case, they will be required to provide an adequate response to **all** issues in the protest, even the ones the taxpayer agreed to informally. A proper protest must be secured from the taxpayer and the appropriate rebuttal must be prepared by the examination team prior to forwarding the case to Appeals. Appeals will return the case if all issues are not addressed.
- (3) If the taxpayer refuses to address all issues in the unagreed report, and refuses to sign the Form 870, the examination team should consider other appropriate actions such as the issuance of a statutory notice of deficiency or statutory notice of claim disallowance.

4.36.3.7.2  
(11-02-2023)

**Tentative Allowances  
from Unexamined  
Source Years — Report  
Required**

- (1) A case can be submitted to the JCR program with tentative allowances from unexamined source years, if:
  - a. It is a JC case without regard to the carryback from the unexamined source years, and
  - b. The examination of the source years will take over six months (or one year for LCC taxpayers) to complete.
- (2) When an NOL, capital loss, or credit carryback is allowed subject to future examination of the subsequent year, the examination report, (Form 4549-A) should contain the following statement:  
"The net operating loss (or capital loss or credit) carryback from the year ending MM/DD/YYYY, reflected herein, is subject to correction upon examination of the tax return from which it originated."
- (3) If, as a result of the examination, the tentative allowances are reduced below the jurisdictional threshold, the examination team notifies the JCR program in writing. Otherwise, the examination team submits a referral for the source and carryback years at the completion of the examination.
- (4) If the current examination would not be a JC case but for those carrybacks, the case is not to be submitted to the JCR program for review until the examination is completed on the subsequent source years.

4.36.3.7.3  
(11-02-2023)

**Request for Refund —  
Claims from  
Unexamined Source or  
Refund Years —  
Modified Expedite  
Refund Report**

- (1) These procedures are an accommodation to taxpayers and are not statutorily required. The IRS can issue a conditional refund when the refund is in excess of the jurisdictional threshold prior to the completion of the examination if all of the following apply:
  - a. The taxpayer has requested the refund and filed a formal claim.
  - b. The examination team, in their discretion, is satisfied that the claim issues resulting in the refund will reasonably lead to allowance of all or a substantial part of the claimed refund.
  - c. No disadvantage to the government will occur.
  - d. The taxpayer posts a bond or other similar type of security. See IRM 4.36.3.7.4, Posting of Security — Modified Expedite Refund Report, and

Exhibit 4.36.3-1, Sample Security Agreement.

- e. The examination will not be completed within six months from the date the taxpayer requests the refund.
  - f. There is sufficient time on the statute of limitations to complete the examination. All reportable years must have open **live** statutes, original statute date or by extension. If there are years included in the case which are open only by reason of a carryback, the entire case is not reported under the modified expedite refund procedures.
- (2) This procedure is also applicable if the taxpayer files a claim after the due date to correct errors on its original return. An amended return filed before the due date does not require a report be submitted to the JCT.
  - (3) The JCS prepares the modified expedite refund report and submits it to the JCT. The following documents are required from the examination team to complete the modified expedited refund report:
    - a. Tax returns for all source and carryback years, including any amended returns and tentative refund applications.
    - b. Transcripts of accounts for all tax years. The examination team must check the transcript against information in the case file to ensure that all deficiencies, overassessments, claims paid, and refunds or credits, including tentative allowances and abatelements, are properly reflected in the tax computation for the RAR and JC spreadsheets.
    - c. Form 4665, Report Transmittal, signed by the examiner and examination team manager. See IRM 4.36.3.6.2.
  - (4) The examination team is responsible for obtaining all necessary letter of credit extensions and statute extensions until the case is closed.
  - (5) A supplemental report may be required at the completion of the examination. The statutes must be protected for all years, including the source year(s), until the supplemental report has been released by the JCT.

#### 4.36.3.7.4 (11-02-2023)

#### **Posting of Security — Modified Expedite Refund Report**

- (1) To submit a modified expedite refund report, the taxpayer is required to post a bond or similar security for the refund amount. Refer to IRC 7101, the regulations thereunder and IRM 5.6.1, Collateral Agreements and Security Type Collateral, for further guidance. An additional amount of bond or similar security may be required with respect to interest on the refund in the event all or part of the refund must be repaid. This amount is measured by the reasonably anticipated time to complete the examination and the interest rate currently in effect under IRC 6621. Coordination with local counsel in the development of the bond or similar security is required. The posting of the bond or similar security must be accomplished prior to the submission of the referral to the JCR program.
- (2) Any bond or similar security needs to specify that in fully agreed cases the agreement will not terminate until the JCT issues a release letter. See Exhibit 4.36.3-1 for a sample security agreement.
- (3) A copy of the bond or similar security agreement signed by the taxpayer must accompany the modified expedite refund report. At the time of the JCR referral, the bond or similar security agreement **may not be signed by the approving IRS official**. If there are no inquiries from the JCT, the approving IRS official may sign the security after the expiration of the 30-day period from when the JC report was submitted to the JCT.

4.36.3.8  
(11-02-2023)  
**Submission of Case to  
JCR Program**

- (4) The refunds must not be released until the JCR program notifies the examination team that the appropriate documents may now be executed.
- (1) Once the examination of the agreed or partially agreed JC case is complete, the examination team requests a mandatory review by the JCR program. To initiate the JCR process, the examination team must submit an electronic referral.
- (2) During the JCR process, the case will remain in ERCS status 10 or status 12. The examination team is responsible for the case and all related statutes. All ERCS, AIMS, RCCMS and statute controls remain with the examination team.
- (3) Aging Reason Code (ARC) 027 is designated for JC cases. The ARC indicates that all field work has been completed and the case is now in the JCR program. The examination team must update ERCS/RCCMS to reflect ARC 027 prior to submitting the JC electronic referral. . For TE/GE, if the update is unsuccessful, see IRM 4.5.1.6.9.1, Form 5595, TE/GE Update.
- (4) The examination team receives an automated email stating the referral has been successfully submitted for review. After the referral has been perfected, the examination team receives a subsequent automated email stating the referral has been assigned to a JCS. The email will advise the examination team to add the JCS to the case in IMS, if applicable.

4.36.3.8.1  
(11-02-2023)  
**Electronic Referral Case  
Review**

- (1) The JC review is conducted electronically via documents obtained through a case inventory system i.e., Issue Management System (IMS), email or other electronic submission. The JCS contacts the examination team to secure additional documents as needed. The JCS inputs their time on the case into IMS, if applicable.
- (2) If the review cannot be completed due to technical, computational, or procedural errors, a Notice of Suspended Referral (NSR) Form is emailed by the JCS after discussing the issue with the examination team. See IRM 4.36.4.2, Notice of Suspended Referral. The examination team must update ERCS or RCCMS to remove ARC 027 if an NSR is issued. When the errors have been corrected, the examination team must:
  - a. Update ERCS or RCCMS to reflect ARC 027,
  - b. Sign the NSR, and
  - c. Resubmit the electronic referral (do not create a new referral).
- (3) Letter 1573 notifies the taxpayer the JC report has been sent to the JCT. When the JC report is submitted to the JCT, the JCS prepares Letter 1573 (and Letter 937, if applicable) for the examiner's signature. The examiner signs and transmits Letter 1573 (and Letter 937, if applicable).
- (4) When the release letter or final staff review memorandum (SRM) is received from the JCT, the JCS notifies the examination team. The JCS uploads the JCR program documents to IMS SAIN 022, if applicable, and provides the following documents to the examination team for case closure:
  - a. Letter 1574 notifies the taxpayer that the JCT has completed consideration of the JC report. The JCS prepares Letter 1574 (and Letter 937, if applicable) for the examiner's signature. The examiner signs and transmits the letters.

- b. Release letter or final SRM - (subject to disclosure procedures). See IRM 4.36.4.5, Disclosure of Correspondence with Joint Committee on Taxation.
  - c. JC report – (subject to disclosure procedures). See 4.36.4.5, Disclosure of Correspondence with Joint Committee on Taxation.
  - d. Letter 1573.
  - e. JC spreadsheet or other case documents updated by the JCS, if applicable.
- (5) The examination team will remove ARC 027 and then close the case to CCP or follow local case closing procedures.

4.36.3.9  
(11-02-2023)  
**Inquiries on JC Cases**

- (1) Sometimes it may be necessary for the JCS to contact the examination team for additional information or clarification regarding a JC case. These inquiries are sent to the examiner and the examination team manager and should be treated with the highest priority.
- (2) The need for additional information or clarification may arise as a result of a formal or informal inquiry that the JCS receives from the JCT. These types of inquiries are treated as congressional inquiries and should be treated with the highest priority.
- (3) There may be times when it is more expedient for the examination team to communicate directly with the JCT. The JCR program will arrange for this contact and remain involved to ensure the JCT staff attorney receives a timely and satisfactory response. All communication with JCT must go through the JCR program.
- (4) The JCT staff attorneys are congressional staff and any inquiry from them constitutes a congressional inquiry. See 4.36.4.5, Disclosure of Correspondence with Joint Committee on Taxation.

4.36.3.9.1  
(11-02-2023)  
**Types of Inquiries**

- (1) There are two types of inquiries from the JCR program: informal and formal. An informal inquiry is made by telephone or email. A formal inquiry can be in the form of a Notice of Suspended Referral (NSR) or a Staff Review Memorandum (SRM). See IRM 4.36.4.2, Notice of Suspended Referrals (NSR) and IRM 4.36.3.9.3, Formal Inquiries — SRM.

4.36.3.9.2  
(11-02-2023)  
**Response Time Frames**

- (1) Every effort should be made to respond to the JCR inquiry in a timely manner.
- (2) A status report should be submitted to the JCS every 30 days from receipt of the inquiry. The status report should contain the case name, tax years, earliest statute of limitations date, status explanation/reason for delay, and expected completion date.

4.36.3.9.3  
(11-02-2023)  
**Formal Inquiries — SRM**

- (1) SRMs are formal inquiries issued by the JCT to the IRS Commissioner. The JCT shares the SRM via email with JCR executives, JCR program manager, JCR managers and the JCR senior analyst. There are two types of SRMs issued:
  - a. SRM – Response Required. See IRM 4.36.3.9.3.1, SRM Procedures and Tracking – Response Required.
  - b. SRM – No Response Required. See IRM 4.36.3.9.3.2, SRM Procedures and Tracking – No Response Required.

- (2) Responses to SRMs whereby no change will be made because the IRS does not agree with JCT's recommendations, need to be approved by the applicable operating division deputy commissioner. See Delegation Order 4-18 (Rev. 1), Reports of Refunds and Credits to the Joint Committee on Taxation.
- (3) A response to all other SRMs can be approved by the director as to their respective cases. See Delegation Order 4-18 (Rev. 1) at IRM 1.2.2.5.15.
- (4) Within 5 days of receiving an SRM, the JCR program manager shares the SRM with the examiner, examination team manager, territory manager, DFO/area executive and senior director.
- (5) The JCR program manager shares the SRM with the practice network specialty area for awareness of the issue, if applicable.

4.36.3.9.3.1  
(11-02-2023)  
**SRM Procedures and  
Tracking — Response  
Required**

- (1) Within one month of receiving the SRM, the examiner sets up a meeting with the examination team, and the JCS to discuss the SRM, SRM procedures, and SRM response time frame. As a best practice, the examination team should include their management chain early in the process.
- (2) The examination team prepares the SRM response at the completion of the SRM issue review. The SRM response includes:
  - a. Examination team memorandum includes the SRM issue and the examination team's response in Word format. The memorandum is drafted for the approving official's signature per DO 4-18 (Rev.1). See Exhibit 4.36.3-2, Sample Examination Team Memorandum.
  - b. Original SRM.
  - c. Form 14074, Action Routing Sheet, including all the reviewers' names and titles required to approve the SRM response.
  - d. Other supporting documents as applicable (Chief Counsel memorandum, Practice Network memorandum, lead sheet, 886-A, revised 870, revised RAR, etc.)
- (3) SRM response procedures are outlined below:
  - a. The examination team drafts the SRM response for technical review and approval by the examination team manager and examination program manager.
  - b. The JCS reviews the SRM response to ensure the SRM questions are addressed and forwards it to the JCR manager.
  - c. The JCR manager reviews the SRM response and forwards it to the JCR program manager.
  - d. The JCR program manager reviews and approves the SRM response, and then forwards it to the examination program manager copying the JCS and the JCR manager.
  - e. The JCS notifies the examination team that the SRM response was forwarded to the examination program manager.
  - f. The examination program manager forwards the SRM response through their management chain for approval and signature. For SRM responses that require business unit deputy commissioner signature, the examination teams follows the appropriate signature procedures (e-Trak).
- (4) The examination team shares the final approved SRM response with the JCS. The JCS records the date the SRM response is received from the examination team in the JCR program electronic referral system.

**Note:** If at any time during the JCR process, an issue arises that results in an unagreed issue in the refund case, the examiner should consider minimum refund procedures, if applicable. For the unagreed issue, the JCS closes the referral, and the case reverts back to examination, who will request Appeals resolution of the issue. See IRM 4.36.3.7.1, Cases with Unagreed Issues — Minimum Refund.

4.36.3.9.3.2  
(11-02-2023)  
**SRM Procedures and  
Tracking — No  
Response Required**

- (1) The JCT may issue an SRM that expresses concern regarding the examination team's resolution of an issue but approves the release of the refund requested in the JC report. Generally, no response from the examination team is required.
- (2) The JCS prepares the electronic referral for closure. See IRM 4.36.3.8.1, Electronic Referral Case Review.

4.36.3.10  
(11-02-2023)  
**Disclosure of  
Correspondence with  
the JCT**

- (1) Generally, any IRS records generated during an examination or other process giving rise to the credit or refund are considered agency records subject to the Freedom of Information Act (FOIA).
- (2) Informal or formal correspondence, including email, from the JCT are not considered agency records subject to FOIA and cannot be released to the taxpayer without the written permission of the JCT. If the JCT communication contains a legend that says the document is treated as a congressional record and is beyond the scope of FOIA, it is treated as such. However, the absence of the legend is not legally determinative. If a JCT document does not contain a legend, IRS practice is generally to treat the JCT document and any response thereto as a congressional record. See IRM 11.3.13.3.4, Joint Committee on Taxation, for further guidance.
- (3) Any documents created by the IRS in connection with a response to any JCT correspondence cannot be released to the taxpayer without written permission of the JCT.
- (4) JCT correspondence and related records cannot be released in response to non-FOIA requests (i.e., requests under IRC 6103(e) or the Privacy Act) without the written permission of the JCT. Coordinate such requests with Chief Counsel (Procedure & Administration) prior to any response.

4.36.3.11  
(09-23-2015)  
**Referral to Taxpayer  
Advocate Service by the  
Examination Team**

- (1) Complete Form 911, Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order), and refer the taxpayer to the Taxpayer Advocate Service (TAS) for the following situations on a JC case:
  - a. The taxpayer asks to be referred to the TAS.
  - b. The taxpayer meets TAS case criteria (see IRM 13.1.7 ).
  - c. You cannot resolve the issue.

See the Taxpayer Advocate Service Knowledge Base in the Virtual Library for more information.
- (2) Do not refer a taxpayer to TAS if you are able to resolve the taxpayer's problem or take steps to resolve the taxpayer's problem within 24 hours, unless the taxpayer asks to be referred to TAS.



4.36.3.12  
(09-15-2015)  
**Examination/Appeals  
Case Coordination**

- (1) Appeals and Examination often have different years open for the same taxpayer; however, when the taxpayer files a tentative refund or refund claim affecting the years under Appeals jurisdiction which is attributable to the year under examination, then the examination team needs to consider the situation in light of JC reporting requirements. See IRM 8.7.9.6.1.3 , Appeals/ Compliance Case Procedures for details.

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## Exhibit 4.36.3-1 (11-02-2023)

## Sample Security Agreement

**This is only an example of a security agreement where an Irrevocable Letter of Credit will be posted as collateral. Any agreement that is drafted must, at a minimum, contain the termination events in paragraph 6. Local field counsel must be involved in the drafting of the agreement.**

**AGREEMENT**

This AGREEMENT is hereby entered into between (name of taxpayer) (hereinafter "taxpayer"), having an address at (taxpayer's address) and the UNITED STATES OF AMERICA (hereinafter USA), having an address in care of its agent, Director, Field Operations (Practice Area) of Internal Revenue (hereinafter DFO), (industry headquarters address).

Whereas on (date), the taxpayer filed a Form 1120X, Amended U. S. Corporate Tax Return for the tax year ending (date of year-end) (herein after (YYYYMM) tax year), claiming (reason and amount), resulting in a refund of income tax for the (YYYYMM) period in the amount of (amount of refund) (herein after the (YYYYMM) refund); and

Whereas the examination of the (YYYYMM) tax year has not commenced; and

Whereas the taxpayer has requested the (YYYYMM) refund be issued prior to the initiation and conclusion of the examination of the tax return for the (YYYYMM) tax year; and

Whereas the taxpayer desires to furnish an Irrevocable Letter of Credit (hereinafter the letter) to the DFO in order to induce the issuance of the (YYYYMM) refund.

Now, THEREFORE, in consideration of the mutual covenants, promises, obligations, and conditions contained herein, the parties hereby agree as follows:

1. Prior to the issuance of the (YYYYMM) refund, the taxpayer shall deliver to the DFO the letter consistent with the terms set forth herein. The letter shall be in favor of the DFO, and the DFO will hold the aforesaid letter in safekeeping in accordance with the terms and conditions herein.
2. The letter to be provided to the DFO shall be for the total amount (\$ amount), which represents the sum of the following (\$) amount of the tax to be refunded, plus (\$), the estimated interest to the date of the refund.
3. The letter is given to indemnify the Internal Revenue Service for all or any part of the (YYYYMM) refund plus interest which may be due back to the Internal Revenue Service in the event the DFO determines there is any income tax due for the (YYYYMM) year.
4. As soon as practicable after delivery of the letter, the DFO shall commence an examination of the (YYYYMM) tax year.
5. If, as a result of the examination, the DFO determines there is a deficiency in the income tax for the (YYYYMM) tax year and notice and demand for payment thereof is issued as permitted by IRC section 6303(a), the Internal Revenue Service may draw upon the letter by draft at sight unless within 90 days from the date of the notice and demand, the taxpayer pays in full the amount(s) so determined (including statutory accruals). The draft shall be accompanied by a statement executed by the DFO (or his delegate) stating that notice and demand have been made and the taxpayer has failed to pay within 90 days of the date of such notice and demand. The foregoing statement shall be sufficient to satisfy any requirements for documentation supporting the taxpayer's failure to pay within the 90 day period.

**Exhibit 4.36.3-1 (Cont. 1) (11-02-2023)****Sample Security Agreement****AGREEMENT**

6. The taxpayer shall have the right to terminate the letter upon the occurrence of any of the following TERMINATION EVENTS pursuant to the PROCEDURES described below:

(a) TERMINATION EVENTS

(i) in the event the examination results in a fully agreed case (that is, no issues remain to which the taxpayer has not agreed), the later of, the date of payment in full of all such agreed liabilities (if any), plus statutory accruals or the completion of the review of the Joint Committee Supplemental report and release by the Joint Committee on Taxation.

(ii) in the event the examination does not result in a fully agreed case, the later of, the date which is 120 days after "notice and demand" have been made upon the taxpayer with respect to the final issue(s) in the case (taking into account the taxpayer's ability to pursue all available administrative and judicial procedures to challenge the determination(s) of the DFO in whole or in part), or the completion of the review of the Joint Committee Supplemental report and release by the Joint Committee on Taxation or

(iii) in the event the Internal Revenue Manual provisions addressing the reports to the Joint Committee in cases involving claims for refund prior to completion of an examination are modified so as to no longer require the taxpayer to post a bond or similar security in order to obtain the refund prior to completion of the examination, but only upon mutual consent of the DFO and the taxpayer.

(b) PROCEDURES

In order to terminate the letter, the taxpayer must establish to the DFO that a termination event has occurred. Thereafter, the DFO (or his delegate) and the taxpayer shall execute a statement which sets forth the basis for the termination and the effective date for such termination. The statement shall be prepared by the taxpayer and executed by the DFO within 5 days of receipt of the taxpayer's request to execute the statement. THE LETTER SHALL NOT BE TERMINATED UNTIL THE STATEMENT HAS BEEN FULLY EXECUTED BY THE PARTIES AND DELIVERED TO THE DFO .

7. The funds under the letter shall continue to remain available to the DFO until the letter is terminated pursuant to the provisions of paragraph 6. In the event the funds may cease to be available to the DFO (i.e., due to the expiration of time or the refusal to extend), the DFO shall have the right to draw upon the full amount of funds available (or any part thereof) beginning ten (10) days prior to the expiration date unless prior to that time, the taxpayer provides another letter (hereinafter the substitute letter) which is comparable in all respects to the letter which is about to expire (hereinafter the first letter). The DFO's determination as to whether the substitute letter is comparable to the first letter shall be binding on the parties.

8. Nothing contained herein shall be construed as a waiver of or limitation on any collection action(s) available to the DFO pursuant to applicable law.

WITNESS our signatures and seals this \_\_\_\_ day of \_\_\_\_\_, (year).

(Taxpayer Name)

By: \_\_\_\_\_

(Typed name of signer)

(Position)

UNITED STATES OF AMERICA

By: \_\_\_\_\_

(Typed name of signer)

Director of Field Operations (Practice Area)

Exhibit 4.36.3-2 (11-02-2023)

Sample Examination Team Memorandum

[ on appropriate letterhead stationery]

**Date:** Month Day, Year

**To:** The Chairman, Joint Committee on Taxation

**From:** [Name of Approving Official] [Electronic Signature of Approving Official]  
[Title of Approving Official]

**Subject:** [Taxpayer Name] SRM Response

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This memorandum addresses the issue in the Staff Review Memorandum dated [mm-dd-yyyy].

**[SRM Issue: Restate SRM Issue]**

**[Examination Team's Response]**

**[Conclusion]**

**Enclosures:**

Copy of SRM dated Month Day, Year

Copy of Memo from Practice Network dated Month Day, Year, if applicable

Copy of Memo from Chief Counsel dated Month Day, Year, if applicable

