



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.36.4

NOVEMBER 2, 2023

EFFECTIVE DATE

(11-02-2023)

PURPOSE

- (1) This transmits revised IRM 4.36.4, Joint Committee Procedures, Joint Committee Review Team Procedures.

MATERIAL CHANGES

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

IRM Subsection	Title	Description of change
4.36.4.1	Program Scope and Objectives	Added note defining “examination team.”
4.36.4.1.4	Program Management and Review	Added subsection and reference to IRM 4.36.1.1.4.
4.36.4.1.5	Program Controls	Added subsection and reference to IRM 4.36.1.1.5.
4.36.4.1.6	Terms/Definitions/ Acronyms	Renumbered and changed reference to IRM 4.36.1.1.6.
4.36.4.1.7	Related Resources	Renumbered and added reference to IRM 4.36.1.1.7.
4.36.4.2	Notice of Suspended Referrals (NSR)	Revised for clarification
4.36.4.3.1	Taxpayer Notification Letters	Moved from 4.36.4.6.1
4.36.4.4.3.1	SRM Procedures and Tracking - Response Required	Revised for clarification
4.36.4.4.3.2	SRM Procedures and Tracking -No Response Required	Revised for clarification
4.36.4.5	Disclosure of Correspondence with the JCT	Removed duplicate material and added reference to IRM 4.36.3.10 and IRM 4.36.4.11.

IRM Subsection	Title	Description of change
4.36.4.6	Withdrawal of Report from JCT	Revised for clarification
4.36.4.6.1	Taxpayer Notification Letters	Moved to 4.36.4.3.1
former 4.36.4.9	Suspense Cases	Removed
4.36.4.9	Bankruptcy Cases Meeting JC Criteria	formerly IRM 4.36.4.10 Clarified content

- (2) Removed Exhibit 4.36.4-1, Letter 1573(P), and Exhibit 4.36.4-2, Letter 1574(P), because they are now published form letters.
- (3) Added new Exhibit 4.36.4-1, Sample Closing Agreement Cover Memo.
- (4) Editorial corrections have been made throughout this IRM section.

EFFECT ON OTHER DOCUMENTS

This section supersedes IRM 4.36.4, Joint Committee Review Team Procedures, dated June 21, 2021.

AUDIENCE

LB&I, SB/SE, TE/GE

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4.36.4

Joint Committee Review Team Procedures

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4.36.4.1
(11-02-2023)
Program Scope and Objectives

- (1) **Purpose:** This IRM section sets forth the duties of the Joint Committee Review (JCR) program and the procedures they follow.
- (2) **Audience:** Examination teams in LB&I, SB/SE and TE/GE who work on cases that meet JCR program 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 Joint Committee (JC) case.

- (3) **Policy Owner:** The 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*.

4.36.4.1.1
(06-21-2021)
Background

- (1) See IRM 4.36.1.1.1, Background.

4.36.4.1.2
(06-21-2021)
Authority

- (1) See IRM 4.36.1.1.2, Authority.

4.36.4.1.3
(06-21-2021)
Roles and Responsibilities

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

4.36.4.1.4
(11-02-2023)
Program Management and Review

- (1) See IRM 4.36.1.1.4, Program Management and Review.

4.36.4.1.5
(11-02-2023)
Program Controls

- (1) See IRM 4.36.1.1.5, Program Controls.

4.36.4.1.6
(11-02-2023)
Terms/Definitions/ Acronyms

- (1) See IRM 4.36.1.1.6, Terms/Definitions/Acronyms.

4.36.4.1.7
(11-02-2023)
Related Resources

- (1) See IRM 4.36.1.1.7, Related Resources.

4.36.4.2
(11-02-2023)

Notice of Suspended Referrals (NSR)

- (1) If the JCR program cannot review because of technical, computational, or procedural errors, the Joint Committee Specialist (JCS) issues a Notice of Suspended Referral (NSR) to the examiner and examiner's team manager.
- (2) The following reasons are significant enough to issue an NSR:
 - a. Substantial error - See IRM 4.8.2.9.1.1, Substantial Error
 - b. Evidence of fraud or malfeasance - See IRM 4.8.2.9.1.2, Fraud or Malfeasance
 - c. Serious administrative omission - See IRM 4.8.2.9.1.3 , Serious Administrative Omissions
 - d. Unprocessable case - See IRM 4.8.2.9.1.4, Unprocessable Cases
 - e. Corrections favorable to the taxpayer - See IRM 4.8.2.9.1.5, Correction of Errors That Will Benefit the Taxpayer
 - f. Other
- (3) The JCS contacts the examination team to discuss the identified concern prior to issuing the NSR.
- (4) Every effort should be made by the examination team to resolve JCR inquiries informally. If the examination team requires more than 10 business days to resolve the JCR inquiry, an NSR and related Form 886-A, outlining the specific information requested, is issued.
- (5) If the **Further Consideration** box is checked on the NSR, the case is a priority assignment and is to be worked by the examination team within 30 days.
- (6) When an NSR is issued, the examination team updates the Examination Return Control System/Reporting Compliance Case Management System (ERCS/RCCMS) to remove Aging Reason Code (ARC) 027.
- (7) The examination team provides a status report every 30 days to the JCS until resolved.
- (8) When the NSR is ready to be returned to the JCS, the examination team resubmits the referral and attaches the NSR, signed and dated by the examiner and the examiner's team manager. A written response to the issues and concerns noted on the NSR/Form 886-A is provided to the JCS. The examination team updates ERCS/RCCMS to add ARC 027.
- (9) Disagreements between the examination team and the JCR program are elevated to the appropriate management official for discussion.

4.36.4.3
(11-02-2023)

Processing of JC Report

- (1) Upon completion of the review of the JC case, the JCS:
 - a. Prepares the JC report. See IRM 4.36.5, Reports.
 - b. Completes and attaches Form 4081, Transmittal Memorandum - Joint Committee Case (except for the short-form report).
 - c. Submits the JC report for peer review.
 - d. After peer review, submits the JC report to the JCR manager for approval.
 - e. After JCR manager approval, the JCS submits the JC report, to the JCT. See IRM 4.36.5.8, Instructions for Submitting JC Reports to JCT.

- 4.36.4.3.1
(11-02-2023)
Taxpayer Notification Letters
- (1) For Letter 1573 requirements, see IRM 4.36.3.8.1(3), Electronic Referral Case Review.
 - (2) For Letter 1574 requirements, see IRM 4.36.3.8.1(4), Electronic Referral Case Review.
- 4.36.4.4
(11-02-2023)
Inquiries from Joint Committee on Taxation
- 4.36.4.4.1
(11-02-2023)
Types of JCT Inquiries
- (1) The JCT makes two types of inquiries:
 - a. Informal — Telephone or email
 - b. Formal — Staff Review Memorandum (SRM). See IRM 4.36.4.4.3, Formal Inquiries from the JCT — Staff Review Memorandum.
 - (2) The JCS may contact the examination team for additional information for clarification. Both the JCS and the examination team will ensure timely resolution of outstanding concerns.
 - (3) The JCR program is the point of contact for any discussions with the JCT. The JCS will arrange contact between the examination team and the JCT (if needed) and remain involved to ensure that the JCT receives a timely and satisfactory response.
 - (4) When a case is returned to the examination team for reconsideration and the unresolved issue(s) are unagreed, minimum refund procedures may apply. If the case is subsequently protested and resolved by IRS's Appeals division, the appeals officer will prepare the necessary response to the JCT.
- 4.36.4.4.2
(06-21-2021)
Response Time Frames
- (1) See IRM 4.36.3.9.2 , Response Time Frames.
- 4.36.4.4.3
(11-02-2023)
Formal Inquiries from the JCT — Staff Review Memorandum (SRM)
- (1) The JCT may issue an SRM. This is a formal inquiry from the JCT issued to the IRS Commissioner. The JCT shares the SRM via email with JCR executives, JCR program manager, JCR managers and the JCR senior analyst. The following process ensures timely and proper coordination with all impacted stakeholders. Within 5 business days of receiving the SRM:
 - a. The JCS identifies the examiner, examination team manager, territory manager, DFO/area executive and senior director (SRM recipients) and forwards the information to the JCR manager.
 - b. The JCR manager forwards the SRM recipients' information to the JCR program manager with a PDF of the SRM following the standard naming convention. The JCR program manager shares the SRM, via encrypted email, with SRM recipients, the JCS, JCS manager, JCR DFO and JCR senior director.
 - c. The JCS records the date the SRM is shared with the SRM recipients in the JCR program electronic referral system.
 - (2) The SRM indicates whether any action is required. If the JCT expects a reply, the memo will include the following or similar statement: "We will keep our file

open and await your reply before final disposition of this case.” See IRM 4.36.3.9.3.1, SRM Procedures and Tracking — Response Required.

- (3) If the JCT has completed their review and does not expect a reply, the memo will include the following or similar statement: “No reply is requested, and we are closing our files on this case.” This is a form of a release letter and the JCS may process the case when received. See IRM 4.36.3.9.3.2, SRM Procedures and Tracking — No Response Required.

4.36.4.4.3.1
(11-02-2023)
**SRM Procedures and
Tracking — Response
Required**

- (1) See IRM 4.36.3.9.3.1, SRM Procedures and Tracking - Response Required.
- (2) After receiving the final approved SRM response from the examination team, the JCS submits the SRM response to the JCT for review, copying the JCR manager and JCR program manager, and records the date in the JCR program electronic referral system

4.36.4.4.3.2
(11-02-2023)
**SRM Procedures and
Tracking — No
Response Required**

- (1) See IRM 4.36.3.9.3.2, SRM Procedures and Tracking — No Response Required.

4.36.4.5
(11-02-2023)
**Disclosure of
Correspondence with
the JCT**

- (1) See IRM 4.36.3.10, Disclosure of Correspondence with the JCT.
- (2) See IRM 4.36.4.11, Disclosure of Individual Information — Form 5482, Record of Disclosure.

4.36.4.6
(11-02-2023)
**Withdrawal of Report
from JCT**

- (1) There are two situations that warrant the withdrawal of a report from JCT prior to issuance of the release letter:
 - a. Proposed adjustments reduce the net refund or credit below the jurisdictional threshold.
 - b. Proposed adjustments result in an unagreed case.
- (2) The JCS contacts the JCT once a revised agreement (Form 870, Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment, or equivalent), is secured. In requesting release of the case from JCT jurisdiction, the JCS provides the JCT the taxpayer’s information, discusses the adjustments, the taxable income or loss, and tax liability as finally determined.

4.36.4.7
(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. See IRM 4.36.3.6.4.1 , Closing Agreements.
- (2) JCS prepares a cover memo and forwards the closing agreement with any relevant documentation to the JCT. See Exhibit 4.36.4-1, Sample Closing Agreement Cover Memo.

4.36.4.8
(11-02-2023)
Fast Track Settlements

- (1) See IRM 4.51.4.7 , Fast Track Settlement and Joint Committee Cases.
- (2) See IRM 4.36.3.6.4.1(2), Closing Agreements.

4.36.4.9

(11-02-2023)

**Bankruptcy Cases
Meeting JC Criteria**

- (1) Bankruptcy or receivership cases that exceed the jurisdictional threshold must be reported to the JCT. Overpayments or deficiencies are processed in accordance with the procedures outlined in IRM 4.27, Bankruptcy.
- (2) For bankruptcy cases with short or expired statutes where the IRS did not timely file a proof of claim (POC) per IRM 5.9.13, Manual Proofs of Claim and Common Claim Issues, the JCS should submit a short-form report to JCT. The JC report includes a statement that the IRS did not examine the refund because the deadline was missed for the IRS to file a POC. See IRM 4.36.5.2.1.1, Short-Form Report.

4.36.4.10

(11-02-2023)

**TEFRA and Investor
Level Statute Control
(ILSC) Procedures**

- (1) The JCT accepts reports on cases with Partnership Control System (PCS) links. If the final determination on the ILSC issues results in a refund or credit to the investor in excess of the jurisdictional threshold, the JCS will prepare a JC report for the ILSC issues even though the review of the TEFRA key case has not been completed. A supplemental report is **only** required if a pass-through adjustment is resolved, the unified TEFRA partnership proceedings are completed and the refund or credit to the investor is in excess of the jurisdictional threshold.
- (2) The following language is included in the JC report for cases with open PCS links:
The taxpayer(s) are involved in unified partnership proceedings. If the resolution of the partnership/ proceedings results in an additional refund to the taxpayer(s) in excess of \$2 million (\$5 million for C corporations), an additional/supplemental report will be submitted. This report is being submitted prior to completion of the unified proceedings.
- (3) The JCS informs the examination team of the JCT release letter and the potential requirement to resubmit the case for a supplemental report once a PCS link is resolved.
- (4) The examination team processes the case with open links. Examination teams with jurisdiction over the investor are responsible for resubmitting the case to the JCR program when a link is resolved, and the refund or credit is in excess of the jurisdictional threshold. A supplemental report is not required when the pass-through adjustment is resolved, the unified TEFRA partnership proceedings are completed, and the refund or credit to the investor is less than the jurisdictional threshold.
- (5) For additional TEFRA guidance, see IRM 4.31.2.6, Field Agent Investor Case Procedures.
- (6) If the taxpayer is entitled to a minimum refund in excess of the jurisdictional threshold, a JC report is prepared prior to completion of the pass-through examination. See IRM 4.36.3.7.1, Cases with Unagreed Issues - Minimum Refund.

4.36.4.11

(11-02-2023)

**Disclosure of Individual
Information — Form
5482, Record of
Disclosure**

- (1) Tax information about individuals or aliens admitted to permanent U.S. residence provided to the JCT pursuant to IRC 6405 requires Privacy Act accounting on Form 5482, Record of Disclosure. See IRM 10.5.6.7.4, Form 5482 Procedure
- (2) The JCS completes Form 5482 at the time the JC report is forwarded to the JCT.

- (3) When completing the Form, Item 3, Record System Number, is 42.001 and Item 8, Privacy Act Provisions, should be (b)(9).
- (4) The JCS shares Form 5482 with the examination team.

Exhibit 4.36.4-1 (11-02-2023)

Sample Closing Agreement Cover Memo

[on appropriate letterhead stationery]

Date: **Month Day, Year**

To: Senior Refund Counsel, Joint Committee on Taxation

From: **JCS Name**, Joint Committee Specialist

CC: **JCR Team Manager Name**, Joint Committee Review Team Manager

RE: Request for Advance Review of Closing Agreement

Taxpayer's Name

EIN: XX-XXXXXXX

Tax Year: MM/DD/YYYY

In accordance with Internal Revenue Manual 4.36.3.6.4.1 and 4.36.4.7, the Joint Committee Review Program requests review of the attached closing agreement in advance of an Internal Revenue Code Section 6405 report.

[Insert concise statement as to the issue and the source of the resolution. For example, "This was a Historic Rehabilitation Tax Credit ("HRTC") recapture issue that was resolved by including recapture income from disposed partnerships which previously provided the taxpayer with the HRTC. This HRTC issue was resolved in the FastTrack process."]

Attachments:

Form 906 – Closing Agreement

