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## Internal Revenue Manual Section 3.13.2.22.7 (08-20-2018)

### Miscellaneous Instructions

1. All Forms 2553 received that will not meet processing time frame guidelines (30-day turnaround), require the input of either a TC 093 (Pending S-election) or TC 097 (Referred to Chief Counsel). If there is not a pending or posted S-election, input TC 093. If you are referring the Form 2553 to the Chief Counsel, input TC 097 if there is not a pending or posted TC 090. TC 093 and TC 097 may be input on the same account. Input a posting delay code, if necessary.
2. TC 093 will provide another IRS employee with the information that a Form 2553 was received in Entity, but a determination has not yet been made. Also, the input of TC 093 will eliminate a duplicate count within our inventory.
3. Care must be taken to input TC 093 and/or TC 097 on the corporation EIN, not on a partnership or individual number.
4. If TC 093 and TC 090 are input in the same cycle, the TC 090 will post first and the TC 093 will become an UPC 339. Therefore, a PDC **must** be used on the TC 090 input.
5. If during processing Form 2553 you discover an error on the account (invalid FYM, misapplied payments, etc.) make the necessary Entity corrections and route Form 3465 to AM/Adjustment - Correspondence Function requesting the necessary actions.
6. When a Form SS-4 is attached, or an EIN is required to be assigned, the Form SS-4 will be processed expeditiously (See IRM 3.30.123, Work Planning and Control - Processing Timeliness: Cycles, Criteria, and Critical Dates, for turnaround guidelines and IRM 21.7.13, Business Tax Returns and Non-Master File Accounts - Assigning Employer Identification Numbers (EINs), for the procedures on assignment of a new EIN.) TC 093 will be input to indicate that Form 2553 has been received if the Form 2553 is not processed immediately. The transactions for these two documents can be entered in the same cycle as all IDRS transactions post in numerical order.
7. A Form 2553 secured by Examination and routed to the Entity Department will be processed expeditiously so that Exam can close their case expeditiously and prevent paying interest.
8. If you must return an incomplete Form 2553 to the taxpayer, input a TC 093, then a TC 092 with Posting Delay Code of 1. **DO NOT input a TC 078.**

#### Note:

If taxpayer sent in Form 8832 with a Form 2553, and the Form 2553 is being returned for additional information, return both forms. Do not process the Form 8832.

9. When Chief Counsel receives an amended Form 2553 or Form 1128 used to amend the Form 2553, (taxpayer is changing the FYM shown on the original Form

2553), Chief Counsel will review the case for timeliness and forward it to the Campus for consideration. Chief Counsel will notify the taxpayer the case was sent to the Campus.

- If the amended Form 2553 is received after the 15th day of the third month from the effective date, they will notify the taxpayer that it is not timely.
- If it is timely, Chief Counsel will call their contact person at the campus to advise they received a timely amendment. Chief Counsel will fax the amended Form 2553 and ruling letter to the campus. The amended FYM will be edited on Form 2553. The annotation "Per Chief Counsel Phone Call" , the date, the name and phone number of the Chief Counsel employee, and the IDRS number of the employee processing the case will be entered on the document.

10. The instructions to Form 2553 provide that the taxpayer follow-up with the campus in the event he has not received a determination within 3 months or 6 months (if Part II) of mailing Form 2553.

11. Inquiries meeting TAS criteria will be forwarded to TAS on Form 911 if the issue cannot be resolved the same day. See IRM 13.1.7, Taxpayer Advocate Case Procedures - Taxpayer Advocate Service (TAS) Case Criteria. If the taxpayer is experiencing or about to experience economic harm that may be a result of IRS actions or created as a result of circumstances in the taxpayer's personal life, refer to IRM 13.1.7, Taxpayer Advocate Case Procedures - Taxpayer Advocate Service (TAS) Case Criteria, and route to TAS as appropriate.

12. If an inquiry is received after the due date and there is no record of receiving Form 2553, ask the taxpayer to resubmit their Form 2553 accompanied with a copy of our letter. Request a response within 30 days from the date of our letter. If a response is not received within 30 days, advise the taxpayer that he/she no longer qualifies for a timely filed Form 2553 for the current tax year and he may be approved for the following tax year if he submits another Form 2553.

13. If the taxpayer submits a late reply to the above request, approve the Form 2553 for the current year. Caution will be taken to ensure the use of the appropriate PSC for the notice.

14. If a separately filed shareholder consent is received from a new shareholder, associate it with the TC 090 DLN.

15. Care should be exercised to prevent unnecessary unpostables, specifically, UPCs 323 and 339.

16. See chart below for processing duplicate Forms 2553:

If...	And...	Then...
a) Taxpayer submits Form 2553,	1) Form 2553 has same effective date as Master File and election was approved within last 45 days,	Prepare Form 2553 for destruction as classified waste per local procedures.
Taxpayer submits Form 2553,	2) Form 2553 has same effective date as Master File and election was approved more than 45 days ago,	Send 385C to taxpayer. Prepare Form 2553 for destruction as classified waste per local procedures.

If...	And...	Then...
b) Taxpayer submits new Form 2553 with earlier effective date than what is on Master File,	1) Proper Rev. Proc. documentation is attached,	Input TC 092, TC 090, PDC 1, with earlier effective date, suppress notice and send 385C.
Taxpayer submits new Form 2553 with earlier effective date than what is on Master File,	2) Proper Rev. Proc. documentation is <b>not</b> attached or the form is incomplete and the taxpayer is still eligible for relief,	Return the Form 2553 with a 385C informing taxpayer of their current effective date was not changed due to incomplete form and/or proper documentation not attached.
Taxpayer submits new Form 2553 with earlier effective date than what is on Master File,	3) Proper Rev. Proc. documentation is attached and the taxpayer is not eligible for relief,	Send 385C to taxpayer informing him/her of the effective date on Master File and that their only recourse is a Private Letter Ruling (PLR). See <i>IRM 3.13.2.22.10</i> .
Taxpayer submits new Form 2553 with earlier effective date than what is on Master File,	4) Proper Rev. Proc. documentation is attached, the form is incomplete, and the taxpayer is still eligible for relief,	Return Form 2553 in a 385C informing T/P of their current effective date, missing information on Form 2553, and instructing them to re-submit their Form 2553 with all required documentation for approval of their newly requested effective date.
c) Taxpayer submits new Form 2553 with later effective date than what is on Master File,	1) Research (of IDRS and Sec'y of State's database) shows original effective date is correct,	Send 385C to taxpayer. Associate Form 2553 with original TC 090 DLN.
Taxpayer submits new Form 2553 with later effective date than what is on Master File,	2) Research (of IDRS and Sec'y of State's database) shows later effective date is correct,	Input TC 092, TC 090, PDC 1, with later effective date.

17. An election or revocation may be rescinded if the request is received by the due date of the original election or revocation. The taxpayer is not held to the five-year wait for re-election on a rescinded election.

A. A TC 091 will be input for a rescinded election for the same effective date as the original election. Suppress CP 262 and send 326C informing taxpayer that we have rescinded their Subchapter S-election.

B. A "dummy" Form 2553 should be prepared for a rescinded revocation. Attach the taxpayer's request to the "dummy" Form 2553. Suppress CP 261 and send 385C informing taxpayer that we have rescinded the revocation of their Subchapter S-election. The TC 090 will go UPC 339 in two cycles; monitor and close.

18. HQ analysts and attorneys from Chief Counsel will contact the campus to have corrections made to accounts. Flaws in accounts have been found during research of Private Letter Rulings, revenue announcements, etc. The Discovery Directory is an efficient way to verify the identity of another IRS employee.

19. If a Form 2553 is received with a TC 090 posted and the BK95 hold has passed but the FRC is still 1120-01, delete the 1120 FRC so IDRS will allow a paper Form 1120S to post.

20. Shareholders may request an **Extension of Time for Shareholders' Consent** in the event, the corporation cannot obtain a shareholder's consent, provisions have been made to enable the corporation to apply for an extension of time to obtain the required signature(s) per Section 1.1362-6(b)(3)(iii).

- The corporation is not required to supply a date on which the consent will be secured.
- If there is an AIMS indicator present on any MFT 02 modules, do not process the case, instead route to Exam Classification in the appropriate Area Office to be processed.
- If any other information is missing, request via 312C enclosing Form 2553 prior to sending for Director's approval.
- Input TC 093, TC 092, PDC 1.
- The request must be routed to the site director for approval. The Campus Directors have authority to grant an extension of time, based upon what he/she deems to be reasonable cause. The extended due date is to be taken into consideration in determining timeliness.

Take the following action:

- Prepare routing slip stating: Under Section 1.1362-6(b)(3)(iii), an application for an extension of time to file a consent may be made to the Internal Revenue office where the election was filed.
- Route (through P&A) to Director, without suspending, for approval/denial. When Director's signature is secured, send 312C to corporation stating their request has been approved.
- When the consent statements covered by the extension are received, process Form 2553 accordingly.
- If the FYM is changed using a TC 05X, complete Form 3465, to have credits transferred to the new tax period if present on MFT 02.
- If response on incomplete Form 2553 or shareholders' consent is not received within five years, reject Form 2553 with TC 094, PSC "B."

21. The return due dates of the Form 1120 family of returns were changed for tax years beginning after December 31, 2015. However, the return due date for Form 1120S was not changed. During Form 7004 processing, the return due date may have been altered from Form 1120S to Form 1120 and vice versa. For the purposes of Form 2553, any extension posted (and approved) on an MFT 02 module will satisfy the requirements of Rev. Proc. 2013-30.

22. Quite often the taxpayer will enter 12-31-YYYY in Item E as the requested effective date. **Do not use this as the effective date** unless the dates in Items B and L are also 12-31-YYYY. This also applies to rulings from Chief Counsel. In order for the

Master File programming to work properly, generally, the effective dates of TCs 09X should be the beginning of a tax year. Edit the date from Item B to Item E.