

IRM Section 4.23.8.4.3 (10-26-2015)

Procedures for Relief Under IRC 3402(d) and/or IRC 3102(f)(3) in Examination

1. The original signed Form 4669 is considered "prima facie" evidence of filing the return and the payment of tax. Any form may be rejected by the examiner on the basis of incomplete or inaccurate information on the face of the document. Any questionable Form 4669 (e.g., possible unreported income, false information, forged signatures) should be referred to Planning and Special Programs (PSP) for appropriate follow-up action.
2. In addition to the questionable Forms 4669 submitted for immediate review, any Form 4669 may subsequently be reviewed by Campus after completion of the examination to determine if the income was properly reported by the payee. Where a payee is found either to have not filed income tax returns or not included the income in question, appropriate action will be considered. Payees found to have perjured themselves by providing false information, or Form 4669 found to have forged signatures of the payee, may also be referred to the appropriate function for enforcement action.
3. The examiner should provide the taxpayer with Forms 4669 and a Form 4670 when the issue is identified in the examination and inform the taxpayer as early as possible in the examination to begin soliciting these forms from the payees. The examiner should allow a reasonable amount of time for the forms to be returned. Subsequent submissions of Form 4669 by the taxpayer after the case is closed from the group will be processed under existing guidelines by the Campus. See *IRM 4.23.8.4.2*.
4. The amount of each payee's abatement will be the lesser of:
 - The amount shown on the Form 4669 by the payee as included on the income tax return, or
 - The amount paid to the payee by the taxpayer.
5. At the close of the examination, the examiner should advise the taxpayer that although the income tax withholding and/or Additional Medicare Tax may be abated under IRC 3402(d) and IRC 3102(f)(3), the taxpayer remains liable for any penalties or interest attributable to the original assessment.
 - If penalties are assessed, or interest-free provisions are not granted, the Modified Partial Assessment (Two-Step) report-writing procedures at *IRM 4.23.10.17.2, Examination Procedures for IRC 3402(d) and IRC 3102(f)(3) Relief*, must be followed.
 - If the examination does not propose penalties and the interest-free provisions of IRC 6205 are to be allowed, the Two-Step process is not to be used. The examiner will compute the tax due on Form 4668 or Form 4668-B based on the net payment adjustment using the accepted amounts from the secured Forms 4669.

6. In order to avoid duplicate processing of Forms 4669, clearly indicate on each form in bold print "DO NOT PROCESS — ADJUSTMENT CONSIDERED BY EXAMINER ON _____(mm/dd/yy)" .
7. Prepare a list of all payees and amounts where adjustment may be applicable and prominently identify those payees where adjustment was granted. This action precludes duplicate abatements if additional Forms 4669 are submitted to Appeals or to the Campus at a later date. This spreadsheet should identify the payee, the amount paid to each payee, the amount of payment eligible for IRC 3402(d) and IRC 3102(f)(3) consideration, and the Forms 4669 accepted in the examination. In addition, if computed using a quarterly report, the IRC 3402(d) and IRC 3102(f)(3) credits allowed should be identified by quarter on the spreadsheet, and the total should match the IRC 3402(d) and IRC 3102(f)(3) credit amount listed on the Form 2504/Form 2504-S. The list should remain with the case file as a summary sheet of the attached Forms 4669. Attach Form 3198, *Special Handling Notice*, (Form 3198-A for TEGE) to the front of the case file, and mark in bold print "**FORM 4669 – ADJUSTMENTS ALLOWED BY EXAMINATION.**"
8. All completed original Forms 4669, *Statement of Payments Received*, secured by SB/SE Employment Tax Examiners will be sent to the Employment Tax – Workload Selection and Delivery (ET WSD) for compliance review. Copies of the originals should be kept with the case file. To complete the review of Forms 4669, send the forms to:

Internal Revenue Service
Employment Tax Classification/PSP
Stop 5702A
201 W. River Center Blvd.
Covington, KY 41011

9. For instructions on report writing, processing, and Form 5344 completion for IRC 3402(d) examination abatements, see:
 - IRM 4.23.10.17.2, *Examination Procedures for IRC 3402(d) and IRC 3102(f)(3) Relief*, and
 - IRM 4.23.10.17.3, *Examination Report Forms for IRC 3402(d) and IRC 3102(f)(3) Abatements*.

Note:

Form 5599 is a terminal input document used by TE/GE to close an examined BMF or NMF account off the AIMS Data Base. Instructions can be found in IRM 4.5.2, *TE/GE AIMS Manual - TE/GE Examined and Non-Examined Closures*.