



TaxNewsFlash

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Rev. Proc. 2022-39: Procedures for eligible taxpayers to file qualified amended returns

The IRS today released an advance version of [Rev. Proc. 2022-39](#) [PDF 139 KB], prescribing special procedures for certain eligible Large Business and International (LB&I) taxpayers, who are subject to regular annual examinations (i.e., at least four of the taxpayer's income tax returns for the five tax years preceding the tax year at issue are (or were) under examination), to file a qualified amended return shortly after the opening of an IRS examination. Rev. Proc. 2022-39 obsoletes and replaces existing Rev. Proc. 94-69.

Rev. Proc. 2022-39 also sets forth special procedures for eligible taxpayers to show additional tax due or make adequate disclosure with respect to an item or a position on a previously filed return to avoid imposition of the accuracy-related penalties described in section 6662(b)(1) and 6662(b)(2).

Rev. Proc. 2022-39 defines an "eligible taxpayer" as any taxpayer selected for examination under the Large Corporate Compliance Program (LCC) (or a successor program) if, on the date on which the IRS first contacts the taxpayer concerning an examination of an income tax return, at least four of the taxpayer's income tax returns for the five tax years preceding the tax year at issue are (or were) under examination under the LCC, the Coordinated Industry Case Program, or a successor program.

Under Rev. Proc. 2022-39, an eligible taxpayer also means any partnership selected for examination under the Large Partnership Compliance Program (LPC) (or successor program) if, on the date on which the IRS first contacts the partnership concerning an examination of a return of partnership income, at least four of the partnership's returns for the five tax years preceding the tax year at issue are (or were) under examination under the LPC (or successor program).

Taxpayers selected for examination under the LCC or the LPC will be notified by the IRS if they are eligible taxpayers for purposes of Rev. Proc. 2022-39.

Rev. Proc. 2022-29 also provides that taxpayers not eligible for, or making disclosures beyond the scope of, the special procedures of the revenue procedure may utilize existing methods to avoid the imposition of penalties, including by filing a qualified amended return as described in and satisfying the requirements of Treas. Reg. § 1.6664-2(c)(3), or by adequately disclosing the position on a properly completed Form 8275, Form 8275-R, or Schedule UTP, *Uncertain Tax Position Statement*, filed with a return and satisfying the requirements of Treas. Reg. § 1.6662-3(c).

In addition, Rev. Proc. 2022-29 reiterates that the transitional relief provided by LB&I-04-0419-004 (May 21, 2019), *Interim Guidance on Implementation of the Large Corporate Compliance (LCC) Program*, and applicable to eligible CIC and LCC taxpayers, will continue to apply to examinations of tax year 2020 and earlier years.

Rev. Proc. 2022-39 is effective for examinations of eligible taxpayers that begin after November 16, 2022.

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