IRS commonly makes illegal Time Barred Assessments

If your IMF MCC TRANSCRIPT-SPECIFIC shows a TC 560 then good chance the IRS has used this TC 560 to alter your IMF ASED=Assessment Statute Expiration Date without your authorization. .To do it legally the IRS must receive your signature on **IRS Form 872 "Consent to Extend the Time to Assess Tax".** If you have not signed this form then the IRS has most likely "lied" to the computer to extend the ASED illegally.

The generally rule is the IRS has three years from April 15th or the date you filed your tax return (whichever is later) to complete a "Assessment" or the Statute of Limitations has passed and they are Time Barred from issuing a legal assessment against you for that tax year.

If the IRS issues a "90 day" Notice of Deficiency it suspends the running of the statute of limitations until 60 days after the Tax Court decision is final. Then the Statute continues to run whatever time was remaining before the "90 day" Notice of Deficiency" suspending the running of the statute.

For the two years I have decoded my IMF Specific both had TC 560 transactions had both had been "illegal" time barred assessments.

The next 3 pages are taken from the IRM=Internal; Revenue Manual to provide documentation on how to check for a Time Barred Assessment.

The FOIA is a sample of the FOIA request I used in this issue.

[104.3] 12.4.25.3 (02-08-1999)
Form 872

1. If there is a valid Form 872, Consent to Extend the Time to Assess Tax, in the file, if the correct ASED in not on AIMS, then the extended statute date must be entered to ensure Master File is correct.

[104.3] 12.4.25.4 (02-08-1999)
Form 872A

1. Cases with a valid Form 872A and the literal 872A in the AIMS statute date should have a statute extended date entered in Item 14 that is approximately 90 days from the date the return will be closed through the terminals.

[104.3] 12.4.25.5 (02-08-1999)
TC 560

1. When the entry in Item 14 is input and it is not the same date as the current ASED on AIMS, it will generate a new assessment statute date (ASED/TC 560) on the Master File.

[104.3] 12.4.25.6 (02-08-1999)
SFR Posted

1. If the TC 150 is an SFR, refer to the Statute Handbook for more information.

[104.3] 12.4.25.7 (02-08-1999)
More Information

1. See the IRM 121.2, Statute of Limitations of more information.

[104.3] 12.4.26 (02-08-1999)
Item 15: Credit and Tax Computation Adjustments

Suspense Timeframes

1. The following timeframes will be applied to the appropriate suspense files.
   - CP2000 -- 60 days.
   - APO/FPO or Foreign Address CP2000 -- 75 days.
   - Recomputed or Amended CP2000 -- 45 days.
   - APO/FPO or Foreign Address Recomputed CP2000 -- 75 days.
   - CP2501 -- 45 days.
   - APO/FPO or Foreign Address CP2501 -- 60 days.
   - Letters -- 45 days or four weeks prior to the Program Completion Date (PCD).
   - Letter 3219/Form 5564 (Statutory Notice) -- 120 days.
   - APO/FPO or Foreign Address Letter 3219/Form 5564 (Statutory Notice) -- 180 days.

2. The AUR system generates a Suspense Aged Batch Report weekly that shows which suspense batches have met the appropriate suspense timeframes during the previous week. The system has checked for the required conditions such as foreign address and new transactions.

4.19.2.2.19 (10-1-2001)
Assessment Timeframes

1. Assessments on agreed responses with full payment should have the adjustment input within 30 calendar days of the IRS received date.
2. Assessments on other-than-full paid agreed responses should have the adjustment made within 25 calendar days of receipt of the response in the AUR Function.
3. Assessments on agreed statutory notice responses with full payment should have the adjustment made within 60 calendar days of the IRS received date.
4. Assessments on other-than-full paid agreed statutory notice responses should have the adjustment made within 20 calendar days of receipt of the response in the AUR Function.
5. Assessments on defaulted statutory notices should have the adjustment made within 10 calendar days from the purge date.

4.19.2.2.20 (10-1-2001)
Transaction Code 560

1. If the Assessment Statute Expiration Date (ASED) is more than sixty (60) days, the statute is not imminent and the case can be processed using normal procedures. A **TC 560 IS NOT NEEDED ON THESE CASES** . If there are five (5) work days or less before the 60 day timeframe expires, the assessment must be input immediately.
2. If the ASED is less than sixty (60) days, the statute is imminent and an assessment **SHOULD NOT** be made using normal procedures. A manual assessment must be made on the case. Form 2859, Request for Quick or Prompt Assessment is used for this purpose. Manual assessments are generally done by the Statute Control Function. The assessment can be input by AUR if a local agreement is made with the Statute Control Function. See the following procedures for input of assessments when this situation exists:
   A. A TC 560 using Command Code REO77 (CCREO77) **MUST** be input on IDRS before the ASED expires (normally April 15th), or the TC 560 will create an unpostable condition (Unpostable Code 178). If a TC 560 has not been input to extend the ASED, a

reassessed at any time within the ASED of the year from which the carryback originated. However, if the IC was made available (for carryback to a prior year's tax) because of the application of an NOL or capital loss carryback from a later year, the decrease can be reassessed at any time within the ASED of the year in which the NOL or capital loss occurred.

25.6.5.4.8.5 (10-01-2001)
Foreign Tax

1. Route all cases involving Foreign Tax on unreported foreign income more than 3 years after the Return Due Date (RDD) to the Examination function.

25.6.5.4.8.6 (10-01-2001)
Statutory Notice Of Deficiency (90 Day Letter)

1. Statutory Notices Of Deficiency are proposed deficiency notices issued by Examination, Collection, Deferred Adverse Tax Consequence (DATC/ASTA) and the Underreporter functions.
2. The mailing date of the deficiency, not the day the taxpayer receives the notice, that starts the 90 day suspension of the statute.
3. The statutory period for assessment and collection is suspended during the running of this period (90 days) and for 60 days thereafter. **If taxpayers file a petition with the Tax Court, the statute of limitations is suspended until 60 days after the Tax Court decision becomes final. (IRC 6503).**
4. If the taxpayer does not petition the Tax Court, and does not agree to the deficiency, then the case is closed as unagreed and the deficiency can be assessed because the taxpayer defaulted. The statute will be extended for 90 days the case was suspended plus 60 days to process the assessment.
5. If the taxpayer agrees to the tax before the end of the 90 (or 150) days, the statute is extended for the amount of days suspended plus 60 days to process the assessment.
6. Request technical assistance from the Examination Branch whether an assessment is valid if the case file contains a deficiency notice.

25.6.5.4.8.7 (10-01-2001)
25% Omission

1. Tax may be assessed within 6 years after the original return was filed (IRC Section 6501(e)), if the taxpayer omits:
   - More than 25% of the gross income reported on original forms 1040, 1041, and 1120
   - More than 25% of tax on original Form 720
   - Includable items in excess of 25% of the gross estate on original Form 706
   - Gifts in excess of 25% of the total gifts on original Form 709

25.6.5.4.8.8 (10-01-2001)
Personal Holding Company

1. If a taxpayer fails to file information described in IRC Sections 543(a) and 544 with the return, then Personal Holding company tax can be assessed at any time within 6 years after the corporation return was filed.

25.6.5.4.8.9 (10-01-2001)
Request For Prompt Assessment

Name
Without Prejudice
c/o Address
City, postal code 95XXX
CALIFORNIA

Certified Mail # 7002 XXXX XXXX XXXX XXXX
(Include the Requester's name and this number in your reply)

April 7, 2003

Internal Revenue Service
Agent for Department of the Treasury
ATTN: Disclosure Office, FOIA Request
55 South Market St., M/S HQ-4603
San Jose, CA 95113

RE: Account No. XXX-XX-XXXX used to identify and maintain your system of records.

FREEDOM OF INFORMATION REQUEST

Dear Disclosure Officer:
This is a request under the **FREEDOM OF INFORMATION ACT at 5 USC 552**, **PRIVACY ACT at 5 USC 552(a)** and **INTERNAL REVENUE CODE at 26 USC § 6103 and § 6110**.   This request does not fall under exception 26 USC § 6103 (e)(7). These documents are not sought for any commercial purposes. This is my firm promise to pay fees and costs for locating and duplicating the records requested below, ultimately determined in accordance with 26 CFR 601.702(f).

Understanding exemptions are discretionary, rather than mandatory, if for some reason you determined any portion of this request to be exempt from release, please furnish the following (a) those portions reasonable segregable after the exempt material is deleted, (b) detailed justification for your discretionary exemption since the overriding objective of the FOIA is to maximize public access to agency records (see IRM [1.3] 13.1 08-31-2000), and (c) provide the name of the official and correct address to whom an administrative appeals should be addressed.

I am request copies of records in lieu of personal inspection of the requested records.

I am attesting under the penalty of perjury under the laws of the united States of America 28 U.S.C. § 1746 (1), that I am a category 5 CFR 294**.**103(d) requester.

Please send me a copy of all documents maintained in a system of records identified as:

1. Please provide copies front and back of **Form 872 "Consent to Extend the Time to Assess Tax"** or any substitute document extending the ASED=Assessment Statute Expiration Date regarding requester for the tax years **1995** and **1996**.

2. *Background:* See Exhibit A - IMF MCC TRANSCRIPT-SPECIFIC for 1996 yellow highlighted item shows ASED-08042000 which means the Assessment Statute Expiration Date was August 4, 2000. *Request:* Please provide copies front and back of any document supporting authority to issue a "90 day" "Notice of Deficiency" on October 3, 2000 for 1996 past the ASED date.

3. ***Background:*** See attached Exhibit B – IMF MCC TRANSCRIPT-SPECIFIC for 1995 yellow highlighted item shows ASED-11121999 which means the Assessment Statute Expiration Date was November 12, 1999. See Exhibit C - IRM 25.6.5.4.8.6 (10-01-2001) yellow highlighted section which says running on the Statue of Limitations is stopped from the date of the Notice of Deficiency is mailed until 60 days after the Tax Court decision becomes final. (IRC 6503). The "90 day" Notice of Deficiency was mailed on November 5, 1999 so the running of the Statute stopped 6 days before the ASED and you start running those 6 days "60 days" after the Tax Court order was signed. ***Request:*** Please provide copies front and back of any document supporting the extending of the ASED more than "60 days after the Tax Court order was signed" on June 30, 2000 plus the "6 days" remaining on the Statute of Limitations.

Should you decide this request has been sent to the wrong office, please make certain that you forward this to the proper office and notify me of same.

I understand the penalties provided in 5 USC 552 (a)(i)(3) for requesting or obtaining access to records under false pretenses.

Respectfully submitted,

Name, Requester. All rights reserved.

Enclosure: Photocopy of Drivers License enclosed to provide proof of Identification.
                Exhibit A - IMF MCC TRANSCRIPT-SPECIFIC for 1996
                Exhibit B – IMF MCC TRANSCRIPT-SPECIFIC for 1995
                Exhibit C - IRM 25.6.5.4.8.6 (10-01-2001)