

**SUMMARY OF JOINT COMMITTEE ON TAXATION REFUND
REVIEW UNDER SECTION 6405 FOR
FISCAL YEARS 2021 AND 2022 AND CERTAIN PRIOR YEARS**

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of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

Section 6405(a) provides that no refund or credit of any income, war profits, excess profits, estate, or gift tax, or any tax imposed with respect to public charities, private foundations, operators' trust funds, pension plans, or real estate investment trusts under chapter 41, 42, 43, or 44, in excess of \$2,000,000 (\$5,000,000 in the case of a C corporation) shall be paid or credited until 30 days after the Secretary has submitted a report to the Joint Committee on Taxation for review.¹ Section 6405(b) provides that tentative carryback adjustments causing refunds in excess of \$2 million (\$5 million in the case of a C corporation) may be paid prior to the submission of a report to the Joint Committee on Taxation, but are subject to later review by the Joint Committee on Taxation after the Secretary makes a determination of the correct refund amount and the taxpayer may have to repay some or all of the refund, with interest, if the Secretary determines that the initial tentative carryback adjustment was in error. Section 6405(c) also provides for review by the Joint Committee on Taxation of refund claims attributable to section 165(i) disaster losses.²

The Internal Revenue Service ("IRS") prepares reports of refunds greater than the specified threshold and submits the reports to the Joint Committee on Taxation. The reports originate within different divisions of the IRS: the Examination Division (hereinafter "Compliance"); the Appeals Division ("Appeals"); and the Office of Chief Counsel ("Chief Counsel"). Some reports originate from litigation undertaken by the Department of Justice. The staff of the Joint Committee on Taxation ("Joint Committee staff") reviews the reports. In some cases, the Joint Committee staff identifies errors it believes were made in determining the refund. These concerns are transmitted to the IRS in a Staff Review Memorandum ("SRM"). After considering these concerns, the government may adjust the refund. In some cases, the Joint Committee staff may express formal concerns regarding the IRS's need for published guidance on certain issues.

The following pages provide a statistical summary of the Joint Committee staff refund review process for fiscal years 2021 and 2022. This document also provides similar statistical information for fiscal years 2013 – 2020.³

¹ Unless otherwise stated, all section references are to the Internal Revenue Code of 1986, as amended.

² For an overview of the refund review process see, Joint Committee on Taxation, *Tax Refund Claims: An Overview of the Joint Committee on Taxation's Review Process*, January 2019, available at www.jct.gov.

³ This document may be cited as follows: Joint Committee on Taxation, *Summary of Joint Committee on Taxation Refund Review Under Section 6405 for Fiscal Years 2021 and 2022 and Certain Prior Years*, (JCX-3-23), March 2, 2023. This document can be found on the Joint Committee on Taxation website at www.jct.gov.

I. REFUND REVIEW FISCAL YEARS 2021 AND 2022

A. Fiscal Year 2021

In Fiscal Year 2021 the Joint Committee staff received 361 cases for review for which the total value of the refunds subject to review was \$11,886,010,002.

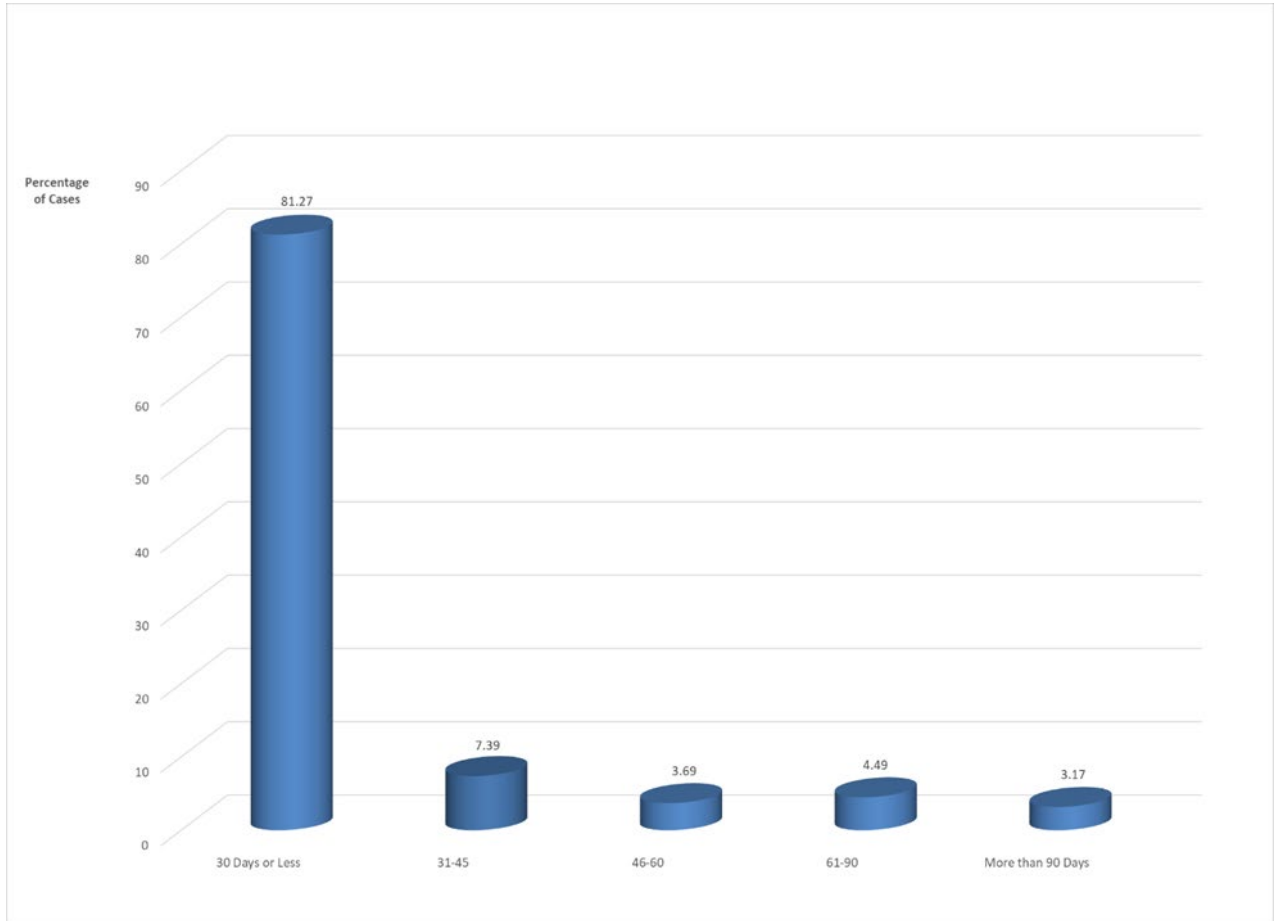
Table 1.—Refund Review Cases Received by Source and Refund Review Cases Received by Type of Taxpayer

Types of Taxpayers		Source of Reports	
C corporations	271	Chief Counsel	1
Estates	7	Department of Justice	2
Individuals	77	Compliance	346
Trusts	6	Appeals	12
Total	361	Total	361

The Joint Committee staff wrote 17 SRMs expressing concerns, 16 attributed to reports received from Compliance and one attributed to a report received from Appeals.

Errors identified by the Joint Committee staff in Fiscal Year 2021 and prior years and settled in Fiscal Year 2021 produced a net reduction in refunds or an increase in deficiencies of \$24,046,948.

Figure 1.—Distribution of Review Time for JCT Refund Review, 2021



B. Fiscal Year 2022

In Fiscal Year 2022 the Joint Committee staff received 423 cases for review for which the total value of the refunds subject to review was \$12,279,449,294.

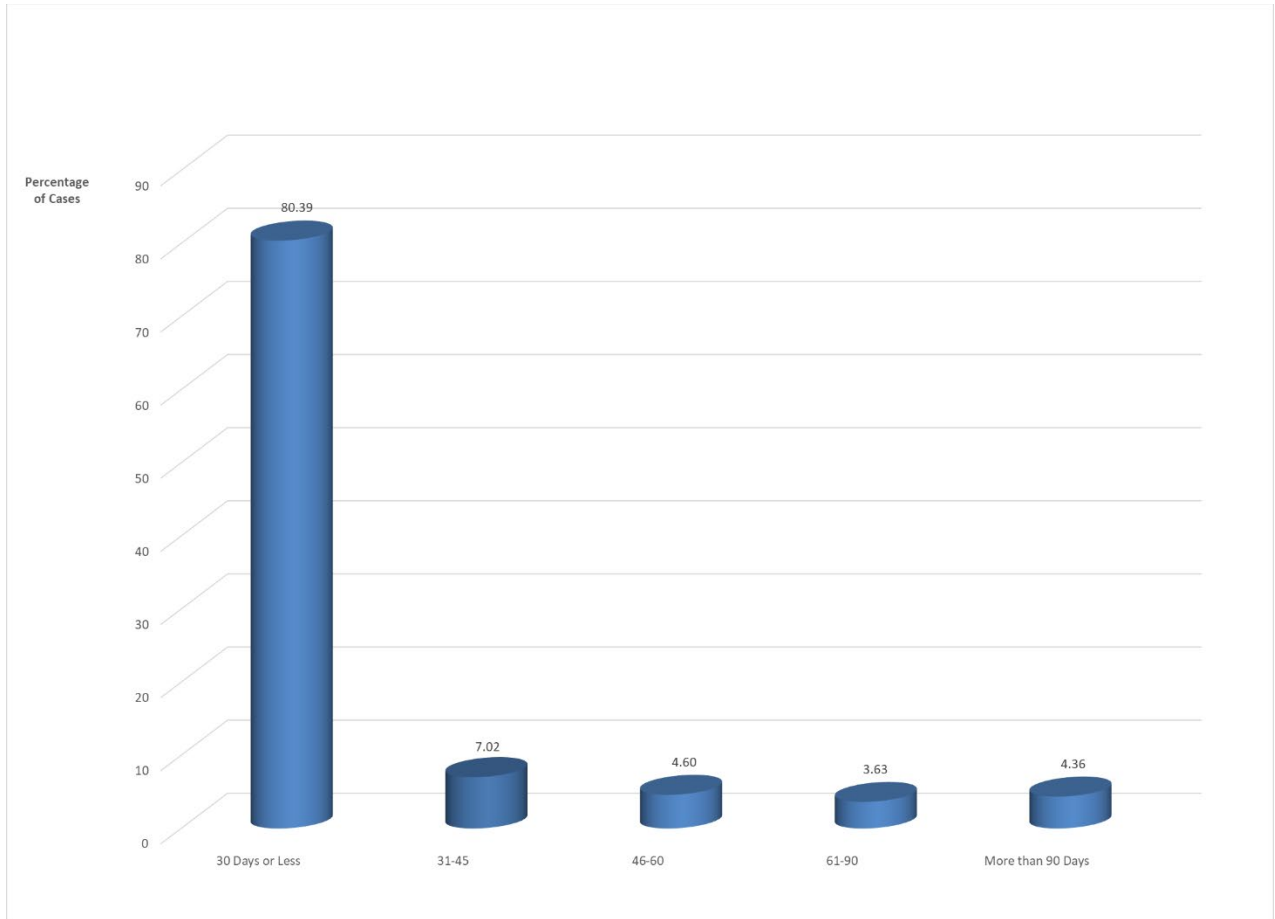
Table 2.– Refund Review Cases Received by Source and Refund Review Cases Received by Type of Taxpayer

Types of Taxpayers		Source of Reports	
C corporations	302	Chief Counsel	1
Estates	12	Department of Justice	4
Individuals	95	Compliance	397
Trusts	14	Appeals	21
Total	423	Total	423

The Joint Committee staff wrote 11 SRMs expressing concerns, 10 attributed to reports received from Compliance and one attributed to a report received from Appeals.

Errors identified by the Joint Committee staff in Fiscal Year 2022 and prior years and settled in Fiscal Year 2022 produced a net reduction in refunds or an increase in deficiencies of \$75,732,351.

Figure 2.—Distribution of Review Time for JCT Refund Review, 2022



II. SUMMARY OF REFUND REVIEW FISCAL YEARS 2013 – 2020

**Table 3.–Summary of Refund Cases Received by Source,
Fiscal Years 2013-2020**

Year	Compliance	Appeals	Department of Justice	Chief Counsel	Total
2013	1,237	127	3	5	1,372
2014	792	103	3	5	903
2015	386	68	13	4	471
2016	312	55	8	3	378
2017	320	38	8	3	369
2018	353	21	2	4	380
2019	322	35	10	2	369
2020	453	15	2	0	470

Note: Effective December 19, 2014, and thereafter the refund review threshold for C corporations increased from \$2 million to \$5 million.

**Table 4.—Summary of Refund Cases Received by Type of Taxpayer,
Fiscal Years 2013-2020**

Year	C Corporations	Individuals	Estates	Trusts	Total
2013	1,137	200	10	25	1,372
2014	763	125	11	4	903
2015	405	57	8	1	471
2016	301	62	12	3	378
2017	320	40	6	3	369
2018	286	71	9	14	380
2019	282	64	8	15	369
2020	336	111	13	10	470

Note: Effective December 19, 2014, and thereafter the refund review threshold for C corporations increased from \$2 million to \$5 million.

**Table 5.—Total Value of Refunds Reviewed, Adjustments by Government After Joint Committee Review, and Staff Review Memorandums Written
Fiscal Years 2013-2020**

Year	Total Refunds Subject to Review	Subsequent Reductions in Refunds	Staff Review Memorandums Written
2013	\$30,478,633,801	\$189,312,440	29
2014	\$28,242,674,729	\$54,821,718	15
2015	\$19,950,387,326	\$44,271,353	16
2016	\$20,375,608,125	\$27,710,900	14
2017	\$15,313,348,096	\$71,859,669	20
2018	\$13,935,342,317	\$299,483,078	11
2019	\$20,925,702,698	\$209,409,350	10
2020	\$13,445,229,206	\$22,325,296	22

Note: December 19, 2014, and thereafter the refund review threshold for C corporations increased from \$2 million to \$5 million.