



[CLICK HERE](#) to return to the home page

IRM 8.7.16.3.1(2) (08-26-2020)

Verifying the Statutory Period of Limitations

1. Ensure that at least 365 days remain on the ASED when a pre-assessed liability case is received by Appeals. The statute review includes verifying the original statute, as well as validating all extensions. Make an entry on the case activity record to indicate the statute date was verified. Use the VTS to update the statute critical data fields on ACDS, if necessary. See IRM 8.21.3.2.1.1, Procedures to Update Statutes on ACDS.
2. The statutory period of limitations on assessment of FICA and income tax withholding is three years from April 15 of the year following the year for which the return was due or three years after the date the return was filed, whichever is later. For RRTA and FUTA taxes, the statutory period is three years from the return's due date for filing or the date the return was filed, whichever is later. If no return was filed, the statute remains open for the assessment of these taxes. [IRC 6501(c)(3)]
3. Use Form SS-10, Consent to Extend the Time to Assess Employment Taxes, to extend the period for assessing taxes imposed by FICA, including FICA tax on tip income (for exceptions, see IRM 25.6.22.6.10, Employment Taxes), FUTA, RRTA, and Code provisions relating to withholding of income tax on wages at the source.
4. Form 1040, U.S. Individual Income Tax Return, is a multi-purpose tax return reporting both income and FICA taxes. The income tax imposed by IRC 1 (subtitle A) and the Social Security and Medicare taxes imposed by IRC 3101 (subtitle C) are separate and distinct taxes. If the employee filed Form 1040, but did not report any FICA tax, the ASED for FICA tax has not started to run. The FICA tax may be assessed even if the ASED for income taxes has expired. See Rev. Rul. 79-39, 1979-1 C.B. 435, and IRM 25.6.22.6.10.2, FICA Tax on Tips Not Reported to Employer. However, this rule about the start of the ASED does not apply to an individual's Additional Medicare tax imposed under IRC 3101(b)(2). The filing of Form 1040 **will** start the running of the individual's ASED for the Additional Medicare tax because the calculation of the Form 1040 Additional Medicare tax depends on the individual's filing status. Form 1040 attachments for reporting FICA tax (as a separate and distinct tax under subtitle C) include the following:
 - Form 4137, Social Security and Medicare Tax on Unreported Tip Income
 - Form 8919, Uncollected Social Security and Medicare Tax on Wages
 - Form 8959, Additional Medicare Tax
5. Form 1040 Schedule H, Household Employment Taxes, carries its own ASED that is not based on the filing requirements of the taxpayer's Form 1040. An employee has not made a valid return for purposes of the household employment taxes if no entry for the taxes is made on Form 1040. If Schedule H is filed with Form 1040, the ASED begins with the filing of the Schedule H.

6. The ASED for self-employment tax begins with the filing of the Form 1040, even if no entry with respect to self-employment tax is made on Form 1040. The Self-Employment Contribution Act (SECA) imposed by chapter 2 of the Code and the individual income tax imposed by chapter 1 are not separate and distinct taxes. Both fall under subtitle A, Income Taxes. Per 26 CFR 1.1401-1 (a), tax on self-employment income shall be assessed, collected, and levied as part of the income tax imposed by subtitle A of the Code and included with the income tax imposed by IRC 1 or IRC 3, except as otherwise expressly provided. See also Rev. Rul. 82-185.

7. Consolidated Returns - When a parent in a consolidated income tax return executes consent Form 872, Consent to Extend the Time to Assess Tax, or Form 872-A, Special Consent to Extend the Time to Assess Tax, covering Chapter 1 Income Taxes (as discussed in IRM 25.6.22.6.2.1 , Consolidated Returns), the authority of the parent does not automatically extend to taxes outside Chapter 1 Income Taxes, such as excise taxes and employment taxes.