

MTM Reduction In Tax (RIT) Carryback Instructions (Updated for RGS v12.0)

Overview:

- The alternative PFIC / Mark-to-Market (MTM) method under OVDI allows a 20% tax rate on all MTM gains/losses incurred during the 6-year look-back period.
- **NEW!** With the release of RGS v12.0, a negative Other Tax item can no longer be entered and an Other Credit adjustment will be used in lieu of the negative Other Tax.
- **REVISED!** The allowable RIT will therefore be limited to Regular Tax + AMT – Total Non-refundable Credits, line 56 of the 2008 Form 1040. In short, RAR line 9 cannot go below zero.
- If in **2008**, the MTM RIT cannot be utilized in full due to the total MTM RIT being greater than the allowable MTM RIT, then the MTM RIT should be carried back to prior years in the look-back period that can absorb the RIT.
- **NEW!** If a MTM RIT is limited in a year prior to 2008, follow the procedure below in preparing the Form 4549A only. The RIT will be carried forward to future years until it is fully absorbed. If not fully absorbed by 2008, then follow the carryback procedures to years that can absorb it.
- It does not matter what year the MTM RIT carryback is brought to, but it is recommended to pick a single year that can fully absorb the RIT, if available, in order to minimize work for both you **and** tech services.
- The MTM RIT carryback requires special attention to Forms 4549A, 5344 and 3198 in order to ensure interest and penalties are properly computed.

Form 4549A:

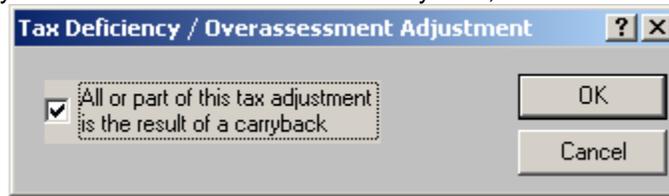
- **NEW!** How to prepare RAR with MTM RIT years:
 - Classify an issue separate of the Other Tax issue for the MTM gain years.
 - Classify the issue using IMF Code 61050 - Other Credits Not From Form 3800, 8396, 8801, 8859. You can relabel, but it will only reflect as Other Credit in the RAR.
 - Categorize the RIT adjustment as: Credits → Other Credits → Other.
 - Fill in the allowable RIT amount as a **positive amount** in the per exam field. Note: If you put in the whole RIT, the RAR will show it, but line 9 of RAR will not go below zero.
- **REVISED!** In the carryback year(s), adjust the MTM tax exam figure by the carryback RIT amount. If you reduce the MTM tax in a prior year to \$0, and a further MTM RIT would be allowable then follow the “How to prepare RAR with MTM RIT years” guidance above. See tip below.
- In order to clearly reflect the MTM RIT carryback, enter the following in the Other Information section of the F4549A.
 - Ex.: 2007 reflects a \$20,000 OVDI alternative PFIC method Mark-to-Market reduction in tax carryback from tax year 2008.
- **TIP!** One method to quickly determine the MTM RIT credit limitation is to prepare the RAR without the MTM RIT credit. In 2008, Line 9 of the RAR will reflect the amount that can be absorbed. In carryback years, it will be the MTM gain Other Tax (before it is offset by the RIT carryback) plus Line 9 of the RAR.

Penalties:

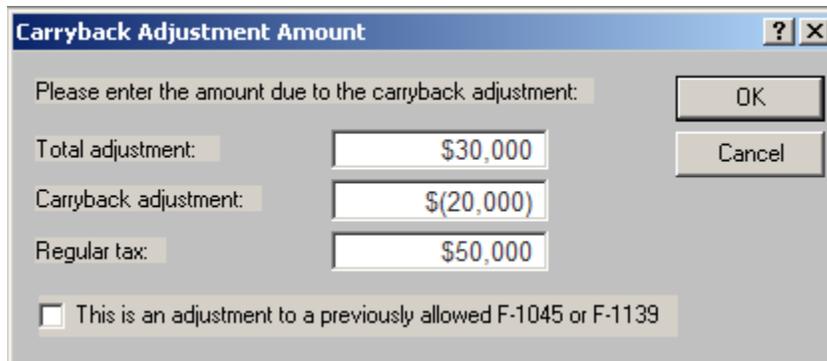
- In years where there is a MTM RIT carryback, you will need to compute a manual penalty.
- The penalty must be based on the deficiency without the benefit of the MTM RIT carryback as the taxpayer cannot get benefit of a reduced penalty for a loss/RIT generating in a future period.
 - Ex.: The taxpayer has a \$50,000 deficiency in 2007, but due a limited MTM RIT in 2008, there is a MTM RIT carryback to 2007 in the amount of \$20,000. The RAR deficiency is reduced to \$30,000, but the penalty remains \$10,000 (based on the original \$50,000 2007 deficiency) instead of \$6,000 (based on \$30,000 netted RAR deficiency).
- Please keep in mind that RGS needs your assistance in completing the F5344 as it does not know how to categorize the penalty. See second to last bullet point in following section.
- **TIP!** Similar to the tip above, prepare an RAR before applying the effects of the MTM RIT carryback to determine the penalty amount, but remember you must insert this amount as a manual penalty before you prepare the final RAR.

Preparing the Form 5344:

- When you select the second tab of the F5344 setup in RGS, you will see a popup message asking if 'all or part of the this tax adjustment is the result of a carryback'. Ensure that you select the box in any year that there was a MTM RIT carryback, then select OK.



- The next screen will then show the total adjustment at the top and regular tax portion at the bottom. In the middle you must enter the total absorbed MTM RIT carryback amount (as a negative number). This will then update the regular tax figure, while the total adjustment remains unchanged as this figure should match the tax deficiency on the RAR.
 - Ex.: The original return had a \$50,000 deficiency, but there was a MTM RIT carryback from 2008 of \$20,000. This RIT brought the deficiency down to \$30,000 (total adjustment per RAR). When you enter a \$(20,000) carryback in the input box, the total adjustment will remain \$30,000 while the regular tax will show \$50,000, the deficiency without the carryback. Select OK.



- Item 12 on the first tab of the F5344 setup will be updated to show a TC 300 in the amount of \$50,000 and a TC 309 in the amount of (\$20,000). This ensures that there are separate interest computations. The original deficiency of \$50,000 will have interest calculated as normal, while the \$20,000 MTM RIT will have a restricted interest computation date, which is entered in Item 11 (see image on next page).

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200412 - Form 5344 Examination Closing Record

File Edit View Actions Reports Help

TC 12/Interest Dates RC 15/Claim Exam/IMF Codes International/Rel Return BOD Codes

Name control/check digit: CC TSCLS

Disposal code: (13) 08 Partial agreement

Fax agreement indicator: (416) Report date: 11/22/2010

Closed on (choose one)

Original/SFR

Electronic Print/Copy

Paperless

Dates/codes

Penalty reason code: (02)

Debit interest "to" date: (6A)

Credit interest "to" date: (6B)

Compute interest amount: (6C)

Hold code: (07)

Agreement date: (08)

Priority code: (09)

Interest computation date: (11) 04/15/2009 **Required**

Tax, penalty and interest adjustments

	Code:	Amount:
Tag:	(12) 300	\$50,000
	309	\$(20,000)
Penalties:	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>
Interest:	<input type="text"/>	<input type="text"/>
	<input type="text"/>	<input type="text"/>

- In item 11, you will enter the later of the 2008 return filing due date or when the return was actually filed. Validation will fail if you do not complete Item 11.
- The code column in Item 12 next to penalties should initially have "****" and the manual penalty amount in the amount column. Delete the asterisks and hit tab, this will gray out the amount column box. Then go to the second tab. In the next available row of Item 15, enter 680 in the code box and the manual penalty amount in the amount column. This is exactly how RGS would prepare the 5344 if it were a return-related penalty. Please note that validation will fail if you do nothing regarding the penalty.
- Complete the rest of the F5344 setup like normal.

Form 3198:

- The IRM states that a Form 2285 must be prepared if there are both general and carryback adjustments.
- Based on the preceding example, a Form 2285 must be prepared, which is done by Technical Services.
- On the F3198, check Restricted Interest (Form 2285 required) in the Forward to Technical Services Section.
- On page 2 in the Special/Restricted Interest Features section, check other and enter: "MTM reduction in tax carryback per OVDI guidelines."