DATE: 01/13/2014

NUMBER: WI-21-0114-0115

SUBJECT: IRM 21.8.2 – BMF International Adjustments for BMF International Accounts Management regarding FIRPTA Credits

AFFECTED IRM(s)/SUBSECTION(s): 21.8.2

CHANGE(s):

IRM 21.8.2.9.6.2(5) Added clarification that FIRPTA credits be verified they are available using the database and the database must be updated. Added a link to IRM 21.8.1.21.1(2) for procedures on updating the database.

5. **#** ████████████████████████████████████

██
██
██

#

IRM 21.8.2.11(9)(f) Added clarification that FIRPTA credits be verified they are available using the database and the database must be updated. Added a link to IRM 21.8.1.21.1(2) for procedures on updating the database.

9. TRNS 193 notices generated on Form 8288 accounts are processed at the Ogden Accounts Management Campus. Use the following instructions in conjunction with IRM 21.7.9, *BMF Duplicate Filing Conditions*, to resolve TRNS 193 notices on Form 8288 (MFT 17) accounts:
    a. Always input a Hold Code 4 on the CC ADJ54 adjustment.
    b. Input the real property description from Line 2 of the Form 8288 in the remarks field of the CC ADJ54 adjustment.
    c. Input the Date of Transfer (DOT) on the CC ADJ54 adjustment.

NOTE: The year and month of the DOT input on ADJ54 **MUST** match the year and month of the tax period or the adjustment will unpost. Refer to IRM 3.12.279.131, *UPC 331 RC 4 – 5*.

d. For a return filed for a subsequent sale within the same month, the Return Due Date (RDD) is 20 days from the date of transfer and is not related to the first date of transfer posted on the module.

e. A late-filed Form 8288 is subject to interest, Failure to File and Failure to Pay penalties which must be manually assessed since the computer is unable to calculate these values. The RDD is 20 days from the date of transfer or withholding certificate letter date, whichever is later. When a penalty is warranted, calculate the penalty from the RDD to the payment date.

NOTE: The DOT is the actual date of transfer, or the date of the withholding certificate letter, whichever is later.

NOTE: When manually computing interest, the running module balance method must be used so that all transactions within the module are considered. See IRM 20.2.6.6, *Steps to Compute Interest*, and IRM 20.2.5.3, *Interest on Penalties and Additions to Tax*, regarding how to compute interest on penalties.

f. When processing an adjustment to a Form 8288-A account, verify the validity of the credits against the INTLWEBAPPS, FIRPTA database and IDRS prior to allowing the credit. The person verifying the credit must follow the instructions in IRM 21.8.1.21.1(2), *Claims for FIRPTA Credits*, to update the database as necessary to reflect the correct information.

If...	Then...
The Form 8288 is received after the 20th day from the DOT or after the 20th day from the date of the withholding certificate letter (if applicable), whichever is later	Input TC 290 for the additional tax amount. Manually compute and assess TC 160, TC 270 and TC 340 using the return due date as the "from" date. TC 340 must be computed using the running module balance method. See IRM 20.2.6.6, *Steps to Compute Interest*.
The Form 8288 was timely filed and paid	Input TC 290 for the additional tax and also enter a TC 160 .00, TC 270 .00, and TC 340 .00 to prevent penalty and interest assessments.
The taxpayer was issued a withholding certificate, and the withholding certificate letter date falls within a subsequent month (the return is due within	Input TC 290 .00 to release the "-A" freeze. Edit the correct date of transfer and reinput the return to the correct tax period using Form 13596, Reprocessing Returns. Transfer any related payments

20 days of the DOT, or the date of the withholding certificate, whichever is later)	using CC ADD/ADC24.
The taxpayer was issued a withholding certificate and the return due date remains in the same tax period to which the subsequent return posted	Input TC 290 for the additional tax amount. If the return was filed timely and paid, input TC 160 .00, TC 270 .00 and TC 340 .00 to prevent penalty and interest assessments. If the return was filed and/or paid late, manually compute and assess TC 160, TC 270 and TC 340 amounts using the return due date as the "from" date. Do not reinput the return.

NOTE: If Form 8288-A is attached to Form 8288 and the 8288-A does not have a FIRPTA Unit stamp on it saying "Copy B mailed," fax the return to the FIRPTA Unit for processing of Form 8288-A. **#** ███████████████████ **#** (number is for internal use only).

CAUTION: Do not establish Mail Filing Requirements for Form 8288.

IRM 21.8.2.11.2(5) Added clarification that FIRPTA credits be verified they are available using the database and the database must be updated. Added a link to IRM 21.8.1.21.1(2) for procedures on updating the database.

5. If correspondence or an amended return is received requesting credit for withheld FIRPTA tax, it must be accompanied by a Form 8288-A, Copy B, so the credit can be verified.

    REMINDER: Attach the FIRPTA Credit Verification Slip, Form 13698, to the case as proof of verification and check the validity of the credits claimed on Form 8288-A against the INTLWEBAPPS, FIRPTA database and IDRS prior to allowing the credit. The person verifying the credit must follow the instructions in IRM 21.8.1.21.1(2), *Claims for FIRPTA Credits*, to update the database as necessary to reflect the correct information.