

IRM PROCEDURAL UPDATE

DATE: 03/19/2014

NUMBER: WI-21-0314-0535

SUBJECT: BMF International Accounts Management

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

CHANGE(s):

IRM 21.8.2.1.3(2)&(3) Clarified procedures.

2. Assistors staffing the International line **DO NOT** use the Telephone Transfer Guide (TTG) to transfer calls. They can use "The Source for Telephone Numbers" at: <http://gatekeeper.web.irs.gov/plList.asp> to provide the correct toll-free number to the caller. If the caller is calling outside the United States the assistor should perform the needed resolution. If the assistor is not trained or the caller does not want to call back, complete Form 4442, *Inquiry Referral*. See IRM 21.3.5.4, *Referral Procedures*, for complete procedures.

NOTE: International assistors may transfer calls within the International line using local procedures.

3. **Assistors staffing any toll-free line** should not transfer calls to the International line (267-941-1000). They can provide the International **non toll-free number** or any of the numbers below to a caller for help with international issues. If the caller does not want to call back, offer to prepare Form 4442, *Inquiry Referral*. Route to BMF International at the Ogden campus via fax at # [REDACTED] # (number is for internal use only). For a list of BMF international issues see IRM 21.8.2.1.1, *Campus Consolidation and Program Centralization*. For more information on the referral process see IRM 21.3.5.4, *Referral Procedures*.

	Phone	Fax
International (Taxpayer Customer Service)	267-941-1000**	# [REDACTED] # (number is for internal use only)
Automated Collection System (ACS)	267-941-1004**	267-941-1031
Automated Underreporter (AUR)	267-941-1026**	267-941-1023
Electronic Federal Tax Payment System (EFTPS)	303-967-5916	
Excise Tax (Form 720, Form	859-669-	

730, Form 2290 and Form 8849)	5733	
International Examination	267-941-1037**	267-941-1463
Offer in Compromise (OIC) - General	267-941-1004**	787-759-5466
(OIC) - Accepted Offers Only	631-447-4018	
Taxpayer Advocate Service - English speaking	787-622-8940	787-622-8933
Taxpayer Advocate Service - Spanish speaking only	787-622-8930	
U.S. Certification Program	267-941-1000**	267-941-1035

REMINDER: Numbers marked with (**) CANNOT be accessed using IRS phones.

IRM 21.8.2.9.2(4) Added an Exception in Paragraph (4).

4. Extensions do not extend the time for payment of the tax. Tax must be paid by the due date of the return, without extensions.

EXCEPTION: Foreign corporations that qualify under Treas. Reg. §1.6081-5 are entitled to a 3-month extension of time to pay.

IRM 21.8.2.19.2 Added procedures to include the new systemically assessed initial penalty PRN 712 and clarified procedures. Renumbered the remaining paragraphs.

1. Beginning in 2009, Master File systemically assesses IRC § 6038 initial penalties on Form 5471 returns that are attached to late-filed Form 1120 series returns. The initial penalty amount is \$10,000 for each attached Form 5471 and is assessed on a civil penalty module (MFT 13) as a TC 240 with Penalty Reference Number (PRN) 623 for 2009 or PRN 599 for 2010 and subsequent years. The systemically assessed initial penalties will post as a TC 240 for amounts in multiples of \$10,000, Document Code 54, Tax Class 3, Penalty Reference Number 623 or 599, and 00 as the first two digits of the Blocking Series. The assessment will result in a CP 215 notice being issued to the taxpayer.

CAUTION: Penalties manually assessed by Examination will have a Document Code 47 and generally contain a TC 300 but may be assessed using Document Code 54 without a TC 300. Accounts Management **WILL NOT** consider penalty abatement requests on Examination assessed

penalties. Examination will consider all requests for Exam assessed 5471 FTF or late-filed initial and continuation penalties.

2. Beginning in 2014, Master File systemically assesses IRC § 6038 initial penalties on Form 5471 returns that are attached to late-filed Form 1065 returns. The initial penalty amount is \$10,000 for each attached Form 5471 and is assessed on a civil penalty module (MFT 13) as a TC 240 with Penalty Reference Number (PRN) 712. The systemically assessed initial penalties will post as a TC 240 for amounts in multiples of \$10,000, Document Code 54, Tax Class 2, Penalty Reference Number 712, and 00 as the first two digits of the Blocking Series. The assessment will result in a CP 215 notice being issued to the taxpayer.

REMINDER: Penalties manually assessed by Examination will have a Document Code 47 and generally contain a TC 300 but may be assessed using Document Code 54 without a TC 300. Accounts Management **WILL NOT** consider penalty abatement requests on Examination assessed penalties. Examination will consider all requests for Exam assessed 5472 FTF or late-filed initial and continuation penalties.

3. Ogden and Cincinnati Accounts Management will continue to process Form 1120 series and Form 1065 Failure to File (FTF) penalty abatement requests while only Ogden Accounts Management International will process Form 5471 FTF penalty abatement requests for **systemically assessed** initial penalties. If the request for the Form 5471 penalty abatement **ALSO** requests abatement of the "related Form 1120 or Form 1065" failure to file penalty, refer inquiries to the International Department at the Ogden Accounts Management Center (OAMC) for consideration. Ogden will consider the "related Form 1120 or Form 1065" penalty first and then will abate/deny the Form 5471 initial penalty consistent with that determination. For telephone calls inform the caller to submit the request in writing and mail to Internal Revenue Service, 1973 Rulon White Blvd., Mail Stop 6552, Ogden, Utah 84404. Route correspondence to OAMC at Mail Stop 6552.

NOTE: All Form 5471 FTF penalty abatements must be reviewed and approved by a manager prior to removing the penalty. After review, the workleader/manager will add a CIS case note documenting approval.

4. Research IDRS to determine if:
 - a. there is an open Accounts Management IDRS control base on the "related Form 1120 or Form 1065" account **and**

NOTE: A "related Form 1120 or Form 1065" includes Form 1120 series or Form 1065 calendar year filers as well as filers for any fiscal period that falls within the calendar year of the penalty module. For example, if the penalty module is for 201312, any Form 1120 filing for periods 201301 through 201311 will represent a "related Form 1120" account to which the penalty pertains.

- b. all required Forms 1120 series or Forms 1065 have been filed (or have a valid extension) for all years not on retention. Refer to the following chart:

If...	And	Then...
<p>There is an open control base on the "related Form 1120 or Form 1065"</p>		<p>Suspend case until the Form 1120 series or Form 1065 account failure to file (FTF) penalty determination is made.</p> <ol style="list-style-type: none"> <li data-bbox="894 583 1323 898">1. If the "related Form 1120 or Form 1065" FTF is abated, abate the Form 5471 penalty using the same Penalty Reason Code (PRC) as shown on the Form 1120 series or Form 1065 penalty abatement. <p>NOTE: If the "related Form 1120 or Form 1065" FTF penalty was abated because of a First Time Abate (FTA) and no Form 5471 penalties have been assessed (either PRN 599, 623, or 712) in any of the prior three periods for MFT 13, the Form 5471 penalty can be abated using PRC 018. See IRM 20.1.9.3.5, <i>Reasonable Cause</i>, for additional information.</p> <ol style="list-style-type: none"> <li data-bbox="894 1640 1323 1885">2. If the "related Form 1120 or Form 1065" penalty abatement request is denied, proceed to Paragraph (4) below to determine whether to abate the Form 5471

		penalty for reasonable cause.
<p>There is not an open control base on the "related Form 1120 or Form 1065" account</p> <p>CAUTION: There may not be an open control (i.e., no tax or fully paid). However, if the "related Form 1120 or Form 1065" meets FTA criteria and no Form 5471 penalties have been assessed (either PRN 599, 623, or 712) in any of the prior three periods for MFT 13, the Form 5471 penalty can be abated using PRC 018. See IRM 20.1.1.3.6.1, <i>First Time Abate (FTA)</i>, to determine if the "related Form 1120 or Form 1065" meets FTA criteria.</p>	<p>Not all required forms are posted to Master File (BMFOL)</p>	<p>Contact the corporation or partnership regarding the status of the missing returns</p>
<p>The corporation or partnership</p> <ul style="list-style-type: none"> a. cannot be contacted, b. does not respond, c. has not filed the missing returns 		<p>Follow no consideration procedures. Advise the corporation or partnership that the abatement request cannot be considered until the missing returns have been filed. Refer to IRM 21.5.3.4.6.3, <i>No Consideration Procedures</i></p>
<p>The corporation or partnership indicates they have filed the returns after their request for abatement.</p>		<p>Suspend the request until all the necessary returns have posted to master file.</p>
<p>All required returns are posted to Master File</p>		<p>Use the Failure to File or Late-Filed Form 5471 - Decision Tree (see (4) below) to determine whether to abate the Form 5471 penalty. Do not address the Form 1120 series or Form</p>

		1065 penalty unless the taxpayer is also requesting abatement of that penalty.
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- Ogden Accounts Management will evaluate all reasonable cause requests, regardless of the Master file status, for initial penalties that are systemically assessed using the Failure to File or Late-Filed Form 5471 - Decision Tree and will follow the table below. See Exhibit 21.8.2-1, *Failure to File or Late-Filed Form 5471 - Decision Tree*.

REMINDER: To show that reasonable cause exists, the person required to report such information must be in compliance with all open reporting years (not on extension) and "must make an affirmative showing of all facts alleged as reasonable cause for such failure in a written statement containing a declaration that it is made under the penalties of perjury". See IRM 20.1.9.3.5, *Reasonable Cause*, for additional information.

If...	Then...
The Penalty Decision Tree determination is to: <ul style="list-style-type: none"> ○ Abate/Waive 	Input TC 290 .00 and appropriate PRN (599, 623, or 712) with a minus (-) after the abatement amount. Use Blocking Series 52, Reason Code 062 and the appropriate 4th position Penalty Reason Code.
The Penalty Tree determination is to: <ul style="list-style-type: none"> ○ Deny 	Input TC 290 .00 with appropriate PRN (599, 623, or 712) for .00. Use Blocking Series 98, Reason Code 062 and send Letter 854C.

NOTE: Enter a CIS case note and notate which question, in which section of the Penalty Tree, led to your decision to abate or deny the reasonable cause request.

CAUTION: If the caller does not otherwise have reasonable cause, but contends that the penalty is for a wrong period, and as such the penalty should be abated, **AND** the caller has a "related Form 1120 or Form 1065" with a fiscal year that ends within the calendar year listed on the penalty notice, advise the caller to refer to page 2 of the civil penalty notice for an explanation of how the penalty applies to fiscal year filers. **CONCLUSION:** The penalty should **NOT** be abated for this reason.

- Advise callers that a request for reasonable cause relief for Failure to File Form 5471 initial penalties must be submitted in writing. The taxpayer must provide a written statement to request relief from Failure to File information return initial penalties. See IRM 21.5.3.4.16.7, *Identifying Frivolous Returns/Correspondence and Responding to Frivolous Arguments*, for additional information.

7. Route **ALL** Form 5471 penalty issues, other than reasonable cause abatement requests on systemically assessed PRN 599, 623, or 712 initial penalties, to the appropriate area that assessed the penalty.

IRM 21.8.2.20.2 Clarified procedures.

1. Beginning in 2013, Master File systemically assesses IRC § 6038A initial penalties on Form 5472 returns that are attached to late-filed Form 1120 series returns. The initial penalty amount is \$10,000 for each attached Form 5472 and is assessed on a civil penalty module (MFT 13) as a TC 240 with PRN 711. The systemically assessed initial penalties will post as a TC 240 for amounts in multiples of \$10,000, Document Code 54, Tax Class 3, Penalty Reference Number 711, and 00 as the first two digits of the Blocking Series. The assessment will result in a CP 215 notice being issued to the taxpayer.

CAUTION: Penalties manually assessed by Examination will have a Document Code 47 and generally contain a TC 300 but may be assessed using Document Code 54 without a TC 300. Accounts Management **WILL NOT** consider penalty abatement requests on Examination assessed penalties. Examination will consider all requests for Exam assessed 5472 FTF or late-filed initial and continuation penalties.

2. Ogden and Cincinnati Accounts Management will continue to process Form 1120 series Failure to File (FTF) penalty abatement requests while only Ogden Accounts Management International will process Form 5472 FTF penalty abatement requests for **systemically assessed** initial penalties. If the request for the Form 5472 penalty abatement **ALSO** requests abatement of the "related Form 1120" failure to file penalty, refer inquires to the International Department at the Ogden Accounts Management Center (OAMC) for consideration. Ogden will consider the "related Form 1120" penalty first and then will abate/deny the Form 5472 initial penalty consistent with that determination.. For telephone calls inform the caller to submit the request in writing and mail to Internal Revenue Service, 1973 Rulon White Blvd., Mail Stop 6552, Ogden, Utah 84404. Route correspondence to OAMC at Mail Stop 6552.

NOTE: All Form 5472 FTF penalty abatements must be reviewed and approved by a manager prior to removing the penalty. After review, the workleader/manager will add a CIS case note documenting approval.

3. Research IDRS to determine if:
 - a. there is an open Accounts Management IDRS control base on the "related Form 1120" account and

NOTE: A "related Form 1120" includes Form 1120 series calendar year filers as well as filers for any fiscal period that falls within the calendar year of the penalty module. For example, if the penalty module is for 201312, any Form 1120 filing for periods 201301 through 201311 will represent a "related Form 1120" account to which the penalty pertains.

- b. all required Forms 1120 series have been filed (or have a valid extension) for all years not on retention. Refer to the following chart:

If...	And...	Then...
There is an open control base on the "related Form 1120"		<p>Suspend case until the Form 1120 series account failure to file (FTF) penalty determination is made.</p> <ol style="list-style-type: none"> 1. If the "related Form 1120" FTF is abated, abate the Form 5472 penalty using the same Penalty Reason Code (PRC) as shown on the Form 1120 series penalty abatement. <p>NOTE: If the "related Form 1120" FTF penalty was abated because of a First Time Abate (FTA) and no Form 5472 penalties have been assessed for MFT 13, the Form 5472 penalty can be abated using PRC 018. See IRM 20.1.9.5.5, <i>Reasonable Cause</i>, for additional information.</p> <ol style="list-style-type: none"> 2. If the "related Form 1120" penalty abatement request is denied, proceed to Paragraph (4) below

		to determine whether to abate the Form 5472 penalty for reasonable cause.
<p>There is not an open control base on the "related Form 1120" account</p> <p>CAUTION: There may not be an open control (i.e., no tax or fully paid). However, if the "related Form 1120" meets FTA criteria and no Form 5472 penalties have been assessed for MFT 13, the Form 5472 penalty can be abated using PRC 018. See IRM 20.1.1.3.6.1, <i>First Time Abate (FTA)</i>, to determine if the "related Form 1120" meets FTA criteria.</p>	Not all required forms are posted to Master File (BMFOL)	Contact the corporation regarding the status of the missing returns
<p>The corporation</p> <ul style="list-style-type: none"> a. cannot be contacted, b. does not respond, c. has not filed the missing returns 		Follow no consideration procedures. Advise the corporation that the abatement request cannot be considered until the missing returns have been filed. Refer to IRM 21.5.3.4.6.3, <i>No Consideration Procedures</i>
The corporation indicates they have filed the returns after their request for abatement.		Suspend the request until all the necessary returns have posted to master file.
All required returns are posted to Master File		Use the Failure to File or Late-Filed Form 5472 - Decision Tree (see (4) below) to determine whether to abate the Form 5472 penalty. Do not address the Form 1120 series penalty unless the taxpayer is also requesting abatement of that penalty.

4. Ogden Accounts Management will evaluate all reasonable cause requests, regardless of the Master file status, for initial penalties that are systemically assessed using the Failure to File or Late-Filed Form 5472 - Decision Tree and will follow the table below. See Exhibit 21.8.2-2, *Failure to File or Late-Filed Form 5472 - Decision Tree*.

REMINDER: To show that reasonable cause exists, the reporting corporation must have filed Form 5472 for all open years (not on extension) and "must make an affirmative showing of all facts alleged as reasonable cause for such failure in a written statement containing a declaration that it is made under the penalties of perjury". See IRM 20.1.9.5.5, *Reasonable Cause*, for additional information.

If...	Then...
The Penalty Decision Tree determination is to: <ul style="list-style-type: none"> ○ Abate/Waive 	Input TC 290 .00 and appropriate PRN 711 with a minus (-) after the abatement amount. Use Blocking Series 52, Reason Code 062 and the appropriate 4th position Penalty Reason Code.
The Penalty Tree determination is to: <ul style="list-style-type: none"> ○ Deny 	Input TC 290 .00 with appropriate PRN 711 for .00. Use Blocking Series 98, Reason Code 062 and send Letter 854C.

NOTE: Enter a CIS case note and notate which question, in which section of the Penalty Tree, led to your decision to abate or deny the reasonable cause request.

CAUTION: If the caller does not otherwise have reasonable cause, but contends that the penalty is for a wrong period, and as such the penalty should be abated, **AND** the caller has a "related Form 1120" with a fiscal year that ends within the calendar year listed on the penalty notice, advise the caller to refer to page 2 of the civil penalty notice for an explanation of how the penalty applies to fiscal year filers. **CONCLUSION:** The penalty should **NOT** be abated for this reason.

5. Advise callers that a request for reasonable cause relief for Failure to File Form 5472 initial penalties must be submitted in writing. The taxpayer must provide a written statement to request relief from failure to file information return penalties. See IRM 21.5.3.4.16.7, *Identifying Frivolous Returns/Correspondence and Responding to Frivolous Arguments*, for additional information.
6. Route **ALL** Form 5472 penalty issues, other than reasonable cause abatement requests on systemically assessed PRN 711 initial penalties, to the area that assessed the penalty.