

IRM PROCEDURAL UPDATE

DATE: 10/27/2014

NUMBER: WI-21-1014-1532

SUBJECT: International Forms; Streamline Procedures

AFFECTED IRM(s)/SUBSECTION(s): 21.8.1

CHANGE(s):

IRM 21.8.1.1.2(1) - Added Note referring to Form 8891 becoming obsolete.

1. IMF International Individual Income Tax Returns:
 - Form 1040 with Form 1116, Form 2555, Form 2555-EZ, Form 4563, Form 5074, Form 8689, and/or Form 8891 attached
 - Form 1040-C
 - Form 1040NR
 - Form 1040NR-EZ
 - Form 1040-PR
 - Form 1040-SS

NOTE: Form 8891 is obsolete as of December 31, 2014 per Rev. Proc. 2014-55

IRM 21.8.1.1.4 - Removed non-operational fax number for ACS. Updated TAS telephone numbers.

1. The following Web-sites are helpful when researching International issues:
 - Submission Processing Website at <http://win.web.irs.gov/SP/index.htm>
 - IRC codes listed here by section number at <http://www.fourmilab.ch/ustax/ustax.html>
 - Tax treaties on line at <http://www.irs.gov/Businesses/International-Businesses/United-States-Income-Tax-Treaties---A-to-Z>
 - various International topics at <http://www.irs.gov/Businesses/International-Businesses>
 - IRS Bulletins, Notices, Announcements, etc. at <http://www.irs.gov/irb/>
 - U.S. Citizenship and Immigration Services (USCIS) Website at <http://www.uscis.gov>
 - Lexis-Nexis at <http://www.lexisnexis.com/clients/irshome/>
 - The Social Security Administration Website <http://www.ssa.gov/>

- Electronic Tax Law Assistance at <http://www.irs.gov/uac/Help-With-Tax-Questions---International-Taxpayers>
 - United States Department of State at <http://www.state.gov/>
 - International dialing codes at <http://www.countrycallingcodes.com/>
 - IR Web research center at <http://rnet.web.irs.gov/>
2. Assistors staffing the International Taxpayer Customer Service line **DO NOT** use the Telephone Transfer Guide (TTG) to transfer calls. International assistors must follow the Form 4442 referral process, see Paragraph (3) below. International assistors may transfer International calls to other International Applications if necessary.
 3. Assistors staffing any Toll-Free application should not transfer to the International Taxpayer Customer Service line (267-941-1000). The following helpful telephone numbers can be provided to international callers for working International issues. Ensure the callers are informed these are not toll free numbers. If the caller does not want to call back, follow the referral process. See IRM 21.3.5.4, *Referral Procedures*, for more information.

Business Unit	Phone	Fax
International Accounts Management	267-941-1000**	267-941-1055
Automated Collection System (ACS) Support	267-941-1004**	
Automated Underreporter (AUR)	267-941-1026	267-941-1023
International Examination	267-941-1037**	267-941-1463
Offer in Compromise (OIC) - General	267-941-2004**	267-941-1034
(OIC) - Accepted Offers Only	631-447-4018	
Taxpayer Advocate Service - English speaking	787-522-8601	787-522-8691
Taxpayer Advocate Service - Spanish speaking only	787-522-8600	
U.S. Certification Program	267-941-1000**	

CAUTION: Numbers marked with (**) CANNOT be called using IRS phones on the FTS system.

4. Current International Post contact information can be found on the Large Business and International Division (LBI) website at: http://www.lmsb.irs.gov/international/dir_treaty/eoi_overseas/posts.asp.

IRM 21.8.1.1.15(3) - Added Form 1116 to list of international forms. Added Note referring to Form 8891 becoming obsolete.

3. International processes any Form 1040/A/EZ with the following attachments:
 - Form 1116- *Foreign Tax Credit*
 - Form 2555/Form 2555-EZ - *Foreign Earned Income Exclusion*
 - Form 4563 - *Exclusion of Income for Bona Fide Residents of American Samoa*
 - Form 5074 - *Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands*
 - Form 8288-A - *Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests*
 - Form 8689 - *Allocation of Individual Income Tax to the U.S. Virgin Islands*
 - Form 8805 - *Foreign Partner's Information Statement of Section 1446 Withholding Tax*
 - Form 8833 - *Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b)*
 - Form 8840 - *Closer Connection Exception Statement for Aliens*
 - Form 8843 - *Statement for Exempt Individuals and Individuals With a Medical Condition*
 - Form 8891 - *U.S. Information Return for Beneficiaries of Certain Canadian Registered Retirement Plans*

NOTE: Form 8891 is obsolete as of December 31, 2014 per Rev. Proc. 2014-55

IRM 21.8.1.1.16(2) - Added a link to IRM 21.8.1.1.2 to clarify what is considered international.

2. Input FLC 66 or 98 when adjusting accounts incorporating forms that are listed in International Forms Processing 21.8.1.1.15 above. See IRM 21.8.1.1.15, in addition to the Forms listed as IMF/NMF Forms found in IRM 21.8.1.1.2.

IRM 21.8.1.1.17.1(2) - Added Caution regarding interest and a link to IRM 20.1.2.1.3.3.

2. For U.S. taxpayers who are overseas and file on a calendar year basis, the Service uses 6/15 as the due date from which to calculate both the failure to pay and failure to file penalties (IRC § 6651(a)(1) and IRC 6651(a)(2)), for taxpayers who qualify for an automatic two-month extension under Treasury Reg. § 1.6081-5, but file and/or pay late.

CAUTION: The automatic two-month extension does not extend the payment date for interest. Interest will be calculated beginning with the original due date. For more information refer to IRM 20.1.2.1.3.3, *Taxpayers Abroad*

IRM 21.8.1.27.1 - Added new link to certification Form 14653.

1. Individual U.S. citizens or green card holders (Form 1040 filers), or estates of U.S. citizens or green card holders filing income tax returns on behalf of the decedent (Form 1041 filers) qualify to use the Streamline Filing Compliance (SFC) procedure if:
 - o In any one or more of the most recent three years for which the U.S. tax return due date (or properly applied for extended due date) is past, the individual did not have a U.S. abode and
 - o The individual was physically outside the United States for at least 330 full days.
2. Individuals, or estates of individuals, who are not U.S. citizens or green card holders may use this procedure if, in any one or more of the last three years for which the U.S. tax return due date (or properly applied for extended due date) is past, the individual did not meet the substantial presence test of IRC section 7701(b)(3). For more information on the substantial presence test, see Pub 519, *U.S. Tax Guide for Aliens*.

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3. Under the SFC described in this section, U.S. taxpayers eligible to use these procedures who have not reported gross income or paid tax as required by U.S. law for any of the 3 years in the covered period will file delinquent or amended tax returns, together with all required information returns (Forms 3520, 3520-A, 5471, 5472, 8938, 926, and 8621), for the past three years and will file delinquent Report Of Foreign Bank & Financial Accounts (FBARs) (FinCEN Form 114, previously Form TD F 90-22.1) for the past six years. Payment of the tax and interest due in connection with these filings must be remitted with the delinquent original or amended returns.
4. Amended returns submitted through these procedures will not be subject to the failure-to-file and failure-to-pay penalties if the taxpayer meets the eligibility requirements below:

NOTE: Original delinquent returns will be processed similarly in Submission Processing.

If	And	Then
<p>For each of the most recent 3 years for which the U.S. tax return due date (or properly applied for extended due date) is past and the statute of limitations is still open</p>	<p>A U.S. tax return has been filed previously</p>	<p>1) Submit a complete and accurate amended tax return using Form 1040X, <i>Amended U.S. Individual Income Tax Return</i>, together with the required information returns (Forms 3520, 3520-A, 5471, 5472, 8938, 926, or 8621) even if these information returns would normally not be submitted with the Form 1040X had the taxpayer filed a complete and accurate original return. NOTE: Filers are instructed to write, "Streamlined Foreign Offshore" in red at the top of the first page of each amended return and at the top of each attached information return.</p> <p>2) Taxpayers will also complete, sign, and attach a Form 14653, <i>Certification by U.S. Person Residing Outside of the United States for Streamlined Foreign Offshore Procedures</i> to each amended return certifying that the taxpayer (or taxpayers) are eligible for the streamlined filing compliance procedures; and that all required FBARs have been filed.</p> <p>3) Filers must pay all tax due as reflected on the certification and all applicable statutory interest with respect to each of the late payment amounts.</p>

5. Filers seeking relief for failure to timely elect deferral of income from certain retirement or savings plans where deferral is permitted by an applicable treaty, will submit a signed statement requesting an extension of time to make an election to defer income tax that identifies the applicable treaty provision along with:
 - the events that led to the failure to make the election,

- the events that led to the discovery of the failure,
- whether or not they relied on a professional advisor, the nature of the advisor's engagement and responsibilities, and
- if relevant, a Form 8891 for each tax year and each plan and a description of the type of plan covered by the submission.

NOTE: There are no actions for AM to take regarding this paragraph. This is information only. Form 8891 is obsolete as of December 31, 2014 per Rev. Proc. 2014-55

IRM 21.8.1.27.1.1(11) - Clarified paragraph 4.

11. To complete adjustments on Form 1040X filed under the SFC:

1. Input a Transaction Code (TC) 971 Action Code (AC) 178, using the amended return received date as the transaction date, to each affected tax year. TC 971 AC 178 denotes Streamlined Filing Compliance. The xClaim tool has been programmed to allow AC 178.
2. Ensure the payments are allocated correctly among the affected tax years according to the calculations made on the taxpayer certification. If not, follow normal credit transfer procedures using appropriate credit freeze codes to ensure no erroneous refunds occur.
3. Use all normal adjustment procedures, including the use of IAT tools, when making the tax assessment to each tax year, with the following exception: Restrict the failure to file and failure to pay penalties on each tax year by inputting TC 160 and TC 270 for zero dollars.

NOTE: If any payments were transferred, use appropriate posting delay codes on the adjustment(s) to ensure the adjustment does not post before the payments are posted correctly.

4. Allow the adjustment notice to generate. Do not correspond with the taxpayer(s) because they are advised on IRS.gov that they may receive a balance due notice or a refund if the tax or interest is not calculated correctly.)

5. # [REDACTED]

[REDACTED] #

IRM 21.8.1.27.2(3) - Added new link to certification Form 14654.

3. Amended returns submitted through these procedures will not be subject to the failure-to-file and failure-to-pay penalties if the taxpayer meets the eligibility requirements below:

If	And	Then
<p>For each of the most recent 3 years for which the U.S. tax return due date (or properly applied for extended due date) is past and the statute of limitations is still open</p>	<p>A U.S. tax return has been filed previously</p>	<p>1) Submit a complete and accurate amended tax return using Form 1040X, <i>Amended U.S. Individual Income Tax Return</i>, together with the required information returns (Forms 3520, 3520-A, 5471, 5472, 8938, 926, or 8621) even if these information returns would normally not be submitted with the Form 1040X had the taxpayer filed a complete and accurate original return.</p> <p>NOTE: Filers are instructed to write, "Streamlined Domestic Offshore" in red at the top of the first page of each amended return and at the top of each attached information return.</p> <p>2) Taxpayers will also complete, sign, and attach a Form 14654, <i>Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures</i> to each amended return certifying that the taxpayer (or taxpayers) are eligible for the streamlined filing compliance procedures; and that all required FBARs have been filed.</p> <p>3) Filers must pay all tax and penalties due as reflected on the certification and all applicable statutory interest with respect to each of the</p>

		late payment amounts.
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4. Filers seeking relief for failure to timely elect deferral of income from certain retirement or savings plans where deferral is permitted by an applicable treaty, will submit a signed statement requesting an extension of time to make an election to defer income tax that identifies the applicable treaty provision along with:
- o the events that led to the failure to make the election,
 - o the events that led to the discovery of the failure,
 - o whether or not they relied on a professional advisor, the nature of the advisor’s engagement and responsibilities, and
 - o if relevant, a Form 8891 for each tax year and each plan and a description of the type of plan covered by the submission. Form 8891 is obsolete as of December 31, 2014 per Rev. Proc. 2014-55

NOTE: There are no actions for AM to take regarding this paragraph. This is information only.

IRM 21.8.1.27.2.1(9) - Clarified paragraph 5.

9. To complete adjustments on Form 1040X filed under the SDO:
1. Input a Transaction Code (TC) 971 Action Code (AC) 178, using the amended return received date as the transaction date, to each affected tax year. TC 971 AC 178 denotes Streamlined Filing Compliance. The xClaim tool has been programmed to allow AC 178.
 2. Ensure the payments are allocated correctly among the affected tax years (including the MFT 55 civil penalty module) according to the calculations made on the taxpayer certification. If not, follow normal credit transfer procedures using appropriate credit freeze codes to ensure no erroneous refunds occur.
 3. Use all normal adjustment procedures, including the use of IAT tools, when making the tax assessment to each tax year, with the following exception: Restrict the failure to file and failure to pay penalties on each tax year by inputting TC 160 and TC 270 for zero dollars.

NOTE: If any payments were transferred, use appropriate posting delay codes on the adjustment(s) to ensure the adjustment does not post before the payments are posted correctly.

4. Assess the 5 percent miscellaneous penalty on MFT 55 based on the taxpayers calculation. Input TC 240 with blocking series 52 and penalty reason code 708
5. Allow the adjustment notices to generate. Do not correspond with the taxpayer(s) because they are advised on IRS.gov that they may

receive a balance due notice or a refund if the tax or interest is not calculated correctly.

6. # [REDACTED]

[REDACTED]

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