

LB&I Process Unit

Unit Name Form 1040NR Examination Adjustments in RGS		R Examination Adjustments in RGS
Primary UIL Code	9441.01-01 Identification of a USTB or PE	

Library Level	Title
Knowledge Base	International
Shelf	Individual Inbound
Book	U.S. Business Activities
Chapter	Identification of a U.S. Trade or business or Permanent Establishment (PE)

Document Control Number (DCN)	INT-P-234
Date of Last Update	09/20/21

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Process Overview

Form 1040NR Examination Adjustments in RGS

Return Generation Software (RGS) is designed mainly to computes tax for Form 1040, *U.S. Individual Income Tax Return*, Form 1120, *U.S. Corporate Income Tax Return*, Form 1120S, *U.S. Income Tax Return for an S Corporation*, and Form 1065, *U.S. Return of Partnership Income*. Currently, RGS application does not have a dedicated Form 1040NR module for examiner to use when examining Form 1040-NR and Form 1040-NR-EZ. There is no return setup for Form 1040NR or Form 1040NR-EZ to do a tax computation in RGS. Therefore, the examiner would need to perform workarounds to make examination adjustments, compute the correct tax and generate proper 1040NR examination reports and workpapers.

This Process Unit provides general guidance and procedures for workarounds using RGS for 1040-NR and 1040-NR-EZ. The procedures involve creating Form 1040-NR as Form 1040, changing Form Type in Case Information to Form 1040NR and verifying accuracy of other relevant sections. Also, this Unit will assist examiners to determine whether changes are made correctly, explain problems when a Form 1040NR is not created as Form 1040, and provide steps on how to enter tax on Fixed, Determinable, Annual, or Periodical (FDAP) income, (i.e., the not Effectively Connected income (NEC). Lastly, an example shown in Example of the Process will illustrate how to create an issue to categorize an NEC income adjustment and a tax adjustment on NEC income in RGS.



CONSULTATION: The examiner should contact the RGS coordinator for additional guidance and assistance if specific issues are encountered using RGS.

Summary of Process Steps

Form 1040NR Examination Adjustments in RGS

Process Steps

The following steps are general workarounds when conducting an examination of Form 1040NR using RGS.

Step 1	Create Form 1040NR as Form 1040
Step 2	Temporarily Change Form Type
Step 3	Set Up Return and Make Adjustment

Step 1: Create Form 1040NR as Form 1040

Form 1040-NR Examination Adjustments in RGS

Step 1

Create Form 1040-NR as Form 1040.

Considerations Resources When examining a Form 1040-NR case, the examiner must create a Form 1040-NR as a ■ IRM 4.10.15.5 (5) - Creating Cases regular 1040 because there is no dedicated 1040-NR module in RGS. The examiner should first take the following step. Create a Form 1040 in Case Management Screen Case Management screen will be the first screen to open which displays the inventory on the examiner's computer hard drive. Since Form 1040 RGS examination process still applies, the examiner should create a Form 1040-NR case in Case Management screen as Form 1040. Then, select a dropdown menu or enter "1040" as form type in Case Management screen when creating a 1040-NR case. (Figure 1) Figure 1 Secondary SSN:

Step 1: Create Form 1040NR as Form 1040 (cont'd)

Form 1040-NR Examination Adjustments in RGS

Considerations	Resources			
Verify the CFOL Data in Case Information				■ IRM 4.10.15.5 - Creating Cases
Examiners must be aware that not all tax return data is transcompare a tax return to a TXMODA, TIF Tax Module Display File On-line T, to reconcile changes made to the taxpayer's	■ IRM 4.10.15.1.6 - Related Resources			
Examiners must determine whether the information shown in corrections as necessary, then save and close.	n RGS is ac	curate. If	not, make	
Problems When a Form 1040NR Is Not Created as Form 10	<u>140</u>			
If a Form 1040NR is not created as a regular Form 1040, it workcenter module. GENR001 in Case Management Folder Form 1040-NR which is created in generic workcenter. (Figu	demonstrat	•		
Figure 2 Case Management				
Active Recent Create Case Pending Cases IDRS Do	wnload			
Folder Form type Taxpayer name	Tax period	TIN	Statute da	
1040002 1040PR	201612		04/EE/202	
1040003 1040	201312		04/EE/20	
1040004 1040NR	201612		08/13/202	
GENR001 040NR Generic, Module	201612		04/15/202	
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Step 1: Create Form 1040NR as Form 1040 (cont'd)

Form 1040-NR Examination Adjustments in RGS

Considerations	Resources
Problems When a Form 1040NR Is Not Created as Form 1040 (cont'd)	■ IRM 4.10.15.5 - Creating Cases
If this occurs, some of the functionality of RGS will be missing. Examiners are not able to open Return Setup and run a Variance Analysis. The Issues screen (under the drop-down Workpapers/Adjustments) will show no IMF Code field and Leadsheets will not be auto populated.	■ IRM 4.10.15.1.6 - Related resources
In addition, the essential applications such as Tax computation, Case History, Waivers, Correspondence, Return related penalties, RTF info, and Special applications will not work properly. Since any of these applications will not perform, this case should be deleted.	
Also note that in In figure 2 example, Folder 1040004 may have started as Form 1040, but it has not been backed up to the fileserver yet. The problem that may occur is that the case in Folder 1040004 might be ejected and replaced by the next case created that is a Form 1040. Therefore, it is best to make sure that all of your F1040-NR cases are prepared and saved as Form 1040 on RGS server.	

Step 2: Temporarily Change Form Type

Form 1040-NR Examination Adjustments in RGS

Step 2

Temporarily change Form Type in Case Information to Form 1040-NR.

Considerations Resources After creating a Form 1040-NR as Form 1040 case in Case Management, examiners need to ■ IRM 4.10.15.5 - Creating Cases temporarily change form type in Case Management screen from 1040 to Form 1040-NR to make RGS display "1040-NR" in the headings of correspondence, forms, reports and ■ IRM 4.10.15.1.6 - Related Resources workpapers. (Figure 3) Figure 3 Case Information Name: Home Name control Home Fax Mobile Address. Potentially dangerous taxp This is the current address Extended Received 52/53week/

Step 2: Temporarily Change Form Type (cont'd)

Form 1040-NR Examination Adjustments in RGS

Considerations	Resources
Verify the Forms, Letters and Lead Sheets Are Populated With Form 1040-NR	■ IRM 4.10.15.7.4 - Return Set Up
Once the Form Type in Case Information is temporarily changed, most of forms, letters and lead sheets should populate with Form 1040-NR.	■ IRM 4.10.9.7.1 - Workpapers: Headers and Footers
It is important to note that some forms such as Form 9984, Examining Officer's Activity Record, Form 3198, Special Handling Notice for Examination Case Processing, Form 4549, Report of Income Tax Examination Changes, Form 4089-B, Notice of Deficiency - Waiver, and Form 5344, Examination Closing Record, will either have no return number or indicate MFT 30. Examiners must verify accuracy of those forms and manually enter Form 1040-NR when necessary.	■ IRM 4.10.8.2.1 - Overview of Audit Reports
Change the Form Type Back to Form 1040 Immediately After Printing	
Always remember to change the Form type on Case Information back to 1040 whenever the task of generating and printing workpapers is done and before backing up case to the RGS server. Failure to do so will cause the problems stated in step 1 and lost of data. When a new case is merged into the inventory, it will push the Form 1040NR case out of the numbered folder (e.g., 1040006) and put it into a generic folder (e.g., GENR001).	
Office Documents and Case File Documents for the Form 1040NR case will be deleted. Unsuccessful Case Closure will also result in an "M" Hold (appearing in your Query Group Inventory) due to a failed move to the Fileserver. An "M" Hold would prevent access to the case by the Group Manager, Centralized Case Processing (CCP), and Technical Services.	Pook to Toble of Contents

Form 1040NR Examination Adjustments in RGS

Step 3

Set up return and make adjustment.

Considerations	Resources
Return Setup	■ IRM 4.10.15.7.4 - Return Setup
Return Setup consists of numerous tabs corresponding to the Form 1040 and supporting schedules. The transcript, tax return and Return Setup must be reconciled at the start of an audit and at case closing. Examiners should be aware that incomplete or wrong Return Setup could result in an incorrect tax assessment.	■ IRM 4.10.15.7.6 - <i>Variance</i>
It is important to note that line numbers on a Form 1040NR do not match the lines on a Form 1040. When entering information in Return Setup, examiners should follow the line descriptions. Do not follow the line numbers on Form 1040NR.	
Run a Variance Analysis Report	
After Return Setup is completed, examiners must run a Variance Analysis Report since it enables checking the return input for accuracy. Examiners should be aware that if the variance is due to a return error, RGS will create an adjustment to be included on the examination report.	

Form 1040NR Examination Adjustments in RGS

Considerations	Resources
Run a Variance Analysis Report (cont'd)	■ IRM 4.10.15.1.6.1 - User Support for
CONSULTATION: Generally, most variances result from input errors or incomplete	RGS and CEAS
data in Return Setup. However, examiners may need to contact a taxpayer to request additional information to complete certain fields. Otherwise, contact the RGS coordinator directly or the Functional Automation Support (FAS) Staff for further	■ IRM 4.10.15.7.6 - <i>Variance</i>
assistance in resolving variances.	■ IRM 4.10.15.7.4 - Return Setup
Establishing Return Setup and running a Variance Analysis Report should be completed prior to entering examination adjustments. Examiners must ensure the information in RGS is accurate and there is no variance, then save and close.	
Filing Status	
In order to compute tax, examiners must determine whether a non-resident alien (NRA) taxpayer selected correct filing status on Form 1040NR. An NRA taxpayer's filing status determines a tax rate schedule which would be used to calculate for the taxpayer's ECI. Therefore, examiners must ensure that the taxpayer's filing status is accurately reflected in RGS.	
If CFOL data is not available, the filing status defaults to Single without a secondary Social Security Number (SSN). If any other filing status applies, click the option for the appropriate filing status.	

Form 1040NR Examination Adjustments in RGS

Considerations	Resources
Filing Status (cont'd)	■ IRM 4.10.15.7.4 - Return Setup
CAUTION: For years prior to 2018, married NRAs who are not married to U.S. citizens or residents generally must select Married Filing Separate (MFS) filing status when determining the tax on ECI. Due to the Tax Cuts and Jobs Act (TCJA), after tax year 2018 these taxpayers need to select Married NRA filing status.	
However, some qualified married NRAs still can select Single filing status if they live apart from their spouse during the last 6 months of the year and they are a married resident of Canada, Mexico, or South Korea, or are a married U.S. national. The TCJA has no impact on this issue.	
Although, NRA taxpayers are not allowed to select head of household filing status at any time during the tax year, exceptions may apply. As for the Form 1040NR-EZ, there are only two filing statuses: Single NRA or Married NRA. For additional explanation of filing status, consult with Publication 519, <i>U.S. Tax Guide for Aliens</i> , and Instructions to Form 1040-NR and Form 1040NR-EZ for applicable tax years.(Figure 4)	

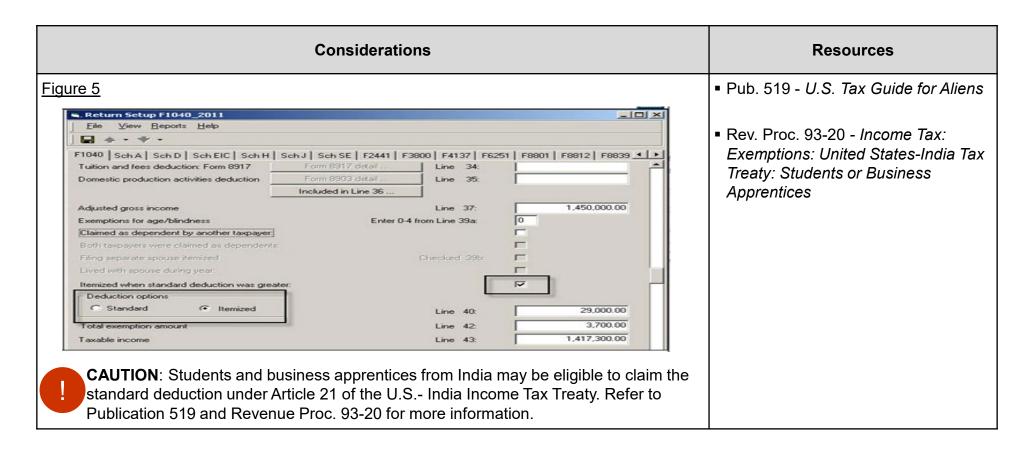
Form 1040NR Examination Adjustments in RGS

		Resources		
ing Sta gure 4	atus (cont'd)			■ IRM 4.10.15.7.4 - Return Setup
	Form 1040 Filing Status	NRA Filing Status (Pre-TY 2018)	NRA Filing Status (Post- TY 2018) *	
	Single	Single resident of Canada, Mexico, or single U.S. National, or Other single nonresident alien	Single nonresident alien	
	Married Filing Separate (MFS)	Married resident of Canada, Mexico, or married U.S. national, or Married resident of South Korea, or Other married nonresident alien	Married nonresident alien	
	Married Filing Jointly (MFJ)	Qualifying widow(er)	Qualifying widow(er)	

Form 1040NR Examination Adjustments in RGS

Considerations	Resources
Itemized vs. Standard Deductions	■ IRM 4.10.15.7.4 - Return Setup
In general, NRA taxpayers are not allowed to take the standard deduction; however, they are allowed to deduct certain itemized deductions if they receive effectively connect Income (ECI) with their U.S. trade or business.	
When inputting total itemized deductions on a Form 1040 tab of Return Setup, examiners should check a box to the right of the line "Itemized when standard deduction was greater" on the 1040 tab. In addition, it is important to click "Itemized" radio button in the Deduction options section (Figure 5)	
Complete Schedule A or leave blank if applicable. As long as the "Itemized when Standard Deduction was Greater" is checked, then RGS will post \$0 for Itemized Deductions if applicable.	

Form 1040NR Examination Adjustments in RGS



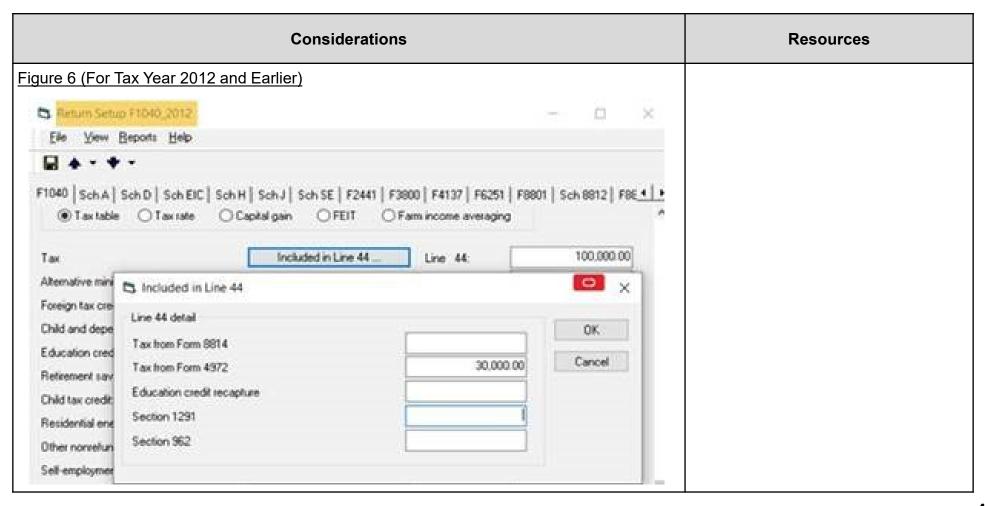
Form 1040NR Examination Adjustments in RGS

Considerations	Resources
NRA taxpayers have U.S. source income that is NEC income, it should be reported on Schedule NEC(Form 1040-NR), Tax on Income Not Effectively Connected With a U.S. Trade or Business. The NEC income could include interest (other than original issue discount), dividends, rents, salaries, wages, premiums, annuities, gains from sale or exchange of patents, copyrights, etc. Refer to Instructions to Form 1040-NR for more details.	■ Form 1040-NR Instructions
The current RGS application is not equipped with a recharacterized income adjustment from NEC income to ECI. Examiners must enter two separate adjustments in RGS. First, add the NEC income as ECI, and then reduce the tax from NEC income from a U.S. trade or business by the tax from income recharacterized as ECI. An example shown in Example of the Process demonstrates the RGS examination processes in detail.	

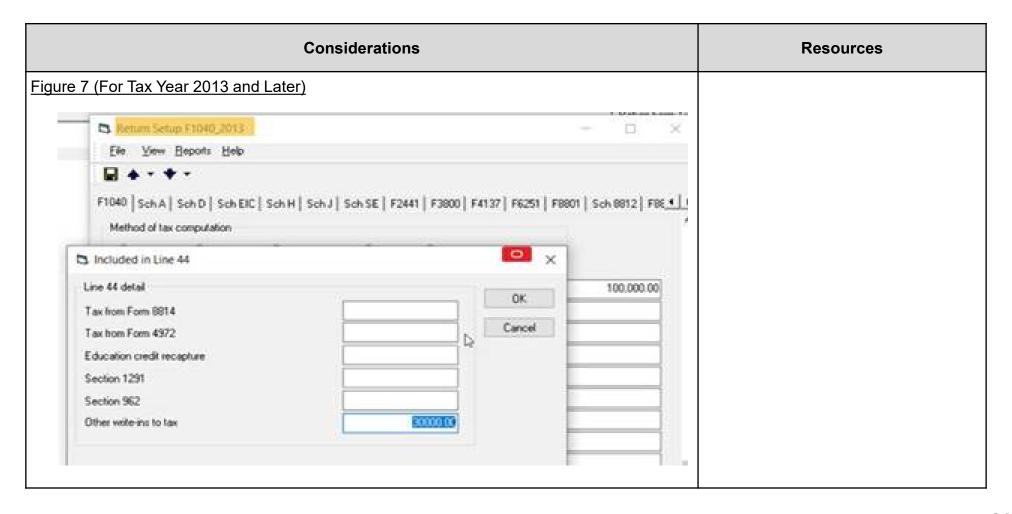
Form 1040NR Examination Adjustments in RGS

Considerations	Resources
Tax on NEC Income	■ IRM 4.10.15.1.6 - Related Resources
In general, tax must be withheld at the source on NEC income with a U.S. trade or business that is paid to NRAs. Withholding on NEC income is at a 30% rate. However, the withholding tax rate may be lower, or the income may be exempt if an NRA taxpayer's country of tax residence and the United States have a treaty setting lower rates.	■ IRM 4.10.15.7.11 - Tax Computation
When adjusting a tax on NEC income, examiners must note that current RGS application is not able to compute tax on NEC income from a U.S. trade or business. Therefore, examiners are required compute tax on adjustments to NEC income outside of RGS first and then enter the resulting tax as a tax adjustment. It is critical that examiners not enter an income adjustment.	
First, examiners must add tax on NEC income to "Tax" in Return Setup. Next, click on "Included in Line 44." Lastly, enter the NEC tax on the line entitled "Tax from Form 4972," and then save and close. (Figure 6)	
CAUTION : The Tax on the line entitled "Tax from Form 4972" would apply for tax years 2012 and earlier. For tax years 2013 or later, the examiner can use "Other write-ins to tax."	

Form 1040NR Examination Adjustments in RGS



Form 1040NR Examination Adjustments in RGS



Form 1040NR Examination Adjustments in RGS

Considerations	Resources
Self-Employment (SE) Tax	■ IRM 4.10.15.1.6 - Related Resources
Generally, NRA taxpayers are not subject to SE tax. Therefore, examiners ensure that Schedule C, Profit or Loss From Business (Sole Proprietorship), adjustments must be categorized as "other earned income not subject to SE tax," otherwise, RGS will compute SE tax.	
However, in any case, if NRA's Schedule C income is subject to SE tax, examiners may enter the income on line 13, Business Income. The same SE tax rate will apply.	

Examples of the Process

Form 1040NR Examination Adjustments in RGS

Description

Here is a simplified example to illustrate the general process discussed in this Unit. The steps recommended in this Unit are not intended to be all-inclusive nor are they applicable in all cases.

During an examination of a 2018 Form 1040-NR, an examiner determines that the \$100,000 reported as royalty income on page 4 of the Schedule NEC should be re-characterized as ECI. The royalty income which the taxpayer reported as NEC income was taxed at a flat 30% rate and the resulting adjustment will be subject to the taxpayer's marginal income tax rate, 35%. The adjustment resulted in additional net tax due of \$5,000.

The examiner follows the steps below:

- 1. Create an issue for the income adjustment of \$100,000. That should be the IMF Code for 41021, F1040 Exemptions & Income, Other income.
- 2. Rename the issue to "Income re-categorized as effectively connected."
- 3. Enter the \$100,000 adjustment as AGI Adj, Other income unearned, other income, not net investment income.
- 4. Create an adjustment to reduce the tax to the extent of the NEC income reduction for \$30,000. The IMF code is 61055 -F1040 Taxes & Credits, Tax on qualified plans.
- 5. Rename the issue to "Not effectively connected tax."
- 6. Categorize as Taxes, "Other write-ins to tax."

The examiner calculates additional tax amount on net adjustment of the re-characterization as follows:

Tax on NEC Income per tax return: \$30,000 (\$100,000 times 30%)

Tax on ECI per audit: \$35,000 (\$100,000 times 35%)

Additional Tax: \$5.000

Other Considerations / Impact to Audit

Form 1040NR Examination Adjustments in RGS	
Considerations	Resources
Capturing of EOAD data is mandatory for all examinations and must be entered for all Issues, including those which are declassified or no-changed. EOAD data includes Categorization, Per return, Per exam, Adjustment, Agreed, Reason code, Form/Schedule, Line number, Rental Type Code and PBA/NAICS codes.	 IRM 4.10.16 - Examination Operational Automation Database (EOAD) IRM 4.10.15.11 – Users of RGS Data
Electronic RGS case data is used by various stakeholders in the administration of the tax laws and for various studies and reference. These stakeholders include but are not limited to Government Accountability Office (GAO), Treasury Inspector General for Tax Administration (TIGTA), Taxpayer Advocate Service (TAS), Department of Justice (DOJ) and Appeals. In addition, EOAD data is shared with various state and local taxing authorities.	■ IRM 4.10.15.11 - Users of RGS Data
LB&I Quality Measurement System (LQMS) case reviews will be completed by Quality and Special Projects (QSP) reviewers. The most frequently cited errors in LQMS are document headings which displayed the wrong tax return number, specifically Form 1040 on Form 1040-NR cases. Therefore, examiners should verify workpaper and lead sheet headings, as well as letters and make sure that correct tax return number is displayed.	■ IRM 4.46.5.8.1 - Quality Case Reviews

Index of Referenced Resources

Form 1040NR Examination Adjustments in RGS
IRM 4.10.8.2.1 - Overview of Audit Reports
IRM 4.10.9.7.1 - Workpapers: Headers and Footers
IRM 4.10.15.1.6 - Related Resources
IRM 4.10.15.5 - Creating Cases
IRM 4.10.15.7.4 - Return Setup
IRM 4.10.15.7.6 - Variance
IRM 4.10.15.7.11 - Tax Computation
IRM 4.10.15.11 - Users of RGS Data
IRM 4.10.16 - Examination Operational Automation Database (EOAD)
IRM 4.46.5.8.1 - Quality Case Reviews
Pub. 519 - U.S. Tax Guide for Aliens
Rev. Proc. 93-20 - Income Tax: Exemptions: United States-India Tax Treaty: Students or Business Apprentices

Form 1040-NR Instructions

Training and Additional Resources

Form 1040NR Examination Adjustments in RGS	
Type of Resource	Description(s)
Saba Meeting Sessions	■ Form 1040-NR Workarounds in RGS (Practice Network Event) - 2020-01
White Papers / Guidance	■ The 1040NR Workarounds Job Aid on RGS Website
Other Training Materials	■ RGS Campus Tax Examiner User Guide

Glossary of Terms and Acronyms

Term/Acronym	Definition
BNA	Bureau of National Affairs
ССР	centralized Case Processing
CEAS	Correspondence Examination Automation Support
CFOL	Corporate Files On Line
DOJ	Department of Justice
ECI	Effectively Connected Income
EOAD	Examination Operational Automation Database
FAS	Functional Automation Support
FDAP	Fixed, Determinable, Annual, or Periodical (FDAP)
GAO	Government Accountability Office
IRM	Internal Revenue Manual
LB&I	Large Business & International
LQMS	LB&I Quality Measurement System
NAICS	The North American Industry Classification System
NEC	Not Effectively Connected
NRA	Nonresident Allen
РВА	Principal Business Activity

Glossary of Terms and Acronyms (Cont'd)

Term/Acronym	Definition
QSP	Quality and Special Project
RGS	Return Generation Software
SE	Self-Employment
SSN	Social Security Number
TAS	Taxpayer Advocate Service
TCJA	Tax Cuts and Jobs Act
TIGTA	Treasury Inspector General for Tax Administration.

Index of Related Practice Units

Associated UIL(s)	Related Practice Unit
	None at this time.