

IRM PROCEDURAL UPDATE

DATE: 01/02/2015

NUMBER: WI-21-0115-0029

SUBJECT: New IRM Section for Affordable Care Act, Update to Streamline Filing Procedures

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

CHANGE(s):

IRM 21.8.1.26 Added Affordable Care Act procedures and renumbered the entire section.

1. The Patient Protection and Affordable Care Act (ACA) (PL 111-148), has added or modified several provisions to the Internal Revenue Code.
2. The following subsections provide procedures for adjusting IMF International accounts based on the ACA.

IRM 21.8.1.27.2.1(9) IRM 21.8.1.27.2.1(5) Added exception for Miscellaneous Offshore penalties over \$60,000.

1. Filers from within the United States will submit a package to a specific mailbox in Submission Processing in Austin. The filing package containing complete and accurate amended returns using Form 1040X, *Amended U.S. Individual Income Tax Return* for each of the most recent 3 years for which the U.S. tax return due date (or properly applied for extended due date) has passed together with any required information returns (e.g., Forms 3520, 3520-A, 5471, 5472, 8938, 926, and 8621) even if these information returns would normally not be submitted with the Form 1040 had the taxpayer filed a complete and accurate original return. Taxpayers may NOT file delinquent original returns under these procedures.

NOTE: Filers are instructed to write, "Streamlined Domestic Offshore" in red at the top of the first page of each amended return.

2. In addition to the 1040X returns, domestic streamline filers must also submit a statement on the *Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures* attesting:
 - o The taxpayer or taxpayers are eligible for the SDO procedures
 - o The tax years and amounts owed for each year including interest (payment must be made).

- All required FBARs have now been filed
- The failure to report all income, pay all tax, and submit all required information returns, including FBARs, resulted from non-willful conduct
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[REDACTED]

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- The miscellaneous offshore penalty amount is accurate.
- 3. LB&I will review the submissions for statute considerations. LB&I will complete the "AM Streamline Coversheet" and attach it to the package notating their statute recommendations regarding open statutes and statute extensions.
- 4. Form 1040X cases will be scanned into CIS for Accounts Management processing and assigned to a designated IDRS number for subsequent assignment to CSR's.
- 5. One CSR must work all related cases.
- 6. Accounts Management will be responsible for reviewing the packages to ensure the necessary certifications are attached and complete. If they are incomplete AM will correspond with the taxpayer to perfect the submissions.
- 7. Use the table below to determine if the required certification is complete:

NOTE: If the taxpayer completes the certification for only one or two tax years, and submits the same number of amended returns, do not question whether additional years should have been submitted. As long as the tax years listed on the certification are filed, accept that the number is correct.

If	Then
The certification is attached, and: <ul style="list-style-type: none"> 1. The amounts owed for each tax year, including interest, are calculated, and 2. The amounts owed, including interest have been paid, and 3. The amounts paid equal the taxpayer's calculations, and 4. The taxpayer has completed the section stating the specific reasons for failure to report all 	The certification is complete. Follow the instructions in Paragraph 8 below.

<p>income, pay all tax, and submit all required information returns,</p> <p>#</p> <p>[REDACTED]</p> <p>#, and</p> <p>5. The miscellaneous offshore penalty is calculated and paid</p> <p>#</p> <p>[REDACTED]</p> <p>#</p> <p>6. The taxpayer(s) have signed the certification under penalties of perjury</p>	
<p>There is no certification attached or, the certification is attached but:</p> <ol style="list-style-type: none"> 1. The amounts owed for each tax year, including interest, are not calculated, or 2. The amounts owed, including interest, are not paid or, 3. The amounts paid do not equal the taxpayers calculations or, 4. The taxpayer does not complete the section stating the specific reasons for failure to report all income, pay all tax, and submit all 	<p>Call or correspond with the taxpayer. If corresponding, issue 178C, using the appropriate paragraph(s) to address the specific items missing from the certification. Suspend the case for 40 days.</p> <ul style="list-style-type: none"> o If the taxpayer responds with the necessary information, send the CIS case number to a designated mailbox: "*LB&I OVDP Compliance" with an explanation the case is being sent post assessment and is a Certification Reply. Enter CIS case notes saying referred to LB&I as a "Certification Reply". Then follow paragraph 8 below. o If the taxpayer does not respond, treat the case like a

<p>required information returns, including FBAR's, or</p> <p>5. The taxpayer does not calculate and or pay the miscellaneous offshore penalty, or</p> <p>6. The taxpayer does not sign the certification under penalties of perjury</p>	<p>normal 1040X case. Do not restrict the failure to file or failure to pay penalties and do not input TC 971 with Action Code(AC) 178.</p> <p>NOTE: The 178C letter includes language advising the taxpayer if they do not respond, the case(s) will be closed using normal procedures, so no closing letter is necessary for "No Reply" cases.</p> <ul style="list-style-type: none"> ○ After making the assessment on no response cases, e-mail the CIS case Identification Number to a designated mailbox: **LB&I OVDP Compliance" with an explanation the case is being sent post assessment and is a "No Reply." Enter CIS notes indicating the case was referred to *LB&I OVDP Compliance "No Reply".
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8. Accounts Management will perform the following actions prior to adjusting accounts under the SDO:

- Review the account for a -Z freeze. If there is a -Z freeze on the account, contact CI to determine whether an amended return filed using the Streamlined Foreign Domestic Compliance Procedures can be processed. Follow CI's direction. See -Z freeze instructions at IRM 21.5.6.4.52 -Z Freeze.
- Review each tax year for statute consideration. Refer to Statutes for clearance or assessment when necessary. See IRM 25.6 Statute of Limitations.
- Review Command Code AMDIS for examination involvement. Follow the table below if any of the affected accounts are found on Command Code AMDIS.

If	Then
<p>All affected tax years are in AMDIS Status less than 12</p>	<p>Process all related amended returns as streamline. Follow paragraph 9 below</p> <p>NOTE: Forward the case to Exam, based on the AIMS data (after processing as Streamlined) when</p>

	AMDIS status is 09 or greater and less than 90.
Any affected tax year is in AMDIS status 12 or greater	<ul style="list-style-type: none"> ○ Process all related amended returns as <u>normal</u> 1040X adjustments. Do not restrict penalties. Do not input TC 971 AC 178. Allow the adjustment notice(s) to generate. ○ Send Letter 916C with the following language using two open paragraph(s): "Our records show that the IRS already has an open examination for one or more of the years covered by your submission. For this reason, you are not eligible for the penalty relief provided under the Streamlined Procedures." "You should contact the examiner assigned to your pending examination to discuss the applicability of penalties and any defenses you may have for the years covered by your submission." ○ Notate CIS case notes, "Streamline case worked as normal due to open examination." ○ Forward the case to Exam, per the AIMS data, after processing.

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.

EXCEPTION: If the miscellaneous penalty is more than \$60,000 and fully paid, use hold code 3 on the MFT 55 adjustment.

6. **#** [REDACTED]

[REDACTED]

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