

## IRM PROCEDURAL UPDATE

**DATE:** 01/16/2015

**NUMBER:** WI-21-0115-0140

**SUBJECT:** BMF International Accounts Management

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

**CHANGE(s):**

### IRM 21.8.2.1.3(3) Removed disconnected fax number for ACS.

1. **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*.

<b>Title or Organization</b>	<b>Phone</b>	<b>Fax</b>
International (Taxpayer Customer Service)	267-941-1000**	# [REDACTED] # (number is for internal use only)
Automated Collection System (ACS)	267-941-1004**	
Automated Underreporter (AUR)	267-941-1026**	267-941-1023
Electronic Federal Tax Payment System (EFTPS)	303-967-5916	
Excise Tax (Form 720, Form 730, Form 2290 and Form 8849)	859-669-5733	
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	787-522-8601	787-522-8690
Taxpayer Advocate Service - Spanish speaking only	787-522-8600	

U.S. Certification Program	267-941-1000**	267-941-1035
----------------------------	----------------	--------------

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

**IRM 21.8.2.7.2(5) Added J and Q visa.**

5. A student in the United States with an **F, J, M, or Q** visa is not automatically exempt from FICA tax.
  - a. Generally, a student is not exempt from FICA if he or she was exempt as a student, teacher, researcher or trainee for more than any part of five calendar years.

**NOTE:** Check for Form 1040NR filing. Disallow if Form 1040NR was filed for more than 5 consecutive years.

- b. A student who has been exempt more than five years must be subject to the substantial presence test.
- c. If this individual meets the substantial presence test for the calendar year, he/she is considered a U.S. resident for tax purposes and therefore liable for FICA tax. The claim is not valid and must be disallowed. Input TC 290 .00 with Blocking Series 98 or 99 to disallow the claim and issue Letter 105C with the following fill-in:

<b>Letter Paragraph</b>
We have disallowed your claim because in accordance with Internal Revenue Code §7701(b) you meet the substantial presence test and are considered a resident alien. Therefore you do not qualify for exemption from FICA tax on wages.

**IRM 21.8.2.12.8 Added corresponding physical mailing address for PO Box address to paragraphs (9) and (10).**

9. Follow the procedures in the following table for processing amended 1042-S forms (submitted with or without Form 1042):

<b>IF</b>	<b>THEN</b>
Making adjustments for prior years to the amount of tax reported, or to amounts that were actually withheld resulting in a tax decrease	Reject and advise, using a Letter 916C, that an income tax return must be filed to claim the overwithheld amount. Input TC 290.00, Blocking Series 18 or 15 for cases worked in CIS.

The change is for the correction of a math error only in the liability reported on the original return, or to correct errors in ownership	Allow (Form 1042 must be attached). Send original/amended 1042-S forms to Ogden Submission Processing Campus at: <b>Mailing Address</b> , Internal Revenue Service, Ogden Submission Processing Campus P.O. Box 409101 Ogden, UT 84409 or <b>Physical Address</b> , Internal Revenue Service Ogden Submission Processing Campus 1973 N. Rulon White Blvd. Ogden, UT 84404
Change accepted by Examination	Adjust the Form 1042. Input the adjustment (TC 29X) with Reference Code 011.
An amended Form 1042 return is received showing an underpayment or under withholding resulting in a tax increase	<p>The withholding agent is liable for the entire tax and interest from the due date. Assess the additional tax. Adjust penalty if necessary. See IRM 20.1.4.21.3, <i>Amended or Supplemental Return (Tax Decrease or Non-interest-free Tax Increase)</i>, for additional information.</p> <p><b>CAUTION:</b> If an additional payment is not on the account, research IDRS for corresponding payment that may have posted to the current tax period, a different tax liability or for a TC 650 for an amount greater than zero, which may indicate a misapplied payment. If an additional payment is located, transfer using CC ADD/ADC 24 or ADD/ADC 34.</p>

**REMINDER:** The amount of tax withheld on income for foreign persons under sections 1441 through 1446, and the amount of tax assumed under section 1451 are chapter 3 taxes. Accordingly, to the extent that an overpayment arises from those taxes being deducted, withheld and reported on Form 1042, the 180-day period applies. See IRM 21.8.2.9.6.1, *180-day interest-free Period for Chapter 3 Withholding*.

**NOTE:** With the large amounts of gross income now being reported, there may not be enough space to enter the full amount for Reference Code 011 on REQ54. Enter as much as the system allows and initiate additional TC 290.00, Hold Code 3, Reference Code 011 REQ54 adjustments until the total of these adjustments reflect the full amount needed.

10. Amended/corrected 1042-S forms are sometimes submitted with the amended Form 1042. In this case, the corrected 1042-S form is regarded as a supporting schedule for adjustments. If the corrected 1042-S form is with the amended Form 1042, attach copies of the 1042-S forms to the adjustment document. Send the original corrected/amended 1042-S forms to:

**Mailing Address**, Internal Revenue Service  
Ogden Submission Processing Campus  
P.O. Box 409101  
Ogden, UT 84409  
or **Physical Address**, Internal Revenue Service  
Ogden Submission Processing Campus  
1973 N. Rulon White Blvd.  
Ogden, UT 84404

**IRM 21.8.2.12.11(11) Added corresponding physical mailing address for PO Box address.**

11. Send all original corrected/amended 1042-S forms to:

**Mailing Address**, Internal Revenue Service  
Ogden Submission Processing Campus  
P.O. Box 409101  
Ogden, UT 84409  
or **Physical Address**, Internal Revenue Service  
Ogden Submission Processing Campus  
1973 N. Rulon White Blvd.  
Ogden, UT 84404

**IRM 21.8.2.17 Added new IRM section and subsections for Streamline Filing Compliance Initiative and renumbered the remaining sections and subsections.**

**Streamlined Filing Compliance**

1. The implementation of the Foreign Account Tax Compliance Act (FATCA) and the ongoing efforts of the IRS and the Department of Justice to ensure compliance by those with U.S. tax obligations have raised awareness of U.S. tax and information reporting obligations with respect to non-U.S. investments.
2. Because the circumstances of taxpayers with non-U.S. investments vary widely, the IRS offers Streamlined Filing Compliance Procedures (SFC).

3. These procedures have been in existence since September 2012. However, due to the increase in global economics, the streamlined filing compliance procedures have been expanded and modified to accommodate a broader group of U.S. taxpayers. For further information refer to Streamline Filing Compliance Procedures on [irs.gov](http://irs.gov).
4. Previously, the procedures were only available to filers outside the United States. The Streamlined Filing Compliance procedures have been expanded to provide a means for U.S. taxpayers living in the United States to correct tax non-compliance with respect to non-U.S. investments resulting from non-willful conduct.
5. If the IRS has initiated a civil examination for any year covered by the submission, regardless of whether it relates to undisclosed foreign financial accounts, the taxpayer will not be eligible to use these procedures. See specific instructions in the sections below for taxpayers with open audits. Similarly, a taxpayer under criminal investigation by IRS Criminal Investigation (CI) is also ineligible to use these procedures. See specific instructions in the sections below for tax accounts with CI activity.
6. The SFC cannot be used for reasonable cause purposes for previously filed returns. Therefore, penalty assessments made on previously filed returns will not be abated based solely on the filing of SFC original or amended returns. Normal reasonable cause procedures would still apply to previously filed returns; Example - A taxpayer late-filed a tax year 2011 Form 1041 and received a failure to file and failure to pay tax penalty. The filing of an amended return for tax year 2011 under SFC procedures is not reasonable cause for abatement of the previously assessed penalties.
7. Taxpayers filing under SFC must include a certification, signed under penalty of perjury, which includes all of the required elements. There are two separate certifications. One is titled: "Certification by U.S. Person Residing Outside of the United States for Streamlined Foreign Offshore Procedures" and the other is titled: "Certification by U.S. Person Residing in the United States for Streamlined Domestic Offshore Procedures".
8. The following sections provide procedural guidance for Accounts Management assistants to process amended returns filed under Streamlined Filing Compliance.

#### **IRM 21.8.2.17.1**

##### **Streamlined Filing Compliance - U.S. Taxpayers Residing Outside the United States**

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:
  - 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
  - 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*.

#



#

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 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
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	A U.S. tax return has been filed previously	<p>1) Submit a complete and accurate amended return, 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 amended return had the taxpayer filed a complete and accurate original return.</p> <p><b>NOTE:</b> Filers are instructed to write, "Streamlined Foreign Offshore" in red at the top of the first page of each amended return.</p> <p>2) Taxpayers will also complete,</p>

		<p>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 21.8.2.17.1.1**

Adjusting Streamlined Filing Compliance Foreign Offshore Accounts (Streamlined Foreign Offshore - SFO)


1. Filers from outside the United States will submit a package to a specific mailbox in Submission Processing in Austin. The filing package will contain:
  - Complete delinquent tax returns, together with the required information returns (Forms 3520, 3520-A, 5471, 5472, 8938, 926, or 8621) for each of the most recent three years for which the U.S. tax return due date, including extensions is past or
  - If a U.S. tax return has been filed previously, filers will submit a package containing amended returns, together with the required

- information returns (Forms 3520, 3520-A, 5471, 5472, 8938, 926, or 8621) for each of the most recent three years for which the U.S. tax return due date, including extensions is past.
2. For both delinquent originals and amended returns, filers are instructed to write at the top of the first page of each return, and each information return, "Streamlined Foreign Offshore".
  3. For both delinquent originals and amended returns, filers must submit a signed certification statement certifying:
    - The taxpayer or taxpayers are eligible for the SFO program
    - The tax years and amounts owed for each year (including interest) and make payment for those amounts due
    - The taxpayer has filed all appropriate FBAR's
    - The specific reasons for failure to report all income, pay all tax, and submit all required information returns including FBAR's
  4. Submission Processing (SP) in Ogden will review the packages that contain both original and amended returns. SP will ensure the necessary certifications are attached and complete. If they are incomplete SP will correspond with the taxpayer to perfect the submissions. SP will attach an "AM Streamline Coversheet" to cases they have corresponded with the taxpayer on and notate the response, e.g. "Response Received and Attached" or "No Reply". Submission Processing will not review packages that contain only amended returns. Paragraph 9 below provides detailed information on corresponding in order to perfect streamline packages.
  5. 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.
  6. Delinquent original returns will be processed in SP.
  7. Amended returns will be scanned to CIS for Accounts Management processing and assigned to a designated IDRS number for subsequent assignment to CSRs.
  8. One CSR must work all related cases.
  9. 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 original and/or amended returns, do not question whether additional years should have been submitted. As long as the tax years listed on the certification are filed (whether original or amended), accept that the number is correct.

If	Then
<p>The certification is attached, and:</p> <ol style="list-style-type: none"> <li>1. The amounts owed for each tax year, including interest, are calculated, and</li> <li>2. The amounts owed,</li> </ol>	<p>The certification is complete. Follow the instructions in Paragraph 10 below.</p>



<p>including interest, have been paid, and</p> <p>3. The amounts paid equal the taxpayer's calculations, and</p> <p>4. The taxpayer has completed the section stating the specific reasons for failure to report all income, pay all tax, and submit all required information returns,</p> <p>#</p> <p></p> <p>#, and</p> <p>5. The taxpayer(s) have signed the certification under penalties of perjury</p>	
Submission Processing has previously corresponded with the taxpayer for missing/incomplete information and received the necessary information, per the AM Streamline Worksheet	The certification is complete. Follow the instructions in Paragraph 10 below.
Submission Processing has previously corresponded with the taxpayer for missing/information and received no reply, per the AM Streamline Worksheet	Do not correspond a second time. Follow the instructions in the row below (no reply), beginning with the second bullet.
<p>There is no certification attached or, the certification is attached but:</p> <p>1. The amounts owed for each tax year, including interest, are not calculated, or</p> <p>2. The amounts owed, including interest, are not paid</p>	<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"> <li>○ If the taxpayer responds with the necessary information, send</li> </ul>

<p>or,</p> <p>3. The amounts paid do not equal the taxpayers calculations or,</p> <p>4. The taxpayer does not complete the section stating the specific reasons for failure to report all income, pay all tax, and submit all required information returns, including FBAR's, or</p> <p>5. The taxpayer does not sign the certification under penalties of perjury</p>	<p>the CIS case number to a designated mailbox: "*LB&amp;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&amp;I as a "Certification Reply". Then follow paragraph 10 below.</p> <ul style="list-style-type: none"> <li>○ If the taxpayer does not respond, treat the case like a normal amended return. Do not restrict the failure to file or failure to pay penalties and do not input TC 971 with Action Code(AC) 178.</li> </ul> <p><b>NOTE:</b> 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"> <li>○ After making the assessment on no response cases, e-mail the CIS case Identification Number to a designated mailbox: "*LB&amp;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&amp;I OVDP Compliance due to "No Reply".</li> </ul>
--	--

10. Accounts Management will perform the following actions prior to adjusting accounts under the SFC:
- 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 Offshore 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
All affected tax years are in AMDIS status less than 12	<p>Process all related amended returns as Streamline. Follow paragraph 11 below.</p> <p><b>NOTE:</b> Forward the case to Exam, based on the AIMS data (after processing as Streamlined) when AMDIS status is 09 or greater and less than 90.</p>
Any tax year is in AMDIS status 12 or greater	<ul style="list-style-type: none"> <li>○ Process all related amended returns as <u>normal</u> amended adjustments. Do not restrict penalties. Do not input TC 971 AC 178. Allow the adjustment notice(s) to generate.</li> <li>○ 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."</li> <li>○ Notate CIS case notes, "Streamline case worked as normal due to open examination."</li> <li>○ Forward the case to Exam, per the AIMS data, after processing.</li> </ul>

11. To complete adjustments on amended returns 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 21.8.2.17.2**

##### **Streamlined Filing Compliance - U.S. Taxpayers Residing in the United States**

1. As noted in 21.8.1.27(4) above, individual U.S. taxpayers, or estates of individual U.S. taxpayers are eligible to use the Streamlined Filing program if:
  - o They are a U.S. Resident. For joint return filers, one or both of the spouses must be a U.S. resident.

#

[REDACTED]

#

- o They have previously filed a U.S. tax return (if required) 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
- o They have failed to report gross income from a foreign financial asset and pay tax as required by U.S. law, and may have failed to file an

FBAR (FinCEN Form 114, previously Form TD F 90-22.1) and/or one or more international information returns (e.g., Forms 3520, 3520-A, 5471, 5472, 8938, 926, and 8621) with respect to the foreign financial asset.

- The failures above resulted from non-willful conduct

#



#

2. Under the SFC described in this section, U.S. taxpayers eligible to use these procedures who have not reported income or paid tax as required by U.S. law for any of the 3 years in the covered period will file amended returns together with all required information returns (Forms 3520, 3520-A, 5471, 5472, 8938, 926, or 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. Eligible filers will also calculate a Title 26 miscellaneous offshore penalty equal to 5 percent of the highest aggregate balance/value of the taxpayer's foreign financial assets that are subject to the miscellaneous offshore penalty during the years in the covered tax return period and the covered FBAR period. Payment of the tax, penalty, and interest due in connection with these filings must be remitted with the amended returns. For further information refer to Streamline Filing Compliance Procedures on [irs.gov](http://irs.gov).
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
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	A U.S. tax return has been filed previously	<p>1) Submit a complete and accurate amended return, 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 amended return had the taxpayer filed a complete and accurate original return.</p> <p><b>NOTE:</b> Filers are instructed to write, "Streamlined Domestic Offshore" in red at the top of the first page of each amended</p>

		<p>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 late payment amounts.</p>
--	--	---

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:
  - 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. 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 21.8.2.17.2.1**

Adjusting Streamlined Filing Compliance Domestic Accounts - (Streamlined Domestic Offshore - SDO)

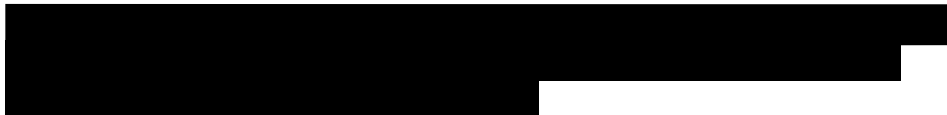
1. Filers from within the United States will submit a package to a specific mailbox in Submission Processing in Austin. The filing package containing complete and accurate amended returns for each of the most recent 3 years for which the U.S. tax return due date (or properly applied for extended due

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 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 amended 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:
  - The taxpayer or taxpayers are eligible for the SDO procedures
  - 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

#





#

- 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. Amended returns 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:	The certification is complete. Follow the instructions in Paragraph 8 below.

<p>1. The amounts owed for each tax year, including interest, are calculated, and</p> <p>2. The amounts owed, including interest have been paid, and</p> <p>3. The amounts paid equal the taxpayer's calculations, and</p> <p>4. The taxpayer has completed the section stating the specific reasons for failure to report all income, pay all tax, and submit all required information returns,</p> <p>#</p> <p></p> <p>#, and</p> <p>5. The miscellaneous offshore penalty is calculated and paid</p> <p>#</p> <p></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>	<p>Call or correspond with the taxpayer. If corresponding, issue 178C, using the appropriate paragraph(s) to address the specific items missing from the</p>



<ol style="list-style-type: none"> <li>1. The amounts owed for each tax year, including interest, are not calculated, or</li> <li>2. The amounts owed, including interest, are not paid or,</li> <li>3. The amounts paid do not equal the taxpayers calculations or,</li> <li>4. The taxpayer does not complete the section stating the specific reasons for failure to report all income, pay all tax, and submit all required information returns, including FBAR's, or</li> <li>5. The taxpayer does not calculate and or pay the miscellaneous offshore penalty, or</li> <li>6. The taxpayer does not sign the certification under penalties of perjury</li> </ol>	<p>certification. Suspend the case for 40 days.</p> <ul style="list-style-type: none"> <li>○ If the taxpayer responds with the necessary information, send the CIS case number to a designated mailbox: "*LB&amp;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&amp;I as a "Certification Reply". Then follow paragraph 8 below.</li> <li>○ If the taxpayer does not respond, treat the case like a normal amended return. Do not restrict the failure to file or failure to pay penalties and do not input TC 971 with Action Code(AC) 178.</li> </ul> <p><b>NOTE:</b> 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"> <li>○ After making the assessment on no response cases, e-mail the CIS case Identification Number to a designated mailbox: "*LB&amp;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&amp;I OVDP Compliance "No Reply".</li> </ul>
--	--

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
All affected tax years are in AMDIS Status less than 12	<p>Process all related amended returns as streamline. Follow paragraph 9 below</p> <p><b>NOTE:</b> Forward the case to Exam, based on the AIMS data (after processing as Streamlined) when AMDIS status is 09 or greater and less than 90.</p>
Any affected tax year is in AMDIS status 12 or greater	<ul style="list-style-type: none"> <li>○ Process all related amended returns as normal amended returns. Do not restrict penalties. Do not input TC 971 AC 178. Allow the adjustment notice(s) to generate.</li> <li>○ 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."</li> <li>○ "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."</li> <li>○ Notate CIS case notes, "Streamline case worked as normal due to open examination."</li> <li>○ Forward the case to Exam, per the AIMS data, after processing.</li> </ul>

9. To complete adjustments amended returns 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 13 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 13 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 13 adjustment.

6. #   


#