

## IRM PROCEDURAL UPDATE

**DATE: 01/20/2016**

**NUMBER: WI-21-0116-0138**

**SUBJECT: BMF International Accounts Management**

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

**CHANGE(s):**

### **IRM 21.8.2.1.2 Updated the American Samoa Economic Development Credit information.**

1. BMF International Corporate Income Tax Returns:
  - Form 1120 and Form 1120-C with Form 1118, Form 5712, Form 5712-A, Form 5735, and Schedule P

**NOTE:** American Samoa Economic Development Credit, reported on Form 5735, was extended to the first eleven taxable years which begin after December 31, 2006 and before January 1, 2017 by H.R. 8, *American Taxpayer Relief Act of 2012*.

- Form 1120-F, U.S. Income Tax Return of a Foreign Corporation
- Form 1120-FSC (Foreign Sales Corporation) and Form 8279 (FSC election)

**NOTE:** Form 1120-FSC is being phased out. For new elections, Form 8873, Extraterritorial Income Exclusion, can be filed as an attachment to an income tax return.

2. BMF International Employment Tax Returns:
  - Form 940-PR
  - Form 941-PR
  - Form 941-SS
  - Schedule H (PR) (estate or church employees)
  - Form 943-PR
  - Form 944 (SP)
3. BMF Foreign Withholding Tax Returns:
  - Form 1042
  - Form 8288
  - Form 8804
4. Foreign Trust and Estate Tax Returns:
  - Form 1040NR (Fiduciary)
  - Form 3520

- Form 3520-A
- 5. BMF Foreign Exempt Organization Returns:
  - Foreign and U. S. territory addressed Form 990
  - Form 990-PF and Form 990-T with Form 1118, Form 5712, Form 5712-A, Form 5735, or Schedule P attached. See Note in (1) above regarding Form 5735 and Schedule P.
- 6. BMF Foreign Information Statements:
  - Form 8805
  - Form 8813
  - Alien Exemption Certificate Form W-8, Form 1001, Form 4224, Form 8233, and Form 8709

**NOTE:** These Alien Certification Forms, except Form 8233, became obsolete on December 31, 2000.

- Alien Exemption Certificate Form W-8BEN-E, Form W-8ECI, Form W-8EXP, Form W-8IMY, and Form W-8CE.
- 7. NMF International Income Tax Returns:
  - Form 1120-IC-DISC K-1
  - Form 926
  - Form 8404
  - Form 1040NR Fiduciary
- 8. Forms Associated with Foreign Withholding Tax Returns:
  - Form 8288A
  - Form 8805, Form 8813
  - Form 1042-S, Form 1042-T

#### **IRM 21.8.2.7.1.1 Updated Form I-766 and provided more background information on OPT and CPT.**

1. This subsection provides background information; it does not contain adjustment procedures. F-1 and M-1 students may engage in two types of temporary employment that is directly related to their area of study: Optional Practical Training (OPT) and Curricular Practical Training (CPT). F-1 and M-1 students may be authorized to receive up to 12 months of full-time practical training at each educational level (e.g., a bachelor's level, a master's level), but students who receive science, technology, engineering, and mathematics (STEM) degrees may apply for an additional 17 months of OPT (OPT STEM Extension).

**NOTE:** M-1 students may engage in practical training only after they have completed their studies. F-1 students may participate in practical training before (pre-completion) and/or after (post-completion) they complete their studies. In order to be eligible for pre-completion OPT, F-1 students must have been enrolled for and completed one full academic year in the United States.

2. Optional Practical Training (OPT) is temporary employment that is directly related to an F-1 or M-1 student's area of study. F-1 and M-1 students may apply for OPT by filing an Application for Employment Authorization Document (Form I-765) with the USCIS. If approved, the USCIS will issue an Employment Authorization Document (EAD) (Form I-766) to the student. The EAD specifically states on the front that it is for "Student: Optional Practical Training". The permit allows employment either on or off the campus of the university that issued the student's Form I-20.
  - a. F-1 students often transfer to H-1 status before their OPT authorization ends. It is possible for someone who is currently in H-1 status to be eligible for a FICA refund provided the FICA was withheld from wages he or she earned while the OPT was in effect. He or she must meet the restrictions of IRC 3121(b)(19).

**NOTE:** M-1 students may not transfer to any H visa status if the training they received in the United States provided the qualifications for the employment they are seeking.

**NOTE:** Form I-797, *Notice of Action*, is a notice used by USCIS to notify an applicant of the approval of any change in status. It is also used as a receipt notice when an application is received and is pending at USCIS.

- b. Students with H-1 status, who previously had been F-1 or Q visa holder, can obtain a refund of FICA withheld up to the date their status was changed to H-1, if their EAD dates are current.
3. Curricular Practical Training (CPT), is alternative work/study, internship, cooperative education, or similar program that is offered by sponsoring employers through cooperative agreements with the F-1/ M-1 student's academic institution. A CPT must be part of an established curriculum.
  - a. The work permit is reflected on the back of the student's Form I-20 and is employer-specific.
  - b. The student **will not** have an EAD for CPT work authorization.

**NOTE:** J-1 students are not required to apply to USCIS for an EAD (Form I-766). The work permit is issued by the Responsible Officer of the Exchange Visitor Program and it should be reflected on the student's Form DS-2019.

#### **IRM 21.8.2.7.3 Removed old information and removed the "EXCEPTION" from Paragraph 4.**

1. All adjustments are done on the employer's Form 941 or Form 944 (Form 943 for H-2A claims) account and the resulting credit is transferred to the employee's account for refunding.
2. A complete claim contains the following substantiation:

- Completed and signed Form 843 claim for each employer. If the claim is for more than one employer, but otherwise complete with all required documentation, process the claim.
- Form W-2 (If not provided, attempt to verify the withholding amount using Command Code (CC) IRPTR, attach a print and accept).

#

#If the visa status changed, a copy of a pay statement with cumulative tax information is needed to verify the FICA amount claimed.

- A copy of the employee's visa.

**NOTE:** Canadian citizens are not required a visa to enter the United States directly from Canada for the purposes of visiting or studying.

- Form I-94, Arrival/Departure Record, or other documentation showing the dates of arrival and departure.

**NOTE:** Overseas filers no longer have the Form I-94 since the USCIS keeps this document when the student/visitor leaves the United States.

- Form I-20 (for F-1/M-1 visa(s) only) or DS-2019 (for J-1 visa only).
- Form 8316 or signed claim/statement verifying that unsuccessful attempts have been made to obtain a refund from the employer. Statements in lieu of the Form 8316 must include all the information requested on the Form 8316.

**NOTE:** Form I-766, (Employment Authorization Document) is issued by USCIS and is needed **only** if the student is engaged in optional practical training. See IRM 21.8.2.7.1.1.

3. If the employee has filed the appropriate tax return (Form 1040NR) and submitted the proper documentation, do the following:
  - a. Verify the employer has filed the final quarter Form 941 or annual Form 943/944 for the tax year corresponding to the claim.
  - b. If the employer's Form 941 return for the final quarter is not located or the account is in balance due status, adjust the preceding quarter, which must be within the same tax year;

**EXAMPLE:** If the final quarter for the tax year ending 201412 is not located, adjust 201409, then 201406 or 201403 in that order. If all quarters in the same tax year have a balance due, then follow procedures in IRM 21.8.2.7.3.1(2).

- c. If the employer's full paid Form 941/943/944 can't be located, perform the necessary IDRS research for the correct EIN.

**REMINDER:** The EIN provided may be the parent or subsidiary of another company or part of a merger/takeover, etc.

- d. If, after all available research has been exhausted, you are still unable to determine the filing of a return, or a full paid module, or the employer is in a balance due status for all quarters of, or the annual return for, the tax year in which the claim was filed, disallow the claim on the requester's income tax account. Refer to IRM 21.5.3.4.6.1, *Disallowance and Partial Disallowance Procedures*; include the following open paragraph in the disallowance letter:

Open Paragraph
Because our records do not indicate any payments being remitted to the Internal Revenue Service on your behalf for the particular tax period in question, we cannot allow the refund. You should contact your employer for the refund or to have him/her supply us with information substantiating that the payments corresponding to the taxes in question were paid.

**NOTE:** If the balance due on the employer's account (Form 941/943/944) is because of a penalty, the FICA claim may still be processed. **(Take steps to avoid creating an unpostable.)**

- 4. If an incomplete claim for FICA tax is received:
  - a. Send Letter 513C to the claimant requesting that the employee seek reimbursement from the employer. Return the Form 843 claim to the requester. "X" out the IRS received date on the Form 843 prior to mailing.
  - b. When sending a 513C to the **employee**, also send a Letter 512C to the **employer** advising the employer to reimburse the employee for any erroneously withheld FICA taxes and to file a Form 941-X, Form 943-X, or Form 944-X to correct the errors.

**NOTE:** These two letters are issued at the same time and reference each other in their content.

- 5. Refer to IRM 21.5.3, *General Claims Procedures*, for information on claim processing.

#### IRM 21.8.2.7.3.1 Updated Letter 288C and Letter 512C procedures.

1. When the employee has filed the appropriate tax return (Form 1040NR), submitted the proper documentation, and you have located the employer's Form 941/943/944:

- Input a TC 291 with appropriate Item Adjustment Codes to abate the student's portion of the FICA/Medicare wages and tax on the employer's account.

**CAUTION:** Pay special attention if a TC 606 is present in the employer's account. This transaction reverses when the TC 291 posts, which will cause the credit transfer part of the process to unpost if TC 606 is not addressed. See IRM 21.5.8.4.1, *IDRS Guidelines for Credit Transfers*, for additional information.

- Use Hold Code 4 and Blocking Series 15.
- Use Priority Code 8, if applicable, to avoid Unpostable Code (UPC) 328 RC 2.
- FLC 60.
- Category "IETP."
- Source Document (SD) employee portion of FICA (Attach Form 843 to the adjustment).
- Acknowledge all transactions that may be restricting the account. Do not overlay the "CORR DATE" field.
- Transfer credit from the employer's account to the employee's account. See (2) below.
- Inform the employer of the adjustment action using the new Paragraph "E" now available in Letter 512C (if the employer was sent the 512C Letter previously, then send Letter 288C. Refer to IRM 21.8.2.7.3 (4) b), for one explanation of why the employer may have been sent a 512C Letter previously.

<b>NOTE:</b>	<p>When sending Letter 288C you must use the statement as shown in the "Open Paragraph" below. Letter 288C is being revised to add a new paragraph containing the same statement. The Letter 288C revision is scheduled to be available in April 2016. Once the Letter 288C is revised you will use the new paragraph.</p>		
	<table><tr><th>Open Paragraph</th></tr><tr><td>Because you didn't reimburse the tax you erroneously withheld from your foreign employee, (name, SSN of employee), when we sent you a 512C Letter, we adjusted your wages by \$x,xxx.xx and refunded the tax to the employee. Please adjust your account accordingly on the attached Form (941-X, 943-X, or 944-X) for your portion of the tax. You must also file Form W-2C, <i>Corrected Wage and Tax Statement</i>.</td></tr></table>	Open Paragraph	Because you didn't reimburse the tax you erroneously withheld from your foreign employee, (name, SSN of employee), when we sent you a 512C Letter, we adjusted your wages by \$x,xxx.xx and refunded the tax to the employee. Please adjust your account accordingly on the attached Form (941-X, 943-X, or 944-X) for your portion of the tax. You must also file Form W-2C, <i>Corrected Wage and Tax Statement</i> .
Open Paragraph			
Because you didn't reimburse the tax you erroneously withheld from your foreign employee, (name, SSN of employee), when we sent you a 512C Letter, we adjusted your wages by \$x,xxx.xx and refunded the tax to the employee. Please adjust your account accordingly on the attached Form (941-X, 943-X, or 944-X) for your portion of the tax. You must also file Form W-2C, <i>Corrected Wage and Tax Statement</i> .			

- **Combined Annual Wage Reporting (CAWR) will assess additional tax on the employer's account if the employer does not file an amended Form (941-X, 943-X, or 944-X), Form W-2C, and Form W-**

**3C to correct the wages. Therefore, it is imperative to inform the employer of the adjustment action using the Letter 512C or Letter 288C, as appropriate.**

2. When transferring the erroneously withheld FICA credit from the employer's account to the employee's account, input the following on IDRS using CC ADD24:
  - Input TC 820 (for the amount of the TC 291) to the employer's account (Form 941/943/944). Use the normal (un-extended) due date of the Form 941, Form 943, Form 944 or the payment date (whichever is later) as the transaction date, and enter a two cycle Posting Delay Code. If there will be credit remaining on the account after the credit transfer posts, input TC 570 on this transfer and a TC 571 with a Posting Delay Code 4. If the employer account being adjusted has a balance due in the account being adjusted, do not use a TC 820. Instead, input a TC 652 or 672 to avoid an unpostable situation (Unpostable Code (UPC) 325). Apply credits (TC 650/670) beginning with most current paid date.

**CAUTION:** When the module balance is less than the erroneously withheld FICA credit, follow standard adjustment procedures, which may require adjusting or moving a credit from a prior quarter.

- Input TC 700 to the employee's account with a secondary TC 570 if a manual refund is being issued (when withholding is required on the interest). The transaction date of TC 700 is the later of: (1) The normal due date of the Form 1040NR return, or (2) The date of the payment(s) transferred from the Form 941/943/944.

**NOTE:** When changing a credit date, an override code "2" is needed on both the debit and credit parts of the transfer to bypass the debit/credit date consistency check.

**IRM 21.8.2.9.6.2 Removed Paragraph 6 and updated the "CAUTION" in Paragraph 7 per LB&I. Renumbered the remaining paragraphs.**

6. To allow the credit, use TC 290 .00 and the appropriate Credit Reference Number (CRN). The CRN will generate TC 766 for the amount of the credit. To reverse the credit, use TC 290 .00 and the appropriate CRN with a (-). The CRN will generate TC 767 for the amount of the credit. There is no CRN for Form 1099, use TC 766 to allow the credit or TC 767 to reverse the credit.

**NOTE:** See IRM 21.8.2.12.2.2, *Claims for Tax Withheld at Source*, for complete procedures pertaining to amended returns claiming refunds or credits for overwithheld amounts.

7. Masterfile programming was implemented as of April 2013 and July 2015, on Form 1120-F, to ensure only overpayments of Chapter 3 or 4 withholding are given the 180-day interest-free period. Therefore, the CRN on the account will depend on when the credit generated.

**CAUTION:** Exercise caution when adjusting tax or refundable credits; review the account to determine the correct amount of refundable credits and the appropriate CRN.

8. Before programming:
  - CRN 330 - Form 1042-S
  - CRN 331 - Form 8805
  - CRN 332 - Form 8288-A
  - CRN 333 - Amended Form 1042-S
9. After April 2013 programming:
  - CRN 330 - Generates the overpayment resulting from tax deducted and withheld under Chapters 3 and 4, see Form 1120-F (Line 8b).
  - CRN 334 - Generates the sum of Line 5f, Line 5g, Line 5h, Line 5i, any amount to the right of Line 5i minus Line 8b.

**CAUTION:** Since CRNs 331, 332 and 333 no longer generate on Form 1120-F, AM assistors will take no action to adjust the account for the purpose of creating these CRNs. Any adjustments required to these credits will be made using CRN 330.

10. After July 2015 programming:
  - CRN 330 - Generates Schedule W lines 1 and 3, 1120-F page 1 line 1 and page 1 line 8a
  - CRN 334 - Generates the sum of Line 5f plus Line 5g

#### **IRM 21.8.2.9.8 Added new subsection for Form 1120-F Amended Returns Filed Under Notice 2015-73 and Notice 2015-74.**

1. An amended Form 1120-F filed under Notice 2015-73, *Listing Notice - Basket Option Contracts*, or Notice 2015-74, *Transaction of Interest - Basket Contracts*, must comply with the notice requirements. See IRM 21.7.9.3.2, *Amended Returns Filed Under Notice 2015-73 and Notice 2015-74*, for notice requirements.
2. **ALL** amended tax returns notated in this manner will be reviewed by the Large Business and International (LB&I) Office of Tax Shelter Analysis (OTSA). If you receive an amended return that has been filed under Notice 2015-73 or Notice 2015-74, follow the instructions in IRM 21.7.9.3.2, *Amended Return Filed Under Notice 2015-73 and Notice 2015-74*.



#### IRM 21.8.12.2.2 Removed deposit information per LB&I.

1. If tax is withheld at source under sections 1441 - 1443, section 1446 (in the case of publicly held partnerships), or Chapter 4, the withholding agent **MUST** issue a Form 1042-S to the recipient. Use the following chart to handle claims for tax withheld at source.

If...	Then...
A foreign corporation had tax withheld by a withholding agent who reported this credit on Form 1042	The recipient can only recover this withholding by filing an income tax return.
The taxpayer files a claim on Form 843 for tax erroneously withheld	Return the claim to the taxpayer. Advise the taxpayer that an income tax return must be filed with Form 1042-S attached, even if a return is not normally required.
The taxpayer files an amended return	<p>Process as a normal duplicate filing case,</p> <ol style="list-style-type: none"><li>1. Verify that the income on Form 1042-S is reported (use CFOL commands <b>OR</b> request return, if necessary).</li></ol> <p><b>NOTE:</b> When the income was not considered, adjust the account accordingly.</p> <ol style="list-style-type: none"><li>2. Research command code IRPTR to verify the same information on the Form 1042-S is reported in IRPTR.</li></ol>
The taxpayer files an amended return claiming that the amount withheld on Form 1042-S was incorrect	Return the claim to the taxpayer. Advise the taxpayer to resubmit the amended return with a copy of the corrected Form 1042-S.
The taxpayer files an amended return with a corrected Form 1042-S.	<ol style="list-style-type: none"><li>1. Research command code IRPTR to verify the same information on the Form 1042-S is reported in IRPTR.</li></ol> <p>When verified, allow the credit with transaction code 766. Input a TC 29X with a Reference Code 330 for the amount of the credit to generate the TC 766.</p> <p><b>NOTE:</b> Use of the reference code 330 will cause Master File to use the 180- day interest free calculation on the amount of</p>

	the Chapter 3 or Chapter 4 withholding credit.
--	--

**IRM 21.8.2.12.2.3 Updated the information regarding FATCA programming and the systemic and manual review of Form 1042-S credits.**

1. Beginning January 1, 2015 all Forms 1120-F claiming Form 1042-S, Form 8288-A, or Form 8805 credits (CRN 330) will be reviewed for validity. Forms 1120-F with a credit balance will have the entire refund systemically frozen for up to 168 days. However, Forms 1120-F with a zero balance or a balance due will not have a systemic freeze.
2. The refund is frozen systemically with a Transaction Code (TC) 570, a - R Freeze, and a TC 971 Action Code (AC) 746. **DO NOT RELEASE THE FREEZE.** The examples below illustrate how the systemic freeze will affect refunds or offsets of refundable credit amounts.

**EXAMPLE:** TC 150 for \$1,000 with a CRN 330 for \$1,500 will generate the systemic freeze and hold the \$500 refund.

**EXAMPLE:** TC 150 for \$.00 with a CRN other than 330 for \$1,000 and a CRN 330 for \$1,500 will generate the systemic freeze to hold the entire \$2,500 refund.

3. Notices **will not** generate regarding the systemic freeze, which may result in taxpayer inquiries.

**NOTE:** Under the Hiring Incentives to Restore Employment (HIRE) Act enacted March 18, 2010, IRS has up to 180 interest free days to review IRC Chapters 3 and 4 credits.

4. The 168 day freeze period begins from the later of the return due date or the date the complete return including all necessary documentation was actually filed.

**EXAMPLE:** A complete refund 1120-F is filed in January. The refund will be held until September if the return due date is March 15th.

**EXAMPLE:** A complete refund 1120-F is filed in May for a return due in March. The refund will be held until November.

5. **DO NOT RELEASE THE FREEZE.** Compliance will review the validity of these credits during the 168 day freeze period.
6. If additional time is necessary to review the credits Compliance can extend the systemic freeze. An extended freeze is identified by a TC 971 and AC 747

- with a two digit character (01-99; the number of cycles the freeze is extended) in the miscellaneous field.
7. If a taxpayer calls to inquire about their refund and it is a frozen CRN 330 (1042-S/8288-A/8805) refund (initial freeze) advise the caller: "The IRS will need additional time to process your return. Please allow IRS up to six months from the original due date or the actual filing date of the return whichever is later to receive your refund".
  8. If a taxpayer calls to inquire about their refund and the initial freeze has been extended, advise the caller: "The IRS will need up to an additional six months to review the credits claimed on your return before allowing your refund".
  9. If a taxpayer calls to inquire about a balance due notice they received because we reduced or eliminated their credits, follow procedures in IRM 21.8.2.12.2.5 or IRM 21.8.2.12.2.6 as appropriate.
  10. Refer taxpayers who indicate waiting for their refund will create economic harm to TAS. See IRM 13.1.7.2, *TAS Case Criteria*, for referral procedures.
  11. If a duplicate or amended return is received for the purpose of receiving the frozen credit, issue correspondex Letter 3064C, or other appropriate letter. Use the language in Paragraph 7 or 8 above to advise the taxpayer of the initial or additional delay. Follow procedures in IRM 21.8.2.12.2.7 or IRM 21.8.2.12.2.8 to process other duplicate or amended returns accordingly.

**EXCEPTION:** If an amended return is received that will increase or decrease tax **and is unrelated to credit(s) originally claimed on Form 1120-F**, process per normal procedures following appropriate CAT-A criteria. A TC 29X adjustment will not release the systemic freeze.

12. If a duplicate or amended return is received claiming a new credit or a denied credit, follow procedures in IRM 21.8.2.12.2.7 or IRM 21.8.2.12.2.8 as appropriate.
13. Accounts Management CSRs will report time spent on working FATCA issues under 710-8439X (FATCA).
14. In addition to this **systemic review process**, Compliance will continue with their **manual review process** of Form 1042-S, Form 8805, and Form 8288-A credits on certain returns. The items below will identify these returns:
  - Project Code Status "1080" will be on Command Code (CC) AMDISA;

**NOTE:** As of January 25, 2016 Project Code "1501" will be used.

- Freeze Codes (-X, -L and -R) will be on CC BMFOLT and CC TXMODA; and
- Control Base and History Information section of CC TXMODA will reference **PROJECT1080 or PROJECT1501, HOLDREFUND, CNTCTEXAM**, or similar history.

**NOTE:** If the taxpayer writes or calls asking about their refund, inform the taxpayer refunds of certain overpayments, which pertain to tax, withheld and reported on Forms 1042-S, 8805, or 8288-A may require additional time to be processed. Therefore, please allow up to six months for these refunds to be

15. Beginning January 1, 2016 all Forms 1120-F with a refund supported by Form 1042-S (CRN 330) will have only that portion of the refund systemically frozen with a TC 810 for up to 168 days. As new programming is implemented additional information will be provided.

1. IRS implemented a systemic matching program to review the validity of credits on Forms 1120-F. See IRM 21.8.2.12.2.3 for more information.
2. The matching program compares information, listed below, from the withholding agent's Tax Year 2014 Form 1042-S (Copy A) submitted to IRS against the recipient's Form 1042-S (Copy B) filed with their income tax return. The comparison will determine if a credit matches and if a credit was previously allowed.



\_\_\_\_\_

\_\_\_\_\_

3. If Form 1042-S information matches **and** a credit was not previously allowed, Compliance will either:
- o Manually release the refund (freeze) in part or in it's entirety **or**
  - o The freeze will systemically release at the end of the 168 day freeze **or** at the end of the extended freeze.

See IRM 21.8.2.12.2.3 for more information on these freezes.

4. If Form 1042-S information does not match **or** a credit was previously allowed, Compliance will reverse the credit (CRN 330) using Transaction Code (TC) 767 with the appropriate reason code below:
- o Reason Code 161 - means the recipient's Form 1042-S does not match the withholding agent's Form 1042-S
  - o Reason Code 162 - means the credit was previously allowed (claimed by the taxpayer or another taxpayer)
5. **IF THE MATCHING PROGRAM INDICATES A FORM 1042-S DID NOT MATCH**, a Letter 5532C, *Notification of Preliminary Action Regarding Chapter 3 or Chapter 4 Withholdings Shown as Payments on Your Tax Return*, is issued. The letter advises the taxpayer we reduced or eliminated the amount shown on Form 1120-F, line 5i because their Form 1042-S information does not match the information reported by their withholding agent and advises them to contact their Withholding Agent. The letter instructs the taxpayer to contact their withholding agent to correct any error. Generally this means the taxpayer will explain to their withholding agent the IRS states the taxpayer's copy of Form 1042-S does not match the copy that was submitted to the IRS by them. The taxpayer and withholding agent will need to determine the reason for a Form 1042-S not matching. If a reason is identified, the withholding agent may need to submit an amended Form 1042-S with the IRS and/or provide a corrected copy of Form 1042-S to the taxpayer.

**NOTE:** #

6. If a taxpayer has more than one Form 1042-S that does not match, a separate Letter 5532C is issued for each Form 1042-S. However, only one adjustment (TC 767, RC 161) will post to IDRS to reverse the credits as long as the reversal occurs in the same cycle.

**EXAMPLE:** Taxpayer attached five Forms 1042-S to their income tax return for a total credit of \$1,000. Two Forms 1042-S totalling \$300.00 do not match. Two Letters 5532C will be issued but only one TC 767 for \$300.00 with Reason Code 161 will post to IDRS.

7. **IF THE MATCHING PROGRAM INDICATES A FORM 1042-S WAS PREVIOUSLY ALLOWED**, a Letter 5533C, *Notification of Preliminary Action Regarding Chapter 3 or Chapter 4: Credit Previously Allowed*, is issued. The letter advises the taxpayer we reduced or eliminated the amount shown on Form 1120-F, line 5i because our records show that their credit has already been allowed.
8. If a taxpayer has more than one Form 1042-S that was previously allowed, a separate Letter 5533C is issued for each Form 1042-S. However, only one adjustment (TC 767, RC 162) will post to IDRS to reverse the credits as long as the reversal occurs in the same cycle.

**EXAMPLE:** Taxpayer attached five Forms 1042-S to their income tax return for a total credit of \$1,000. Two Forms 1042-S totalling \$300.00 were previously allowed. Two Letters 5533C will be issued but only one TC 767 for \$300.00 with Reason Code 162 will post to IDRS.

9. **IF THE TAXPAYER FILED MULTIPLE 1042-S FORMS AND THE MATCHING PROGRAM INDICATES ONE FORM 1042-S DID NOT MATCH "AND" ONE FORM 1042-S WAS PREVIOUSLY ALLOWED**, a Letter 5532C and a Letter 5533C is issued. Two adjustments will post to IDRS, one TC 767 with Reason Code 161 and one TC 767 with Reason Code 162.
10. **IN ALL CASES**, if credits are reversed in separate cycles multiple TCs 767 will post to IDRS.

**CAUTION:** After a reversal posts (TC 767), there may still be a freeze. Some Form 1042-S credits will remain frozen until the 168 day freeze or the extended freeze is systemically released. **DO NOT RELEASE THE FREEZE.**

11. When a reversal posts (TC 767 (RC 161 or 162)), an adjustment notice (CP 210 or 220) will generate to the taxpayer. After a reversal posts, the taxpayer may still have an overpayment or the taxpayer may now have a balance due.
12. Accounts Management will not validate credits that may still be frozen (not reversed) on the account.

**EXAMPLE:** The original return includes \$5,000 in frozen credits. \$1,000 was reversed with TC 767 RC 161. \$4,000 remains frozen. Accounts Management will only verify the \$1,000 credit that was reversed.

13. Accounts Management will not validate Form 8288-A or Form 8805 credits that are on the account.

**NOTE:** Beginning January 1, 2016 all Forms 1120-F with a refund supported by a Form 8288-A or Form 8805 can be expected to refund and only the portion of the refund supported by a Form 1042-S (CRN 330) will have that portion of the refund systemically frozen for up to 168 days with a TC 810. As new programming is implemented additional information will be provided.

14. Accounts Management assistors will take the following actions on accounts affected by the new systemic matching program:
- Follow all normal statute guidelines. Refer to Statutes for clearance or assessment when necessary. See IRM 25.6, *Statute of Limitations*.
  - Follow all normal Category A guidelines. See IRM 21.5.3, *General Claims Procedures* in conjunction with IRM 21.8.2.1.13, *Examination Criteria*.
  - Follow all normal amended return guidelines and procedures. For further information see IRM 21.5.2.4, *Adjustment Guidelines-Procedures*.



**IRM 21.8.2.12.2.5 Added new subsection for FATCA Matching Program Form 1042-S Credit Reversals - Accounts Management Telephone/Written Inquiries - Letter 5532C.**

1. The instructions in this IRM section pertain only to accounts where the taxpayer was issued a Letter 5532C, *Notification of Preliminary Action Regarding Chapter 3 or Chapter 4 Withholdings Shown as Payments on Your Tax Return*, **and** one or more credits were reversed (TC 767, RC 161) because the withholding agent's Form 1042-S (Copy A) submitted to IRS did not match the recipient's Form 1042-S (Copy B) filed with their income tax return. See IRM 21.8.2.12.2.4 for additional information about Letter 5532C.
2. The following table explains how Account Management assistors will respond to telephone/written inquiries concerning Letter 5532C, CP 210/220, and/or credit reversal (TC 767, RC 161):

If	And	Then
Taxpayer writes or calls	Asks why their credit was denied or doesn't understand their letter/notice	<ol style="list-style-type: none"> <li>1. Advise taxpayer their credit was denied because their Form 1042-S information did not match the information reported by their withholding agent.</li> <li>2. Advise taxpayer they must contact their Withholding Agent to determine the reason for the mismatch.</li> </ol> <p><b>NOTE:</b> If a mismatch is identified, the Withholding Agent may need to submit a corrected Form 1042-S with the IRS and/or</p>

		provide a corrected copy of Form 1042-S to the taxpayer.
<p>Taxpayer <b>writes</b> and explains the Withholding Agent confirmed the taxpayer's copy of Form 1042-S matches what the Withholding Agent submitted to IRS.</p> <p><b>NOTE:</b> # [REDACTED] #</p>	<p>Taxpayer provides a copy of their Form 1042-S</p>	<p>Follow the instructions in Paragraph (3) below.</p>
<p>Taxpayer <b>writes</b> and explains the Withholding Agent confirmed the taxpayer's copy of Form 1042-S matches what the Withholding Agent submitted to IRS.</p> <p><b>NOTE:</b> # [REDACTED] #</p>	<p>Taxpayer <b>DOES NOT</b> provide a copy of their Form 1042-S</p>	<p>Request a copy and close case.</p> <p><b>NOTE:</b> When taxpayer provides a copy of their Form 1042-S, follow the instructions in Paragraph (3) below.</p>
<p>Taxpayer <b>calls</b> and explains the Withholding Agent confirmed the taxpayer's copy of Form 1042-S matches what the Withholding Agent submitted to IRS.</p> <p><b>NOTE:</b> # [REDACTED]</p>	<p>Taxpayer provides a copy of their Form 1042-S</p>	<p>Prepare Form 4442 for an In-House referral. Follow procedures in IRM 21.3.5.4 , <i>Referral Procedures</i>. When working these referrals, follow the instructions in Paragraph (3) below.</p>



		
<p>Taxpayer <b>calls</b> and explains the Withholding Agent confirmed the taxpayer's copy of Form 1042-S matches what the Withholding Agent submitted to IRS.</p> <p><b>NOTE:</b> </p>	<p>Taxpayer <b>DOES NOT</b> provide a copy of their Form 1042-S</p>	<p>Request a copy by fax and prepare Form 4442 for an In-House referral. Follow procedures in IRM 21.3.5.4, <i>Referral Procedures</i>. When working these referrals, follow the instructions in Paragraph (3) below.</p> <p><b>NOTE:</b> If taxpayer cannot provide a copy of their Form 1042-S by fax request a copy by mail and close case.</p>
<p>Taxpayer <b>writes</b> and states the Withholding Agent explained the original Form 1042-S <b>DID NOT</b> match</p>	<p>Taxpayer provides a copy of their corrected Form 1042-S</p>	<p>Follow the instructions in Paragraph (3) below.</p>
<p>Taxpayer <b>writes</b> and states the Withholding Agent explained the original Form 1042-S <b>DID NOT</b> match</p>	<p>Taxpayer <b>DOES NOT</b> provide a copy of their corrected Form 1042-S</p>	<p>Request a copy and close case.</p> <p><b>NOTE:</b> When taxpayer provides a copy of their Form 1042-S, follow the instructions in Paragraph (3) below.</p>
<p>Taxpayer <b>calls</b> and states the Withholding Agent explained the original Form 1042-S <b>DID NOT</b> match</p>	<p>Taxpayer provides a corrected copy of their Form 1042-S</p>	<p>Prepare Form 4442 for an In-House referral. Follow procedures in IRM 21.3.5.4, <i>Referral Procedures</i>. When working these referrals, follow the instructions in Paragraph (3) below.</p>
<p>Taxpayer <b>calls</b> and states the Withholding Agent explained the original Form 1042-S <b>DID NOT</b> match</p>	<p>Taxpayer <b>DOES NOT</b> provide a corrected copy of their Form 1042-S</p>	<p>Request a copy by fax and prepare Form 4442 for an In-House referral. Follow procedures in IRM 21.3.5.4, <i>Referral Procedures</i>. When working these referrals, follow</p>


		the instructions in Paragraph (3) below.  <b>NOTE:</b> If taxpayer cannot provide a copy of their Form 1042-S by fax request a copy by mail and close case.
Taxpayer writes or calls	Claims to be a victim of identity theft	Follow Identity Theft procedures in IRM 21.7.14, <i>BMF Identity Theft Procedures for Accounts Management Employees</i> .

3. Once the taxpayer's copy of Form 1042-S is received, Account Management assistants will follow the instructions below to validate a reversed Form 1042-S credit (TC 767 RC 161) and adjust the account.

**CAUTION:** Accounts Management will not validate credits that may still be frozen (not reversed) on the account. To determine if the reversed Form 1042-S credit is valid you may need to request the original return.

If	Then	Next Steps/Additional Information
Taxpayer provides Form 1042-S (Copy A)	<ol style="list-style-type: none"> <li>1. Advise taxpayer we can't match the Form 1042-S, <i>Foreign Person's U.S. Source Income Subject to Withholding</i>, information they provided with the Form 1042-S information their withholding agent filed.</li> <li>2. Advise taxpayer to contact their Withholding Agent to explain to them they are required to file Form 1042-S (Copy A) with the IRS and provide only Copies B, C, and D to the recipient of the</li> </ol>	<ol style="list-style-type: none"> <li>1. Attach Form 1042-S, see IRM 21.5.1.5.3, <i>CIS Source Documentation</i></li> <li>2. Issue Letter 916C and advise the taxpayer to contact their withholding agent since only the withholding agent is authorized to send Form 1042-S Copy A to IRS. Refer to IRM 21.5.3.4.6.3, <i>No Consideration Procedures</i></li> </ol>

	income.	
Taxpayer provides their copy of Form 1042-S	Compare Form 1042-S with the information on CC IRPTR(L), Document Code 02, to determine if the information listed in IRM 21.8.2.12.2.4 (2) matches.	<p><b>If ALL the information DOES match</b>, adjust the account by taking the following actions:</p> <ol style="list-style-type: none"> <li>1. Attach Form 1042-S, see IRM 21.5.1.5.3, <i>CIS Source Documentation</i>.</li> <li>2. Enter CIS notes indicating Form 1042-S information matches.</li> <li>3. Adjust the recipient's Form 1120-F tax account using Transaction Code 290 .00 and Credit Reference Number 330 for the amount of the verified reversed credit(s).</li> </ol> <p><b>REMINDER:</b> If the systemic freeze is still on the account the adjustment will not release it, which may result in refund inquiries. For refund inquiries follow the procedures in IRM 21.8.2.12.2.3 to explain when the systemic freeze will release.</p>
Taxpayer provides their copy of Form 1042-S	Compare Form 1042-S with the information on CC IRPTR(L), Document Code 02, to determine if the information listed in IRM 21.8.2.12.2.4 (2) matches.	<p><b>If ALL the information DOES NOT match</b>, take the following actions:</p> <ol style="list-style-type: none"> <li>1. Attach Form 1042-S, see IRM 21.5.1.5.3, <i>CIS Source Documentation</i>.</li> <li>2. Enter CIS notes indicating Form 1042-S information does not match.</li> <li>3. Disallow the claim,</li> </ol>

		<p>follow procedures in IRM 21.5.3.4.6.1, <i>Disallowance and Partial Disallowance Procedures</i>.</p> <p>4. Advise taxpayer the information they provided does not match the Form 1042-S, <i>Foreign Person's U.S. Source Income Subject to Withholding</i>, information filed by their withholding agent.</p> <p>#</p>  <p>#</p>
--	--	---

**IRM 21.8.2.12.2.6 Added new subsection for FATCA Matching Program Form 1042-S Credit Reversals - Accounts Management Telephone/Written Inquiries - Letter 5533C.**

1. The instructions in this IRM section pertain only to accounts where the taxpayer was issued a Letter 5533C, *Notification of Preliminary Action Regarding Chapter 3 or Chapter 4: Credit Previously Allowed*, **and** one or more credits were reversed (TC 767 RC 162) because the credit was previously allowed. See IRM 21.8.2.12.2.4 for additional information about Letter 5533C.
2. If a taxpayer contacts Accounts Management concerning Letter 5533C, CP 210/220, and/or credit reversal (TC 767, RC 162), and either has questions and/or disagrees with the letter, ask the taxpayer to send in a copy of the Letter 5533C (mail or fax) and a copy of the Form 1042-S. Ask the taxpayer to state their questions/concerns on the copy of the letter. If the taxpayer states they do not have a copy of the Letter 5533C, then request just the Form 1042-S and document the question/concern the taxpayer has on CIS.
3. Advise the taxpayer, once a copy of Letter 5533C and Form 1042-S is received, their inquiry will be elevated for research and they will receive a written response from the IRS within 30 days.
4. Once the copy of Letter 5533C and Form 1042-S is received from the taxpayer, Accounts Management will:

1. Prepare Form 4442, explaining the taxpayer contacted AM, provided their Letter 5533C and Form(s) 1042-S and notate the taxpayer's question or comment. Provide the following information on Form 4442:  
Taxpayer's TIN;  
Tax period;  
Withholding Agent's Name;  
Withholding Agent's TIN; and  
Dollar amount of the credit being claimed.
2. # [REDACTED]
3. Enter CIS notes indicating why the referral was made.
4. Keep the control base open. LB&I will respond in 14 days with instructions and language for a written response to the taxpayer.

**IRM 21.8.2.12.2.7 Added new subsection for FATCA Form 1042-S Accounts Management Form 1120-F Amended Returns (New Form 1042-S Credits).**

1. The instructions in this IRM section pertains to amended returns with a "new" Form 1042-S credit attached. This means the Form 1042-S credit was not claimed on the original return and therefore was never verified. You may need to request the original return to determine if the Form 1042-S credit is new.

**CAUTION:** Just because one or more of the following transaction codes are posted on IDRS DOES NOT mean the Form 1042-S credit isn't new:

TC 971 AC 746

TC 971 AC 747


TC 767 with Reason Codes 161 and/or 162

2. The following table explains how Accounts Management assistors will work Form 1120-F amended returns and substantiate a new Form 1042-S credit attached:

**REMINDER: DO NOT** forget to release the -A freeze.

If	Then	Next Steps/Additional Information
Taxpayer provides Form 1042-S (Copy A)	1. Advise taxpayer we can't match the Form 1042-S, <i>Foreign Person's U.S. Source Income Subject to Withholding</i> , information they provided with the	1. Attach Form 1042-S, see IRM 21.5.1.5.3 , <i>CIS Source Documentation</i> 2. Issue Letter 916C and advise the taxpayer to contact their withholding agent since only the withholding agent is authorized to send Form

	<p>Form 1042-S information their withholding agent filed.</p> <p>2. Advise taxpayer to contact their Withholding Agent to explain to them they are required to file Form 1042-S (Copy A) with the IRS and provide only Copies B, C, and D to the recipient of the income.</p>	<p>1042-S Copy A to IRS. Refer to IRM 21.5.3.4.6.3, <i>No Consideration Procedures</i>.</p>
<p>Taxpayer provides their copy of Form 1042-S</p>	<p>Compare Form 1042-S provided by the taxpayer with the information on CC IRPTR(L), Document Code 02, to determine if the data elements listed in IRM 21.8.2.12.2.4 (2) match.</p>	<p><b>If ALL the information DOES match</b>, adjust the account by taking the following actions:</p> <ol style="list-style-type: none"> <li>1. Attach Form 1042-S, see IRM 21.5.1.5.3, <i>CIS Source Documentation</i>.</li> <li>2. Enter CIS notes indicating Form 1042-S information matches.</li> <li>3. Adjust the recipient's Form 1120-F tax account using Transaction Code 290 .00 and Credit Reference Number 330 for the amount of the verified reversed credit(s).</li> </ol> <p><b>REMINDER:</b> If the systemic freeze is still on the account the adjustment will not release it, which may result in refund inquiries. For refund inquiries follow the procedures in IRM 21.8.2.12.2.3 to explain when the systemic freeze will</p>

		release.
Taxpayer provides their copy of Form 1042-S	Compare Form 1042-S provided by the taxpayer with the information on CC IRPTR(L), Document Code 02, to determine if the data elements listed in IRM 21.8.2.12.2.4 (2) match.	<p><b>If ALL the information DOES NOT match</b>, take the following actions:</p> <ol style="list-style-type: none"> <li>1. Attach Form 1042-S, see IRM 21.5.1.5.3, <i>CIS Source Documentation</i>.</li> <li>2. Enter CIS notes indicating Form 1042-S information does not match.</li> <li>3. Disallow the claim, follow procedures in IRM 21.5.3.4.6.1, <i>Disallowance and Partial Disallowance Procedures</i>.</li> <li>4. Advise taxpayer the information they provided does not match the Form 1042-S, <i>Foreign Person's U.S. Source Income Subject to Withholding</i>, information filed by their withholding agent.</li> </ol> <p>#</p>  <p>#</p>

**IRM 21.8.2.12.2.8 Added new subsection for FATCA Form 1042-S Accounts Management Form 1120-F Amended Returns (Credits Denied).**

1. The instructions in this IRM section pertains to amended returns with a "denied" Form 1042-S credit attached.

**CAUTION:** Just because one or more of the following transaction codes are posted on IDRS DOES NOT mean the Form 1042-S credit has been denied:

TC 971 AC 746  
 TC 971 AC 747  
 TC 767 with Reason Codes 161 and/or 162

**REMINDER:** If a duplicate or amended return is received for the purpose of receiving the frozen credit, issue correspondex Letter 3064C, or other appropriate letter. Use the language in Paragraph 7 or 8 from IRM 21.8.2.12.2.3, to advise the taxpayer of the initial or additional delay.

2. The following table explains how Accounts Management assistors will work Form 1120-F amended returns and substantiate a denied Form 1042-S credit attached:

**REMINDER: DO NOT** forget to release the -A freeze.

If	Then/And	Next Steps/Additional Information
Taxpayer provides Form 1042-S (Copy A)	<ol style="list-style-type: none"> <li>1. Advise taxpayer we can't match the Form 1042-S, <i>Foreign Person's U.S. Source Income Subject to Withholding</i>, information they provided with the Form 1042-S information their withholding agent filed.</li> <li>2. Advise taxpayer to contact their Withholding Agent to explain to them they are required to file Form 1042-S (Copy A) with the IRS and provide only Copies B, C, and D to the recipient of the income.</li> </ol>	<ol style="list-style-type: none"> <li>1. Attach Form 1042-S, see IRM 21.5.1.5.3 , <i>CIS Source Documentation</i></li> <li>2. Issue Letter 916C and advise the taxpayer to contact their withholding agent since only the withholding agent is authorized to send Form 1042-S Copy A to IRS. Refer to IRM 21.5.3.4.6.3, <i>No Consideration Procedures</i></li> </ol>
Taxpayer provides their copy of Form 1042-S	Form 1042-S credit was denied (Letter 5532C TC 767 RC 161)	Compare Form 1042-S provided by the taxpayer with the information on CC IRPTR(L), Document Code 02, to determine if the data elements listed in IRM 21.8.2.12.2.4 (2) match. <b>If ALL the information DOES match</b> , adjust the account by taking the following actions:



		<ol style="list-style-type: none"> <li>1. Attach Form 1042-S, see IRM 21.5.1.5.3, <i>CIS Source Documentation</i>.</li> <li>2. Enter CIS notes indicating Form 1042-S information matches.</li> <li>3. Adjust the recipient's Form 1120-F tax account using Transaction Code 290 .00 and Credit Reference Number 330 for the amount of the verified reversed credit(s).</li> </ol> <p><b>REMINDER:</b> If the systemic freeze is still on the account the adjustment will not release it, which may result in refund inquiries. For refund inquiries follow the procedures in IRM 21.8.2.12.2.3 to explain when the systemic freeze will release.</p>
Taxpayer provides their copy of Form 1042-S	Form 1042-S credit was denied (Letter 5532C TC 767 RC 161)	<p>Compare Form 1042-S provided by the taxpayer with the information on CC IRPTR(L), Document Code 02, to determine if the data elements listed in IRM 21.8.2.12.2.4 (2) match. <b>If ALL the information DOES NOT match</b>, take the following actions:</p> <ol style="list-style-type: none"> <li>1. Attach Form 1042-S, see IRM 21.5.1.5.3, <i>CIS Source Documentation</i>.</li> <li>2. Enter CIS notes indicating Form 1042-S information does not match.</li> <li>3. Disallow the claim, follow procedures in IRM 21.5.3.4.6.1, <i>Disallowance and Partial Disallowance Procedures</i>.</li> <li>4. Advise taxpayer the information they provided does not match the Form 1042-S, <i>Foreign Person's U.S. Source Income Subject to Withholding</i>, information filed by their withholding agent.</li> </ol>

		<p>#</p> <p>[REDACTED]</p>
Taxpayer provides their copy of Form 1042-S	Form 1042-S credit was denied (Letter 5533C TC 767 RC 162)	<p>#</p> <ol style="list-style-type: none"> <li>1. Prepare Form 4442, explaining the taxpayer filed an amended return, and account research shows the credit was denied with a RC 162. Provide the following information on Form 4442: <ul style="list-style-type: none"> <li>▪ Taxpayer's TIN;</li> <li>▪ Tax period;</li> <li>▪ Withholding Agent's Name;</li> <li>▪ Withholding Agent's TIN; and</li> <li>▪ Dollar amount of the credit being claimed.</li> </ul> </li> <li>2. # [REDACTED] #</li> <li>3. Enter CIS notes indicating why the referral was made.</li> <li>4. Keep the control base open. LB&amp;I will respond in 14 days with instructions and language for a written response to the taxpayer.</li> </ol>

**IRM 21.8.2.12.9 Updated Blocking Series information.**

1. An adjustment to the Form 1042 account is made using MFT 12 and the appropriate Blocking Series. See IRM 21.5.1.5.3, *CIS Source Documentation*, and Document 6209, *IRS Processing Codes and Information*, for the appropriate Blocking Series.
2. An adjustment to the gross income paid (item reference number 011) can be done at any time.
3. However, no tax liability or withheld amount decrease adjustment can be made to the withholding tax after the due date of the Form 1042, unless special criteria exists. See IRM 21.8.2.12.8, *Amended Returns - Form 1042*.

**NOTE:** Use IDRS to ensure each individual recipient's account **does not** contain a TC 766 credit for the same amount of the withholding agents amended return decrease.

4. When a claim for tax decrease is received, verify that the withholding agent has submitted substantiation.
  - a. If the withholding agent has submitted substantiation, request the original return, secure research on the withholding agent and each Form 1042-S recipient, and forward the case to Examination.
  - b. If the withholding agent did not provide substantiation with the claim for tax decrease, input a TC 290 .00, Blocking Series 18 or 15 for cases worked in CIS, and send Letter 916C rejecting the claim stating that: "We are unable to consider your claim because you failed to provide the specific reason for the claim for decrease as required by Treas. Reg. 301.6402." Also include the following open paragraph:

Open Paragraph
Please state your reasons for making changes to the amounts reported as being withheld on the original Form 1042-S(s). Were taxes actually withheld from payments and all withheld taxes deposited? Were original Form 1042-S(s) issued? Was the change in withholding discovered after the close of the calendar year? Please supply copies of the corrected and voided Form 1042-S(s) affected by the amendment.

5. When a withholding agent replies to the Letter 916C by submitting substantiation for the Form 1042 tax decrease:
  1. Request the original return and the claim we were unable to consider (Blocking Series 18 or 15 for cases worked in CIS).
  2. Secure research on the withholding agent and each Form 1042-S recipient to see if they filed for a refund of the same withholding, and
  3. Forward the case to Examination with all research. See IRM 21.8.2.1.13, *Examination Criteria*.
6. IRC 5000C now imposes a 2% excise tax payable by federal agencies on government foreign procurement payments. The requirement to report and pay this tax began in 2011.
7. This excise tax is reportable on Line 64d (Line 71 for TY 2011-2013) of Form 1042 and is included in the ROFTL. Only entities with an Employment Code (EC) "F" present on CC ENMOD are required to pay this excise tax. See IRM 3.21.110.1, *Overview - Chapter Three and Chapter Four Withholding*, IRM 3.22.110.18.17, *Field 0764D - Form 1042 Excise Tax Amount*, and IRM 3.13.222.80, *Unpostable Code (UPC) 331 Reason Code (RC) 7*, for additional information.
8. Masterfile has been programmed to identify line 64d entries (Line 71 for TY 2011-2013) as reference item 198.
9. If an amended return is received correcting line 64d (Line 71 for TY 2011-2013) of Form 1042, follow all general adjustment guidelines. Use REQ 54 to input TC 290 with reference code 198 to make the correction. If the correction

results in a decrease, follow all CAT-A guidelines, use TC 291 and reference code 198 with a (-) minus to input the decrease.

**EXCEPTION:** If the EC is not "F", then no consider the amended return. Send Letter 916C with the following fill-in paragraph: We are unable to process your amended return for the tax period(s) shown above. Our records indicate you are not required to report the two-percent excise tax on federal procurement payments to a foreign person or foreign entity.

**IRM 21.8.2.14.3 Updated Blocking Series information. Update initiated by SERP Feedback 201505594.**

1. Use the following instructions to supplement the general guidelines for processing TRNS 193 notices found in IRM 21.7.9, *BMF Duplicate Filing Conditions*.
2. Verify the entity data on the TRNS 193 notice with the entity data on the return and input any necessary changes or corrections.

**NOTE:** The entity data on the account was established on Master File as a result of the Form 1065 filing requirement.

3. If the duplicate filing appears to be a "true duplicate ", verify via CC BMFOLR or BRTVU that the taxable income is the same as reported on the original return before inputting a TC 290 for .00 to release the -A freeze.

**REMINDER:** Resolve any misapplied or subsequent payment application issues as necessary.

4. Input Form 8804 tax increases with a TC 290 for the amount of the tax increase with the appropriate Blocking Series. See IRM 21.5.1.5.3, *CIS Source Documentation*, and Document 6209, *IRS Processing Codes and Information*, for the appropriate Blocking Series.
5. **A partnership that has filed a Form 8804 may not file an amended Form 8804 and obtain a refund of any amount shown on the Forms 8805 filed.** See Regulations §1.1446-3(d)(2)(iv). These claims should be disallowed. For information on disallowance procedures, see IRM 21.5.3.4.6.1 *Disallowance and Partial Disallowance Procedures*.
6. Refer to the following table if the listed Forms are attached to the Form 8804:

IF	THEN
Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Copy A ONLY	Refer to local Mailedex for routing to data input area.
Form 1042-S, Foreign Person's U.S. Source Income	Leave attached.

Subject to Withholding, Copy B ONLY	
Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Copy C or D ONLY	Return to Taxpayer.
Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Copy E ONLY	Return to Withholding Agent.
Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns	If the extension is for a different period, route to Receipt and Control for processing.
Form 8804 Schedule A, Penalty for Underpayment of Estimated § 1446 Tax by Partnerships	Verify with estimated tax penalty posted on module and adjust if necessary.
Form 8804-C, Certificate of Partner-Level Items to Reduce § 1446 Withholding	Route to:  Internal Revenue Service  Examination Branch BLN 4-E08.142  2970 Market Street.  Philadelphia, PA 19104
Form 8804-W, Installment Payments of IRC 1446 Tax for Partnerships	Leave attached to Form 8804.
Treas. Reg. § 1.1446-6 Notation Withholding Certificate or any associated reasonable cause request	Route to:  Internal Revenue Service  Examination Branch BLN 4-E08.142  2970 Market Street.  Philadelphia, PA 19104
Form(s) 8805 are attached and they are not in substantiation of any credits claimed on Form 8804	After working the TRNS 193, detach and route Form(s) 8805 to Batching and Numbering for processing to the International Database/IRMF.
Form(s) 8805 are attached and they support withholding claimed on Form 8804	Do not detach the Form 8805. These types of Form 8805 reflect the foreign partnership entity data on the left side of the Form 8805 and can be verified

	on the FIRPTA database.
Form 8288-A is attached to the Form 8804	The credit must be verified on the FIRPTA database.

**NOTE:** For attachments not listed, refer to IRM 3.11.154.2.8, *Routing Guide for Attachments*.

7. When allowing withholding credit claimed on Form 8804 and Form 1042-S, use the appropriate Credit Reference number (331, 332, etc.). See Document 6209.

**REMINDER:** Withholding credits claimed on Form 8804 and 1042-S are considered Chapter 3 Withholding Credits and are subject to the 180-day interest-free period. See IRM 21.8.2.9.6.1, *180-day interest-free Period for Chapter 3 Withholding*.

**NOTE:** When issuing a manual refund from a Form 8804 account, use Line Number 15.

**IRM 21.8.2.15 Updated IRM reference in Paragraph 2. Update initiated by SERP Feedback 201505828.**

2. Correspondence or amended returns submitted by a fiduciary of a foreign estate or trust are worked by the Cincinnati Accounts Management Center (CAMC) NMF team. Forward any correspondence or amended returns to Stop 6111G ATTN: Team 103. For additional information on processing Form 1040NR Fiduciary returns, see IRM 21.7.12.7.1, *Fiduciary Filed Form 1040NR, U.S. Nonresident Alien Income Tax Return*.

**IRM 21.8.2.17 Clarified mailbox information. Update initiated by SERP Feedback 201505335.**

1. The following provides procedural guidance for Accounts Management when processing amended returns with a Form 5471, *Information Return of U.S. Persons With Respect to Certain Foreign Corporations*, or Form 5472, *Information Return of a 25% Foreign-Owned Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business*, attached.
2. Accounts Management will process amended returns using normal adjustment procedures.

**REMINDER:** Follow IRM 21.5.3.4.7, *Processing Claims and Amended Returns With Examination Involvement*, when processing amended returns with examination involvement.

#

### IRM 21.8.2.18 Updated Streamlined Filing Compliance procedures per LB&I.

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](https://www.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. 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 21.8.2.18.1 Updated Streamlined Filing Compliance procedures per LB&I.**

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 7701(b)(3). For more information on the substantial presence test, see Pub 519, *U.S. Tax Guide for Aliens*.

#

[REDACTED]

#

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.
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, 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>

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 21.8.2.18.1.1 Updated Streamlined Filing Compliance procedures per LB&I.**

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)
  - 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 taxpayer(s) have signed the certification under penalties of perjury</li> </ol>	<p>The certification is complete. Follow the instructions in Paragraph 10 below.</p>
<p>Submission Processing has previously corresponded with the taxpayer for missing/incomplete information and received the necessary information, per the AM Streamline Worksheet</p>	<p>The certification is complete. Follow the instructions in Paragraph 10 below.</p>
<p>Submission Processing has previously corresponded with the taxpayer for missing/information and received no reply, per the AM Streamline Worksheet</p>	<p>Do not correspond a second time. Follow the instructions in the row below (no reply), beginning with the second bullet.</p>
<p>There is no certification attached or, the certification is attached but:</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 taxpayer does not sign the certification</li> </ol>	<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, securely e-mail the TIN to a</li> </ul>

<p>under penalties of perjury</p>	<p>designated mailbox: # [REDACTED] [REDACTED] # 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, securely e-mail the TIN to a designated mailbox: # [REDACTED] [REDACTED] # with an explanation the case is being sent post assessment and is a "No Reply." Enter CIS notes indicating the case was referred to # [REDACTED] [REDACTED] #.</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 <b>normal</b> 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 21.8.2.18.2 Updated Streamlined Filing Compliance procedures per LB&I.**

1. As noted in 21.8.2.17(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.
- o 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. 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 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</p>

		(or taxpayers) are eligible for the streamlined filing compliance procedures; and that all required FBARs have been filed.
--	--	--

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 21.8.2.18.2.1 Updated Streamlined Filing Compliance procedures per LB&I.**

1. Filers from within the United States will submit a package to a specific mailbox in Submission Processing in Austin. The filing package will contain 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.
  - 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

#

[REDACTED]

#

- 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
<p><b>The certification is attached, and:</b></p> <p><b>1. The amounts owed for each tax year, including interest, are calculated, and</b></p> <p><b>2. The miscellaneous offshore penalty is calculated and</b></p> <p>#</p> <p>[REDACTED]</p>	<p><b>The certification is complete. Follow the instructions in Paragraph 8 below.</b></p>

<div data-bbox="430 191 626 268" data-label="Image"></div> <div data-bbox="425 304 456 336" data-label="Text">#</div> <p><b>3. The taxpayer(s) have signed the certification under penalties of perjury</b></p>	
<p>There is no certification attached or, the certification is attached but:</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 taxpayer does not calculate the miscellaneous offshore penalty, or</li> <li>3. The taxpayer does not sign the certification under penalties of perjury</li> </ol>	<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, securely e-mail the TIN to a designated mailbox: # [REDACTED] # 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, securely e-mail the TIN to a designated mailbox: # [REDACTED] # with an explanation the case is being sent post assessment and is a "No Reply." Enter CIS notes indicating</li> </ul>

	the case was referred to # [REDACTED] #.
--	--

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 <b>normal</b> 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."            "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 on the most recent tax year for which an amended Form 1041 was submitted. Assess the penalty based on the taxpayer's 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.   


**IRM 21.8.2.21.1 Removed the language "reasonable cause" from Paragraph 5. Update initiated by SERP Feedback 201505741.**

5. BMF International Units at the Ogden Accounts Management Campus process requests for relief of these systemically assessed Form 5471 FTF initial penalties. See IRM 21.8.2.21.2.

**IRM 21.8.2.21.2 Updated Form 5471 procedures per OSP and LB&I.**

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. OAMC and CAMC will continue to consider Form 1120 series and Form 1065 Failure to File (FTF) penalty abatement requests. However, OAMC

International will consider requests for abatement of both the FTF Form 1120 series/Form 1065 and the systemic penalty for FTF Forms 5471. Therefore, refer requests for abatement of both to OAMC International Department per local reassignment procedures.

**CAUTION:** Do not address the Form 1120 series or Form 1065 FTF penalty unless the taxpayer is also requesting abatement of that penalty.

**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. Advise callers requesting reasonable cause relief of the Form 5471 initial penalty to submit their request in writing to Internal Revenue Service, 1973 Rulon White Blvd., Mail Stop 6552, Ogden, Utah 84404. See IRM 21.5.3.4.16.7, *Identifying Frivolous Returns/Correspondence and Responding to Frivolous Arguments*, for additional information.
5. The International Department in OAMC will generally abate/deny the Form 5471 initial penalty consistent with the determination made on the "related Form 1120 or Form 1065".

**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.

6. A determination to abate the FTF penalty on the "related Form 1120 or Form 1065" does not automatically result in an abatement of the Form 5471 penalty. Once the determination has been made on the "related Form 1120 or Form 1065" **AND** all required returns are posted to Master File follow procedures in the "If And Then" table below to determine if the Form 5471 initial penalty can be abated:

**NOTE:** If the taxpayer is requesting reasonable cause continue to Exhibit 21.8.2-1, *Failure to File or Late-Filed Form 5471 - Decision Tree*, to determine whether to abate the Form 5471 initial penalty for reasonable cause.

IF	And	THEN
<p>The taxpayer believes an extension was requested</p> <p><b>NOTE:</b> The extension to file (TC 460) should be recorded on the</p>	<p>The extension to file is not reflected on the account or the extension to file posted to Master File after the penalty was assessed</p>	<p>Follow procedures in IRM 20.1.2.1.3.1.1, <i>Extension of Time to File Not Found</i>.</p> <p><b>REMINDER:</b> See IRM 20.1.1.3.4, <i>Correction of Service Error</i>, and</p>

"related Form 1120 or Form 1065"		Exhibit 20.1.1-2, <i>Penalty Reason Code Chart</i> , for additional information and the appropriate Penalty Reason Code (PRC) to use if abating the penalty.
The taxpayer is claiming a specific provision or an IRS error		Follow normal procedures in IRM 20.1, <i>Penalty Handbook</i> .  <b>EXAMPLE:</b> See IRM 20.1.2.1.7, <i>Short Years</i> .
The "related Form 1120 or Form 1065" FTF penalty was abated with a PRC other than PRC 018	No Form 5471 penalties (MFT 13) have been assessed (PRN 599, 623, or 712) in any of the prior three periods	Abate the penalty using the same PRC that was used to abate the penalty on the "related Form 1120 or Form 1065". Follow procedures in IRM 20.1.9.3.5(3), <i>Reasonable Cause</i> .
The "related Form 1120 or Form 1065" FTF penalty was abated with PRC 018	No Form 5471 penalties (MFT 13) have been assessed (PRN 599, 623, or 712) in any of the prior three periods <b>and</b> no "related Form 1120 or Form 1065" returns have been filed late in any of the prior three periods	Abate the penalty with PRC 018.
The "related Form 1120 or Form 1065" FTF penalty was abated with PRC 018	Form 5471 penalties (MFT 13) have been assessed (PRN 599, 623, or 712) in any of the prior three periods <b>or</b> a "related Form 1120 or Form 1065" return has been filed late in any of the prior three	Continue to Exhibit 21.8.2-1, <i>Failure to File or Late-Filed Form 5471 - Decision Tree</i> , to determine whether to abate the Form 5471 initial penalty for reasonable cause.

	periods	
The "related Form 1120 or Form 1065" FTF penalty is denied		Continue to Exhibit 21.8.2-1, <i>Failure to File or Late-Filed Form 5471 - Decision Tree</i> , to determine whether to abate the Form 5471 initial penalty for reasonable cause.
Not all required returns are posted to Master File (BMFOL)		Contact the corporation or partnership regarding the status of the missing returns.
The corporation or partnership indicates they have filed the returns after their request for abatement.		Suspend the request until all the necessary returns have posted to master file. Refer to IRM 21.3.3.5.1.1, <i>Suspense Timeframes</i> .
The corporation or partnership <ul style="list-style-type: none"> <li>a. cannot be contacted,</li> <li>b. does not respond,</li> <li>c. has not filed the missing returns</li> </ul>		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> .

7. The initial penalty for FTF Form 5471 should be abated when reasonable cause for the failure to file exists. See Exhibit 21.8.2-1, *Failure to File or Late-Filed Form 5471 - Decision Tree*, to determine whether or not reasonable cause exists. Follow the table below to abate/waive or deny the penalty.

**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 Decision Tree determination is to: <ul style="list-style-type: none"> <li>o <b>Abate/Waive</b></li> </ul>	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.



<p>The Decision Tree determination is to:</p> <ul style="list-style-type: none"> <li>○ <b>Deny</b></li> </ul>	<p>Input TC 290 .00 with appropriate PRN (599, 623, or 712) for .00. Use Blocking Series 98, Reason Code 062 and send Letter 854C.</p>
---	--

**NOTE:** OAMC International must enter a CIS case note if the penalty is being abated or denied for reasonable cause (using the **Decision Tree**), to notate which question(s), in which section(s) of the Decision Tree, led to the 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.

**IRM 21.8.2.22.1 Removed the language "reasonable cause" from Paragraph 5. Update initiated by SERP Feedback 201505741.**

4. BMF international units at the Ogden Accounts Management Campus process requests for relief of these systemically assessed Form 5472 FTF initial penalties. See IRM 21.8.2.22.2.
5. Forward all requests for abatement of continuation penalties or Examination assessed initial penalties, including Form 843 claims, to the area that assessed the penalty.

**IRM 21.8.2.22.2 Updated Form 5472 procedures per OSP and LB&I.**

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. OAMC and CAMC will continue to consider Form 1120 series Failure to File (FTF) penalty abatement requests. However, OAMC International will consider requests for abatement of both the FTF Form 1120 series and the systemic penalty for FTF Form 5472. Therefore, refer requests for abatement of both to OAMC International Department per local reassignment procedures.

**CAUTION:** Do not address the Form 1120 series FTF penalty unless the taxpayer is also requesting abatement of that penalty.

**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. Advise callers requesting reasonable cause relief of the Form 5472 initial penalty to submit their request in writing to Internal Revenue Service, 1973 Rulon White Blvd., Mail Stop 6552, Ogden, Utah 84404. See IRM 21.5.3.4.16.7, *Identifying Frivolous Returns/Correspondence and Responding to Frivolous Arguments*, for additional information.
4. The International Department in OAMC will generally abate/deny the Form 5472 initial penalty consistent with the determination made on the "related Form 1120".

**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.

5. A determination to abate the FTF penalty on the "related Form 1120" does not automatically result in an abatement of the Form 5472 penalty. Once the determination has been made on the "related Form 1120" **AND** all required returns are posted to Master File follow procedures in the "If And Then" table below to determine if the Form 5472 initial penalty can be abated:

**NOTE:** If the taxpayer is requesting reasonable cause continue to Exhibit 21.8.2-2, *Failure to File or Late-Filed Form 5472 - Decision Tree*, to determine whether to abate the Form 5472 initial penalty for reasonable cause.

IF	AND	THEN
The taxpayer believes an extension was requested	The extension to file is not reflected on the account or the extension to file posted to Master	Follow procedures in IRM 20.1.2.1.3.1.1, <i>Extension of Time to File Not Found</i> .  <b>REMINDER:</b> See IRM

<b>NOTE:</b> The extension to file (TC 460) should be recorded on the "related Form 1120"	File after the penalty was assessed	20.1.1.3.4, <i>Correction of Service Error</i> , and Exhibit 20.1.1-2, <i>Penalty Reason Code Chart</i> , for additional information and the appropriate Penalty Reason Code (PRC) to use if abating the penalty.
The taxpayer is claiming a specific provision or an IRS error		Follow normal procedures in IRM 20.1, <i>Penalty Handbook</i> .  <b>EXAMPLE:</b> See IRM 20.1.2.1.7, <i>Short Years</i> .
The "related Form 1120" FTF penalty was abated with a PRC other than PRC 018	No Form 5472 penalties (MFT 13) have been assessed (PRN 711) in any of the prior three periods	Abate the penalty using the same PRC that was used to abate the penalty on the "related Form 1120". Follow procedures in IRM 20.1.9.3.5(3), <i>Reasonable Cause</i> .
The "related Form 1120" FTF penalty was abated with PRC 018	No Form 5472 penalties (MFT 13) have been assessed (PRN 711) in any of the prior three periods <b>and</b> no "related Form 1120" returns have been filed late in any of the prior three periods	Abate the penalty with PRC 018.
The "related Form 1120" FTF penalty was abated with PRC 018	Form 5472 penalties (MFT 13) have been assessed (PRN 711) in any of the prior three periods <b>or</b> a "related Form 1120" return has been filed late in any of the prior three periods	Continue to Exhibit 21.8.2-2, <i>Failure to File or Late-Filed Form 5472 - Decision Tree</i> , to determine whether to abate the Form 5472 initial penalty for reasonable cause.
The "related Form 1120" FTF penalty is denied		Continue to Exhibit 21.8.2-2, <i>Failure to File or Late-Filed Form 5472 -</i>

		<i>Decision Tree</i> , to determine whether to abate the Form 5472 initial penalty for reasonable cause.
Not all required returns are posted to Master File (BMFOL)		Contact the corporation regarding the status of the missing returns.
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. Refer to IRM 21.3.3.5.1.1, <i>Suspense Timeframes</i> .
The corporation <ul style="list-style-type: none"> <li>a. cannot be contacted,</li> <li>b. does not respond,</li> <li>c. has not filed the missing returns</li> </ul>		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> .

6. The initial penalty for FTF Form 5472 should be abated when reasonable cause for the failure to file exists. See Exhibit 21.8.2-2, *Failure to File or Late-Filed Form 5472 - Decision Tree*, to determine whether or not reasonable cause exists. Follow the table below to abate/waive or deny the penalty.

**REMINDER:** To show that reasonable cause exists, the reporting corporation "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 Decision Tree determination is to: <ul style="list-style-type: none"> <li>o <b>Abate/Waive</b></li> </ul>	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 Decision Tree determination is to: <ul style="list-style-type: none"> <li>o <b>Deny</b></li> </ul>	Input TC 290 .00 with appropriate PRN 711 for .00. Use Blocking Series 98, Reason Code 062 and send Letter 854C.

**NOTE:** OAMC International must enter a CIS case note if the penalty is being abated or denied for reasonable cause (using the **Decision Tree**), to notate

which question(s), in which section(s) of the Decision Tree, led to the 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.

**Exhibit 21.8.2-1 Updated IRM reference in Paragraph 1.**

1) Did taxpayer receive reasonable cause or First Time Abate for failure to timely file Form 1120 series or Form 1065?

IF	THEN
a) Yes	Follow procedures in IRM 21.8.2.21.2, <i>Form 5471 Penalties Systemically Assessed from Late-Filed Form 1120 Series or Form 1065.</i>
b) No	continue

**Exhibit 21.8.2-2 Updated IRM reference in Paragraph 1. Update initiated by SERP Feedback 201505450.**

1) Did taxpayer receive reasonable cause or First Time Abate for failure to timely file Form 1120 series?

IF	THEN
a) Yes	Follow procedures in IRM 21.8.2.22.2, <i>Form 5472 Penalties Systemically Assessed from Late-Filed Form 1120 Series</i>
b) No	continue