

IRM PROCEDURAL UPDATE

DATE: 03/10/2015

NUMBER: WI-21-0315-0465

SUBJECT: BMF International Accounts Management - Added toll-free telephone number for Estate and Gift and a "Note"

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

CHANGE(s):

IRM 21.8.2.1.3(3) Added the toll-free telephone number for Estate and Gift and a "Note".

- 3. Assistors staffing any toll-free line** should not transfer calls to the International line (267-941-1000). They can provide the International **non toll-free number** or any of the numbers below to a caller for help with international issues. If the caller does not want to call back, offer to prepare Form 4442, *Inquiry Referral*. Route to BMF International at the Ogden campus via fax at # [REDACTED] # (number is for internal use only). For a list of BMF international issues see IRM 21.8.2.1.1, *Campus Consolidation and Program Centralization*. For more information on the referral process see IRM 21.3.5.4, *Referral Procedures*.

Title or Organization	Phone	Fax
International (Taxpayer Customer Service)	267-941-1000**	# [REDACTED] # (number is for internal use only)
Automated Collection System (ACS)	267-941-1004**	
Automated Underreporter (AUR)	267-941-1026**	267-941-1023
Electronic Federal Tax Payment System (EFTPS)	303-967-5916	
International Estate and Gift	866-699-4083 (toll-free) 859-669-2349* (not toll-free)	
Excise Tax (Form 720, Form 730, Form 2290 and Form 8849)	859-669-5733	
FBAR and Title 31 Helpline	866-270-0733 (toll-free) 313-234-6146 (not toll-free)	
International Examination	267-941-1037**	267-941-1463

Offer in Compromise (OIC) - General	267-941-1004**	787-759-5466
(OIC) - Accepted Offers Only	631-447-4018	
Taxpayer Advocate Service - English speaking	787-522-8601	787-522-8690
Taxpayer Advocate Service - Spanish speaking only	787-522-8600	
U.S. Certification Program	267-941-1000**	267-941-1035

* This telephone number goes to voice mail but messages are checked daily. The International Estate and Gift e-mail address is sbse.eg.intl@irs.gov, and can be provided.

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

IRM 21.8.2.9.6.2 Updated CRN information on Form 1120-F.

1. Refundable Credits are claimed on Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*, lines 5a through 5i. The type of credits claimed on line 5i are:
 - Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*, from line 12, page 2. See the instructions in "Section I" of Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*, for additional information.
 - Form 8805, *Foreign Partner's Information Statement of Section 1446 Withholding Tax*.
 - Form 8288-A, *Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests*.
 - Form 1099 (various).
2. Refundable Credits are claimed on Form 1120-FSC, *U.S. Income Tax Return of a Foreign Sales Corporation*, lines 2a through 2g. The type of credits claimed on line 2g are:
 - Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*.
 - Form 1099 (various).
3. These refundable credits can be allowed without prior Examination Classification. To claim refundable credits, the recipient's copy of the information return, Form 1042-S, Form 8805, Form 8288-A, and withholding certificate (Form W-8BEN, e.g.) must be attached.

EXCEPTION: If supporting documents are not attached see Paragraph 5 below.

CAUTION: Withholding agents may make payments to disregarded entities but they should not include them as a recipient on Form 1042-S. The withholding agent must file a corrected Form 1042-S if they do. See **Payments Made to Persons Who Are Not Recipients** on Page (8) of the Form 1042-S Instructions at: <http://core.publish.no.irs.gov/instrs/pdf/i1042-s--2014-00-00.pdf>, for additional information. If you cannot match the name and TIN on the Form 1042-S to the recipient's account, do not allow the credit(s). Follow no consideration procedures in IRM 21.5.3.4.6.3, *No Consideration Procedures*. Advise the filer of the Form 1120-F the claim cannot be considered until a corrected Form 1042-S is filed.

4. A statement or document from a withholding agent in lieu of a Form 1042-S will not be accepted.

NOTE: These refundable credits are considered Chapter 3 Withholding credits and are subject to the 180-day interest-free period. For more information on the 180-day interest-free period refer to IRM 20.2.4.7.6, *180-Day Rule*

5. # [REDACTED]

[REDACTED]

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6. Before allowing Form 1042-S refundable credits you must research the EIN of the withholding agent to ensure Form 1042 has been filed to report at least the amount of the credit claimed. See IRM 21.8.2.12.2.2, *Claims for Tax Withheld at Source*, for complete procedures.
7. To allow the credit, use TC 290 .00 and the appropriate Credit Reference Number. 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.

CAUTION: It should be noted that no refund credit is allowed if the withholding agent does not make any deposit of tax (i.e., the withholding reports a liability of tax, but makes no deposits of tax).

8. Masterfile programming was implemented as of April 2013, 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.

9. Before programming:
 - o CRN 330 - Form 1042-S
 - o CRN 331 - Form 8805
 - o CRN 332 - Form 8288-A
 - o CRN 333 - Amended Form 1042-S
10. After programming:
 - o CRN 330 - Generates the overpayment resulting from tax deducted and withheld under Chapter 3 or 4, see Form 1120-F (Line 8b).
 - o CRN 334 - Generates from 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.

IRM 21.8.2.12.2.2 Updated the last "IF".

1. If tax is withheld at source, 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	Process as a normal duplicate filing case, <ol style="list-style-type: none"> 1. Verify that the income on Form 1042-S is reported (use CFOL commands OR request return, if necessary). <p style="text-align: center;">NOTE: When the income was not</p>

	<p>considered, adjust the account accordingly.</p> <ol style="list-style-type: none"> 2. Research command code IRPTR to verify the same information on the Form 1042-S is reported in IRPTR. 3. Research the EIN of the Withholding Agent to ensure Form 1042 has been filed to report and pay at least the amount of the credit claimed on the Form 1042-S. <p>NOTE: If the withholding agent has not submitted the proper Form 1042, <i>Annual Withholding Tax Return for U.S. Source Income of Foreign Persons</i>, and paid at least the amount of the credit being claimed on Form 1042-S, no consider the claim.</p>
<p>The taxpayer files an amended return claiming that the amount withheld on Form 1042-S was incorrect</p>	<p>Return the claim to the taxpayer. Advise the taxpayer to resubmit the amended return with a copy of the corrected Form 1042-S.</p>
<p>The taxpayer files an amended return with a corrected Form 1042-S.</p>	<ol style="list-style-type: none"> 1. Research command code IRPTR to verify the same information on the Form 1042-S is reported in IRPTR. 2. Research the EIN of the Withholding Agent to ensure Form 1042 has been filed to report and pay at least the amount of the credit claimed. <p>NOTE: If withholding agent has not submitted the proper Form 1042, and paid at least the amount on Form 1042-S, no consider the claim.</p> <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>NOTE: Use of the reference code 330 will cause Master File to use the 180- day interest free calculation on the amount of the Chapter 3 withholding credit.</p>

IRM 21.8.2.12.2.3 Updated information regarding new programming. Added a "Caution" concerning Compliance manually reviewing the validity of certain credits. Added information on reporting FATCA.

1. Beginning January 1, 2015 all Forms 1120-F with any portion of a refund supported by a Form 1042-S, Form 8288-A, or Form 8805 (CRN 330) will have the entire refund systemically frozen for up to 168 days. No notices will be generated to the taxpayers regarding the systemic freeze, which may result in telephonic or written inquiries referring to the frozen credits. However math error notices will continue to generate normally.

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.

2. 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.

3. Refunds will be frozen systemically with a Transaction Code (TC) 570 a -R freeze and a TC 971 Action Code (AC) 746.

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.

4. **Do not release the freeze.** Compliance will review the validity of these credits during the 168 day period. If Compliance deems the credit valid they may either manually release the freeze (in part or in its entirety) or the refund will systemically release at the end of the 168 day period; if the credit is deemed invalid they can extend the freeze. An extended freeze can be identified by a TC 971 AC 747 with a two digit character (01-99; the number of cycles the freeze is extended) in the miscellaneous field.

CAUTION: Compliance may "manually" continue to review the validity of Forms 1042-S, Form 8805, and Form 8288-A credits on certain returns. The items below will identify these returns, **Do not release the refund.** CSRs

should close the case "PROJCD1080" and prepare a referral (Form 4442) and securely e-mail it to # [REDACTED] #. If you receive a phone call 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 6 months for these refunds to be issued. If six months have passed, inform the taxpayer the refund will be delayed pending the examination of the tax return.

- Project Code Status "1080" will be on Command Code (CC) AMDISA;
 - 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", "HOLDREFUND", "CNTCTEXAM", or similar history.
5. If a taxpayer calls to inquire about their refund and it is a frozen CRN 330 (1042-S/8288-A/8805) refund 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".
 6. 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.
 7. 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 5 above to advise the taxpayer about the delay. Process other amended returns normally but **do not release any Chapter 3 or 4 frozen credits**. Accounts Management CSRs will report time spent on working the issues in this paragraph under 710-84390 (FATCA).

IRM 21.8.2.12.10.3 Added a "Note".

1. The line 66 (credit for amounts withheld by other withholding agents) entry from Form 1042 is reflected on IDRS as TC 766 with a CRN 330 (Form 1042-S) and/or CRN 333 (Amended Form 1042-S) and is for amounts withheld by other withholding agents that pertain to the total net liability reported on Form 1042, line 63c (total net tax liability).
2. A withholding agent is an Intermediary. An Intermediary is a person who acts as a custodian, broker, nominee, or otherwise as an agent for another person, regardless of whether that other person is the beneficial owner of the amount paid, a flow-through entity, or another intermediary.
 - A Qualified Intermediary (QI) is an intermediary that entered into a withholding agreement with the IRS. Withholding Foreign Partnerships and Withholding Foreign Trusts may also enter into withholding agreements with the IRS. These entities are recognized by their EIN's. All are assigned EINs within the range: # [REDACTED] #

- A Non-Qualified Intermediary (NQI) is any intermediary that is not a U.S. person and that is not a QI. Most NQIs do not need to file Form 1042 because they pass all required documentation to an upstream withholding agent so that the withholding agent can withhold from and report to the NQI's account holders.
3. Adjustments to line 66 entries are permitted by both QIs and NQIs. However, a refund of line 66 credits can only be made to a QI.
 4. Certain documentation/statements must be provided before allowing an amendment to a line 66 credit that was claimed on an original return.
 5. Most requests for adjustments occur when payers withhold tax at rates that are higher than required when the beneficial owners are fully documented. That is, the recipients are either exempt from taxation, or benefit from treaty provisions or for other reasons described in IRC § 1441 or IRC § 1442.
 6. An amended return can be filed to increase the **credit** originally claimed on line 66 without increasing the tax amount. Follow procedures in Paragraph (7) when a refund is requested by a QI.
 7. The following substantiation must be provided when an adjustment is requested for line 66 after the due date of the return:
 - A signed amended Form 1042
 - The reason for requesting the adjustment, and
 - A copy of the original, voided original and corrected Forms 1042-S. The amounts in Box 9 should total to the Line 66 credit. Even if provided, allow only credits that can be verified as having been received by the IRS using one of the following:
 - CC IRPTR with a Definer "L" and Document Code "02", which displays Form 1042-S credits;
 - CC IRPTR with a Definer "O" and Document Code "02", which displays Form 1042-S credits;
 - CC IRPTR with a Definer "I" and Document Code "02", which displays all Forms 1042-S issued by a withholding agent.

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8. Correspond or call the taxpayer to request the proper documentation and/or substantiation of the credit if the full amount claimed cannot be verified on CC IRPTR.
9. If a **decrease in tax** is requested, and the proper documentation has been submitted, send to Examination Classification prior to allowing. See IRM 21.8.2.1.13, *Examination Criteria*.
10. If the issue is accepted by Classification, make the adjustment (if tax is affected, use TC 29X). If the line 66 credit is affected, use TC 766 CRN 330/333 to allow or increase credit. TC 767 CRN 330/333 is used to reverse all or part of a previous credit.
11. The amount of tax withheld on income for foreign persons under sections 1441 through 1446, and the amount of tax assumed under section 1451 are Chapter 3 taxes. Accordingly, to the extent that an overpayment arises from those taxes being deducted, withheld and reported on Form 1042, the 180-day interest-free period applies. See IRM 21.8.2.9.6.1, *180-day interest-free Period for Chapter 3 Withholding*.