IRM PROCEDURAL UPDATE

DATE: 08/03/2026

NUMBER: ts-03-0826-0740

SUBJECT: Withholding Agent Definitions

AFFECTED IRM(s)/SUBSECTION(s): 3.21.25

CHANGE(s):

IRM 3.21.25.16.1(1) (e) - Added Box 2 editing instructions.

(1) When Forms 8288 and 8288-A batch work is received for processing you must:

a. Review Form 8288-A for the foreign persons TIN, name and address.

b. Make sure you received both Copy A and B of Form 8288-A for each foreign seller.

c. Edit the real property description if missing.

d. The amounts on Form 8288-A, lines 3 and 4 (lines 2 and 3 for prior years) must balance with the amount withheld and amount realized on Form 8288. If they do not balance, search all attachments and edit correct information if found. If not found, correspond for an explanation using CAS 3104C. If no reply is received, continue to process return as is, and enter the Form 8288-A information into the Database as it appears on the Form 8288-A.

   Caution: Do not mail out Form 8288-A, Copy B if the form is incomplete or incorrect.

e. Box 2 may or may not have an entry. Edit only if Form 8288-A copy A or B has an entry or when the settlement statement or an attachment shows there should be an amount in box 2.

IF	THEN
Either one of Copy A or B of Form 8288-A are not attached,	See IRM 3.21.25.16(1) for instructions.
Multiple foreign sellers are listed on Form 8288-A,	See IRM 3.21.25.16(2) and IRM 3.21.25.16.3 for instructions.
No Form 8288-A is attached, but it is obvious that it was attached (e.g., detached by ITIN) and there is supporting documentation to (e.g.,	Prepare a dummy Form 8288-A using the PDF fillable form for however many Forms 8288-A are listed on Line 5 of Form 8288. (Line 4 for Prior year.) Print out the completed forms and attach it to the return. Continue processing.

settlement statement, taxpayer correspondence) support this fact,	**Note:** Do not dummy a Form 8288-A when the Name, TIN, and mailing address of the foreign seller is not present in the supporting documentation. Instead correspond for Forms 8288-A with Letter 3104C. See IRM 3.21.25.16 (4).
The foreign seller on Form 8288-A has no TIN, Or, Multiple foreign sellers, but only one does not have a TIN number,	Continue to process Form 8288-A, but do not stamp "Copy B Mailed" or mail the Form 8288-A to the foreign seller. **However, place Copy B of Form 8288-A in a folder marked "Copy B 8288-A No TIN." Place it on the pending wall. Send out IDRS Letter 3794C or Select Quicknote menu selection 14 to mail Letter 3794 to the foreign seller. Also, annotate on the reverse side of Form 8288-A Copy B, the date Letter 3794 was mailed. Keep for 12 months.**

Reminder: If the foreign person or entity provided an alternate mailing address on Form 8288-A (lower left corner box and lower right corner box on 2018 version of the form), then mail Form 8288-A Copy B to the foreign seller using the alternate mailing address. Record the foreign address to the left of Box 5 in the Remarks field as an Alternate Mailing Address.

IRM 3.21.25.16.1(2) - Added withholding agent definitions.

(2) For purposes of Form 8288, the withholding agent is:

- The buyer/transferee of a USRPI liable for section 1445(a) withholding
- The entity or fiduciary liable for section 1445(e) withholding
- The buyer/transferee of a partnership interest liable for section 1446(f)(1) withholding
- The partnership liable for section 1446(f)(4) withholding
- The buyer/transferee of a partnership interest making a claim of refund of section 1446(f)(4) withholding

IRM 3.21.25.16.1(3) (a) - Added exception for when withholding agent and transferor can be the same.

(3) **Buyer and Seller are the same on Form 8288 and Form 8288-A:**

a. Research all attached documents and edit the correct information. Correspond or call the taxpayer only after researching all attached documents and the correct information was not found. Prepare CAS Letter 3104C and request corrected returns with the correct Name, Address and TIN numbers for both parties.

   Reminder: Make sure you are speaking with the taxpayer or authorized representative before disclosing any tax information. Follow IRM 21.1.3.2.3, Required Taxpayer Authentication and IRM 21.1.3.2.4, Additional Taxpayer Authentication. Before leaving any messages on a taxpayer's answering machine, review IRM 10.5.1.6.7.2, Answering Machine or Voicemail and IRM 10.8.1, Information Technology (IT) Security, Policy and Guidance.

   Exception: In some cases, the entity or fiduciary liable for section 1445(e) withholding can be listed as both the withholding agent and transferor. In these cases, the withholding agent will fill out Form 8288, Part 2.

b. Enter Form 8288-A into the INTLWebApps application. Use the provided taxpayer information as the W/H Agent information to record the Form 8288-A in the database. However, enter **"Unknown"** for the seller (Foreign person) name, and **#** [redacted] **#** for the TIN, and **"Missing"** for the address line.

c. Edit Computer Condition Code (CCC) "U" on Form 8288 (follow procedures in IRM 3.21.261.17.(3), Computer Condition Codes (CCC) - Form 8288.

d. Leave Form 8288-A, Copy A attached to Form 8288. In the remarks enter "Unknown address Copy B destroyed." Classified Waste Copy B.

IRM 3.21.25.16.1(6) - Added Form 8288-A copy B pending wall purge instructions.

(6) Purge all "Form 8288-A Copy B" with a Letter 3794 date of 12 months and older from the pending wall and follow Classified Waste procedures. Update the 8288-A FIRPTA database "Remarks" field with "No TIN-Copy B destroyed". Complete this process at the end of each month.