

IRM PROCEDURAL UPDATE

DATE: 06/30/2016

NUMBER: wi-03-0616-1165

SUBJECT: FIRPTA Exception

AFFECTED IRM(s)/SUBSECTION(s): 3.21.263

CHANGE(s):

IRM 3.21.263.5.3.5.2(9) and (10) revised acceptable documentation for Exception 3 and Exception 4 and removed "Note", " Caution", " Reminder" words.

- 9. Exception 3, Third Party Mortgage Interest: related information statements may include Form 1098. Information Statement(s) are generally prepared once a TIN has been supplied. Do not consider for exception documentation requirements.

If applicant is ...	Then acceptable documentation is...
Individuals with a home mortgage loan on real property located in the U.S.,	Copy of contract of sale indicating mortgage used for purchase of a home.

- 10. Exception 4, FIRPTA: related information statements may include Form 8288 series. Information statements (Form 8288 series) **ARE** considered as exception documentation.

If applicant is ...	Then acceptable documentation is...
An individual who is a party to the disposition of a U.S. Real Property interest by a foreign person (buyer or other transferee such as a withholding agent),	Either: <ul style="list-style-type: none"> o Completed Form 8288, or Form 8288-A, and/or Form 8288-B, AND o Copy of real estate sales contract, If not assigned to the designated FIRPTA Unit, pull for your lead.

- 11. Exception 5, Treasury Decision (T.D.) Form 9363: see the table below.

If...	Then submit...
<p>A non-U.S. representative of a foreign corporation needs to obtain an ITIN for the purpose of meeting their E-filing requirement,</p>	<ul style="list-style-type: none"> ○ Form W-7 with "Exception 5, T.D. 9363" on line "h" If applicant only specifies exception number or "TD 9363" or "Form 1120-F" or any similar statement on line "h," process as Exception 5 criteria. ○ Form 13350 and Employer Corporate Letter as exception documentation. Supporting identification documentation requirements for Form W-7 must also be met. ○ Applicant's foreign address must be present on Form W-7. ○ Record the assigned ITIN on Line 3 of Form 13350.

IRM 3.21.263.8.3.2.2(1) "Exception" removed the word "Note" and "Has the Exception documentation been verified?" deleted "Note" and added hyperlink.

1. Use the table below to input the reason for submitting the Form W-7 from the Form W-7 reason box area.

W-7 Application Input Screen Content	Instruction
<p>Remarks</p>	<p>The remarks field is used to enter information not captured on any other ITIN RTS field during initial input or during editing. See Exhibit 3.21.263-48 for a listing of common RTS acronyms and meanings.</p> <p>Begin all entries in this field with the actual date that you are entering the remarks in MMDDYY format and end the entry with two slashes (/). For example, if today is 013115, begin the entry with "013115 Remarks //"</p> <p>If instructions state the actual text for an entry to the Remarks Screen and the text is in</p>

	<p>quotation marks, input the exact words shown within the quotation marks. It is not necessary to input the actual quotation marks.</p> <p>Reasons for inputting Remarks include:</p> <ul style="list-style-type: none"> ○ Certificate of Accuracy (COA) invalid; list the reasons such as unauthorized signature or required copies missing. See IRM 3.21.263.8.3.2.10 ○ Exception document is incomplete or invalid (for example, LLC EIN missing or 2a missing Form 8233). ○ Exception one pay document is self-generated (for example, from Amazon). See IRM 3.21.263.5.3.4.3. ○ Form 8821 (TIA) - IRM 3.21.263.5.3.5.17. ○ Incorrect received date was entered. Record the correct received date with entries such as <i>correct received date is MM-DD-YY</i>. ○ MDR inquiries -IRM 3.21.263.5.9.8. ○ Power of Attorney (POA) Form 2848 invalid; list the reasons such as <i>missing applicant signature</i>. ○ # [REDACTED] # ○ SEVP documentation incomplete, for example, SEVP letter is not dated or signed ○ Suspense Inventory unresolved conditions - IRM 3.21.263.5.10.5 ○ U.S. card marked "Driver's Privilege Card" or "Permit" is not a driver license ○ Visa type is not in the drop down list of valid visas for ITIN. See Exhibit 3.21.263-4. ○ Visa is not required; see IRM 3.21.263.5.3.5.2 and IRM 3.21.263.5.4.1. . ○ 1040-PR or 1040-SS tax return is attached - See IRM 3.21.263.8.3.1. ○ For additional original ID or copies certified by the issuing agency (CCIA) provided beyond the requirement that are on the list of thirteen, enter the corresponding document code in
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	<p>remarks. For example, enter "16" for U.S. Driver's License.</p> <ul style="list-style-type: none"> ○ Original ID is provided by a CAA for a primary or secondary applicant. ○ For additional original documents or CCIA provided that are not on the list of thirteen, enter the document type in remarks. Make entries such as <i>marriage license received</i>.
<p>Reason for submitting W-7</p> <p>IRM 3.21.263.5.3.5.2</p>	<p>Choose one of the following check boxes:</p> <ul style="list-style-type: none"> a. Nonresident alien required to obtain ITIN to claim tax treaty benefit b. Nonresident alien filing a U.S. tax return c. U.S. resident alien (based on days present in the United States) filing a U.S. tax return d. Dependent of U.S. citizen/resident alien e. Spouse of U.S. citizen/resident alien f. Nonresident alien student, professor, or researcher filing a U.S. tax return or claiming an exception. <p>NOTE: Box "f" with return requires input of exception documentation Form 8233 or SSA Reject Letter or DSO Letter. See IRM 3.21.263.8.3.2.3</p> <ul style="list-style-type: none"> g. Dependent/spouse of a nonresident alien visa holder h. Other <p>CAUTION: When "h" is selected and no other reason is also selected, a warning message will display. Note that reason box h can be the only box checked for any of the exceptions. See also the drop down choices for "Exception" below.</p> <p>NOTE: If applicant is "Military Overseas", refer to "Exception" field below. See IRM 3.21.263.4.6.</p> <p>Enter the <i>Reason for Submitting W-7</i> as listed</p>

	<p>by the applicant.</p> <p>If no reason box is checked or multiple boxes are checked, make no entry for S 13 to generate.</p> <p>EXCEPTION: The following combinations are valid combinations and should be entered as shown. The dotted line beside h should have a statement about one of the exceptions.</p> <ul style="list-style-type: none"> - a and h - f and h
Other	<p>Enter the other reasons for submitting a W-7 Application</p> <p>If you make an entry in this field, you must make a corresponding selection from the Exception drop-down box that directly follows. For example, if the written entry was "To obtain a drivers License", select "Not valid for federal tax purposes" from the Exception drop-down box.</p>
Exception	<p>Choose one of the following from the drop down box:</p> <ul style="list-style-type: none"> ○ Exception 1. Passive income (Treaty benefits or third party withholding) ○ Exception 2. Other income (wages, salary, compensation) - treaty benefits or foreign student receiving scholarship or fellowship). ○ Exception 3. Third party reporting (mortgage interest). ○ Exception 4. FIRPTA (Disposition by foreign person of U.S. real property interest). ○ Exception 5. T.D. Form 9363. ○ Military Overseas - Application is for a Spouse/Dependent(s) of military personnel on a foreign base. Tax return and date of entry are not required. ○ EIN - Effectively Connected Income (ECI) - Foreign individual with U.S. source (U.S. mailing address) business income seeking ITIN for EIN. ○ EIN - Non-effectively Connected

	<p>Income (NECI) - Foreign individual with Non - U.S. source (foreign mailing address) business income seeking ITIN for EIN.</p> <ul style="list-style-type: none"> ○ Deceased/Decedent-Valid selection for decedents and KITA. ○ Not valid for federal tax purposes. Choose this when Reason for Applying box "h" is checked with no other boxes checked and no exception designated. <p>This drop-down box is located next to Reason for Submitting W-7 "Other" write - in box.</p> <p>If the applicant checked box "d" or "e" and documentation shows the application originated from a U.S. military installation outside of the U.S., select "Military Overseas". Do NOT select reason "h". See IRM 3.21.263.4.6.</p> <p>If request is for an EIN, select as appropriate either EIN -NECI (R 22) or EIN -ECI (R 23).</p>
Has the exception documentation been verified? See IRM 3.21.263.5.3.5.2.	<p>Choose the appropriate check box,</p> <p>Select "yes" when all of the required exception documentation has been provided for the exception being claimed.</p> <p>Select "no" when not all of the required exception documentation has been provided.</p>
Treaty Country	<p>Select if Reason "a" is claimed.</p> <p>Choose the appropriate treaty country from the drop down box.</p>
Treaty Article	Enter the Treaty Article Number.
First name of U.S. citizen/resident alien If this is a Family Pack, enter the primary applicant's full name	<p>Enter the first name of U.S. citizen/resident alien if reason box "d" or "e" is selected.</p> <p>If the primary taxpayer is not applying for an</p>

and it will autopopulate on all dependent's applications.	ITIN, enter these fields using the name and TIN listed on the tax return. This information must also be edited on Form W-7 if missing or incomplete.
Middle name of U.S. citizen/resident alien	Enter the middle name of U.S. citizen/resident alien <i>See First Name of U.S. citizen/resident alien above</i>
Last name of U.S. citizen/resident alien NOTE: do not enter suffixes if present	Enter the last name of the U.S. citizen/resident alien. <i>See First Name of U.S. citizen/resident alien above</i>
SSN/ITIN of U.S. citizen/resident alien	Enter the SSN/ITIN of U.S. citizen/resident alien. NOTE: Do not enter IRSNs in this field. <i>See First Name of U.S. citizen/resident alien above</i>