

IRM PROCEDURAL UPDATE

DATE: 07/03/2023

NUMBER: wi-03-0723-0794

SUBJECT: Code and Edit Form 8288-A Verification Process Updates

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

CHANGE(s):

IRM 3.21.25.15(4) 3 - Added instructions on what to do with Forms 8288-A (copy B) that are not sent to the seller.

(4) If Form 8288-A is not completely filled out, then correspond for the required information using Correspondence Action Sheet (CAS) Letter 3104C. However, when a phone number is present, call the taxpayer and have them FAX the information to you. If the telephone number is an international number do not call, but correspond. If no response is received, then review Form 8288 attachments for the information and dummy it onto Form 8288-A. If unable to locate the information, process as is by following the steps in paragraphs 1 through 13.

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

Reminder: Research IDRS to verify the payment was made. Do not send Form 8288-A Copy B if the payment has not been made.

Note: To prevent disclosure of Personally Identifiable Information (PII), the **Withholding Agent's SSN must be redacted** prior to mailing. No redaction of EIN is required.

Reminder: If Form(s) 8288-A is not or are not attached to Form 8288, you must still create a record for each Form 8288-A in the Form 8288-A IRMF FIRPTA Database by using the information off of Form 8288 (prior to releasing the batch work to ISRP). ERS/REJ will coordinate with Code and Edit once they receive the 8288-A from the taxpayer to update the Form 8288-A record. See IRM 3.21.25.15.2 and IRM 3.21.25.15.2.1.

1. Form 8288 DLN.
2. Date of Transfer (DOT) (See IRM 3.21.261.19.9 (9) for more instructions for when the DOT is missing).

Exception: The DOT is required when **corresponding**. Therefore, if Form 8288 is no longer accessible, and the Form 8288-A has no DOT, research IDRS to see where the money posted. If located, then use the YYYYMM of

the payment and the first day of the month to complete the DOT. Use this date on your correspondence. If unable to locate the money, use the first day of the previous month as the DOT for the correspondence letter.

3. Press to check the tax paid button if the FIRPTA W/H tax was paid. If the tax was not paid, do not check it, and do not mail Form 8288-A (copy B) to the seller. Instead, leave Form 8288-A (copy A) attached to Form 8288 and classify waste Form 8288-A (copy B) per local procedures.
4. Enter the amount realized shown on Line 6 Part I, Line 10 Part II or Line 13 Part III from Form 8288.

Note: Form 8288 uses the phrase "Amount subject to withholding."

Note: For prior years enter the amount realized shown on lines 5a or 5b Part I or lines 5a or 5b Part II Form 8288.

5. Depress the proper W/H Agent TIN Type button.
6. Enter the W/H Agents Taxpayer Identifying Number (TIN).
7. Enter the W/H Agents name shown on Line 1 of Form 8288.
8. Enter the Real Property Description (RPD) shown on Line 2 of Form 8288.
9. Enter the two-digit RPD state code.
10. Enter # [REDACTED] # for the TIN of the seller.
11. **Skip** the Copy B Mailed field.
12. Enter "**Unknown**" for the foreign seller name, if missing.
13. Enter "**Missing**" in the address line, if missing.

IRM 3.21.25.16(5) - Added instructions for scenario when withholding agent and buyer are the same on Form 8288-C.

(5) Partnership (Withholding Agent) and Partner (Buyer) are the same on Form 8288 and Form 8288-C:

- 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.
- b. Enter Form 8288-C into the INTLWebApps application. Use the provided partnership information as the withholding agent information to record the Form 8288-C in the database. However, enter "**Unknown**" for the partner (buyer) name, and # [REDACTED] # for the TIN, and "**Missing**" for the address line.
- c. Edit CCC "U" on Form 8288 (follow procedures in IRM 3.21.261.17.(3)).
- d. Leave Form 8288-C, Copy A attached to Form 8288. In the remarks enter "Unknown buyer/partner."

IRM 3.21.25.16(6) - Added instructions for scenario when Partnership/Withholding Agent on Form 8288-C and Form 8288 are not the same.

(6) Partnership/Withholding Agent on Form 8288-C and Form 8288 are not the same.

Take the following steps:

- a. Use the actual partnership's information from Form 8288 or Form 8288-C, as the withholding agent to report on Lines 1a through 1e of Form 8288, or prepare a new Form 8288-C with the actual partnership's information edited in the withholding agent's block of Form 8288-C.

Caution: Do not mail a Form 8288-C to the partner (buyer) unless specifically instructed elsewhere in the IRM.

- b. Enter the data from the newly prepared Form 8288-C into the Form 8288-C database.

Reminder: Research IDRS to verify the payment posted to the partner's MFT 17 account. If the payment has posted to the partnership's MFT 17 account, send a Form 3465 request to have the payment moved to partner's MFT 17 account. If a payment is not found on either the partnership or partner's MFT 17 account, continue processing.

IRM 3.21.25.17(6) 3 - Added reminder to update the Withholding Type field in the database on older Form 8288-A returns.

(6) Verification Procedures: Generally, you must:

1. Make sure you have a Form 8288-A attached to the income tax return or substantial evidence of withholding (e.g., settlement statement) and that the return has a TIN number present on it.
2. Form 8288-A may or may not have "Copy B mailed" stamped on it, or the DLN of the processed Form 8288 stamped on it. Nevertheless, continue to verify the credit.

Reminder: If the correct FIRPTA date stamp is not on the Form 8288-A, then it is a good possibility that it is not recorded in the Database. However, proceed with the credit verification.

3. Query the FIRPTA Database for the credit.

Note: If you are unable to locate the Form 8288-A record in the Database, research the W/H Agent TIN on IDRS to see if Form 8288 was filed and paid. If found on IDRS then continue following these instructions. If not, then go to IRM 3.21.25.17.2 for instructions.

Reminder: When verifying an older version of Form 8288-A that does not have Box 5, "Withholding under section", update the Withholding Type field in the database with the correct value. If the return is for Section 1445 (FIRPTA) withholding select "1445" and if the withholding is for Section 1446(f)(1) withholding, select "1446(f)" from the drop down list.

IF	THEN
The income tax return and the Form 8288-A have No TIN number	Do not verify the credit but enter .00 on Form 13698. Document in the remarks area of Form 13698 the following "Denied Credit - No TIN present."
The income tax return has a TIN number, but not Form 8288-A,	<ul style="list-style-type: none"> ○ Query for the Form 8288-A record in the Database to see if the name and address match the taxpayer's Form 1040-NR name and address. If it does, then verify credit and update database with the correct TIN number. ○ Name and address on 1040-NR are different, do not verify the credit but enter .00 on Form 13698. Document in the remarks area of Form 13698 the following; "Denied Credit - Questionable Taxpayer."
The TIN on the tax return and Form 8288-A are not the same, and/or the name and address do not match the Form 8288-A Database,	Do not verify the credit but enter .00 on Form 13698, and document on Form 13698 "possible mixed entity case" "Denied Credit - Questionable Taxpayer. "
The income tax return has no TIN, or it is a Canadian TIN,	Do not verify the credit but enter .00 on Form 13698. "Denied Credit - No Valid U.S. TIN present ."
The "Tax Paid" button is not checked on the Form 8288-A screen, and the date of transfer is prior to 12/13/05 with a 98641, 17641 or 09641 DLN with a 3XX blocking series,	The tax has been paid. Verify the credit.
The "Tax Paid" button is not checked on the Form 8288-A screen, and the date of	<ul style="list-style-type: none"> ○ The tax may or may not have been paid.

transfer is after 12/12/05, with a 98140, 17641, 09641 or 60140 DLN,	<ol style="list-style-type: none"> 1. Research IDRS MFT 17 using the W/H Agent EIN and the year and month of the date of transfer as your tax period to see if the tax was paid. 2. If paid, check the "Tax Paid" button, 3. Verify the credit and prepare Form 13698. <ul style="list-style-type: none"> ○ If the tax hasn't been paid, then follow the instructions in the next row.
Form 8288 tax has not been paid, or Form 8288 tax has been partially paid,	<ol style="list-style-type: none"> 1. Prepare Form 13698. 2. Verify the credit, but do not check the Tax Paid Button. 3. Enter the credit verification information only in the "Remarks" area.
The Form 8288 tax has been paid, and the tax return and Form 8288-A have matching U.S. TINs,	Verify the credit, complete Form 13698, Update the credit verification table in the Form 8288-A Database, and insert the current date and employee profile number in the remarks area of the Database.

4. Follow the instructions in the "If/Then" table below, when the Form 8288-A record is not located in the database, but the Form 8288 return was received, paid and processed to the Business Master File.

Note: The 48 hour turnaround time is waived in this situation.

If	Then
Only one Form 8288-A was filed with the Form 8288 return	<ol style="list-style-type: none"> a. Create an Form 8288-A record in the "Form 8288-A IRMF" database. b. Save the Record. c. Complete the "Credit Verification" part of the Form 8288-A record. d. Stamp "Copy B mailed" on the Form 8288-A. e. Complete the Credit Verification Slip (Form 13698).
More than one Form 8288-A was filed with the Form 8288 return	<ol style="list-style-type: none"> a. Alert the Lead Tax Examiner. b. The Lead will request (via Form 2275) the entire Form 8288 DLN return block from files. c. Once the DLN block has been received from files the Lead will locate the questionable return in the block and give it to the C and E T/E to

	<p>complete their actions (See IRM 3.21.25.15.3). Once the actions are completed the T/E must return the document to the DLN block.</p> <p>d. The Lead will review the remaining Form 8288 returns in the block to see if the Form 8288-As have been recorded in the Form 8288-A IRMF database.</p>
The Form 8288-As from the DLN block were not recorded in the Form 8288-A IRMF database	<p>The Lead will either record them in the Form 8288-A IRMF database, or designate a T/E within the unit to process the DLN block (See IRM 3.21.25.15.4). Caution: Do not separate the DLN block.</p> <p>Reminder: Once all actions with the DLN Block has been completed (including Form 8288-A Copy B Mailout), return the entire DLN block to files for Re-filing.</p>
The Lead is unable to obtain the DLN block from files	<p>Lead must prepare correspondence action sheet 3104C and request copies of all the Form 8288-As from the withholding agent (use open paragraph). Suspend for 30 days in the "3794C No TIN folder."</p> <p>Note: Suspend for 60 days if the buyer has a foreign address.</p>
Withholding Agent responds	Complete the actions mentioned in the first row above.
Withholding Agent doesn't respond	Follow IRM instructions. See " NOTE " in IRM 3.21.25.17.