

## IRM PROCEDURAL UPDATE

**DATE: 08/03/2016**

**NUMBER: wi-21-0816-1270**

**SUBJECT: BMF International Accounts Management**

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

**CHANGE(s):**

### **IRM 21.8.2.12.2.3 Updated FATCA programming information.**

1. Beginning January 1, 2015 all Forms 1120-F claiming Form 1042-S, Form 8288-A, and/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 154 days. However, Forms 1120-F with a zero balance or a balance due will not have a systemic freeze.
2. The items below will identify these systemically frozen refunds:
  - o - R Freeze;
  - o Transaction Code (TC) 766 Credit Reference Number (CRN) 330;
  - o TC 570; and
  - o 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. Beginning January 1, 2016 the entire refund is no longer frozen. All Forms 1120-F claiming withholding relating to Chapter 3 or 4 (Line 5i) will continue to be reviewed for validity but will no longer have a freeze code on the account. The amount of withholding claimed on Line 5i will be systemically frozen for up to 154 days with a Transaction Code (TC) 810. **DO NOT RELEASE THE FREEZE.** The items below will identify these systemically frozen refunds:
  - o TC 810;
  - o TC 766 Credit Reference Number (CRN) 330; and
  - o TC 971 Action Code (AC) 746.
4. 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.

5. The 154 day freeze period begins from the later of the Form 1120-F 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.

6. **DO NOT RELEASE THE FREEZE.** Compliance will review the validity of these credits during the 154 day freeze period.
7. If additional time is necessary to review the credits, Compliance will extend the systemic freeze and send Letter 3064C. 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.
8. 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".
9. If a taxpayer calls to inquire about their refund and the initial freeze has been extended, advise the caller: "The IRS will need additional time beyond the initial six months indicated in the Form 1120-F instructions to process the return. Please allow up to 12 months from the original due date of the Form 1120-F or the date you actually filed the Form 1120-F, whichever is later, to process your return. If after our review you are due a refund, we will pay you interest on that amount from the later of the due date or the date you filed your return. We apologize for the inconvenience".
10. 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.
11. 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.
12. If a duplicate or amended return is received for the purpose of receiving the frozen credit, issue correspondex Letter 3064C, or other appropriate letter and release the -A freeze. 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.

13. 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.
14. Accounts Management CSRs will report time spent on working FATCA issues under 710-8439X (FATCA).
15. 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:
  - o Project Code Status "1080" will be on Command Code (CC) AMDISA;

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

- o Freeze Codes (-X, -L and -R) will be on CC BMFOLT and CC TXMODA; and
- o 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 issued. If six months have passed, inform the taxpayer the refund will be delayed pending the examination of the tax return, prepare a referral (Form 4442) and securely e-mail it to # [REDACTED] #, and close the case "PROJCD1080" or "PROJCD1501". **DO NOT RELEASE THE FREEZE.**

#### **IRM 21.8.2.12.2.4 Updated FATCA programming information.**

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 Form 1042-S (Copy A) submitted to IRS against the recipient's Form 1042-S filed with their income tax return. The comparison will determine if Forms 1042-S match and if a credit was previously allowed. The box numbers that changed from Tax Year 2014 to Tax Year 2015 are noted below.

#

o [REDACTED]

o [Redacted]

[Redacted]

o [Redacted]

[Redacted]

[Redacted]

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 154 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 Withholding Agent must check their Form 1042-S (Copy A) against what they actually submitted to the IRS through FIRE (Filing Information Returns Electronically) or on paper and compare the information against what they provided to the recipient. 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 154 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.
14. Accounts Management assistants will take the following actions on accounts affected by the new systemic matching program:
  - o Follow all normal statute guidelines. Refer to Statutes for clearance or assessment when necessary. See IRM 25.6, *Statute of Limitations*.
  - o 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*.
  - o Follow all normal amended return guidelines and procedures. For further information see IRM 21.5.2.4, *Adjustment Guidelines-Procedures*.