

IRM PROCEDURAL UPDATE

DATE: 12/08/2023

NUMBER: wi-21-1223-1158

SUBJECT: Requirement Removed to Use Form 2158 to Process Form 8804 Payments to NMF; Timeframe Reference Updated for Form 4442 Referrals to BMF Entity for Form 2553

AFFECTED IRM(s)/SUBSECTION(s): 21.7.4

CHANGE(s):

IRM 21.7.4.4.2.11(6) Removed requirement to use a Form 2158 to process Form 8804 payment to NMF

(6) If the taxpayer contacts IRS and states:

If	And	Then
Not liable	Taxpayer incorrectly checked the yes box or if an input error was made by IRS	<ul style="list-style-type: none">• Acknowledge receipt of the issue.• Apologize, if our error.• Advise TP you will notate their file. Use TP correspondence or if telephone inquiry, prepare Form 4442/Form 4442 DI/AMS, as source document and in the remarks field, state TP not liable.• Associate the above document to Files by inputting TC 290 \$.00 in blocking series 17 or follow local procedures.
Not liable	Taxpayer correctly checked the yes box and had effectively connected gross income allocable to foreign partners (without regards to distributions) but had no ECTI allocable to any foreign partners	Tell Taxpayer they still must file Form 8804, but not Form 8805 or Form 8813.
Liable	Needs forms	<ul style="list-style-type: none">• Send necessary forms to TP or give toll-free forms number.• Instruct TP to file at OIRSC Ogden, UT, 84201
Liable	Original return(s) attached	<ul style="list-style-type: none">• Route to Ogden

Liable	TP states that they have already filed and sends clearly marked copy of return(s)	<ul style="list-style-type: none"> • Destroy as classified waste, respond only if TP asks question. <p>Note: Classified waste is documentation containing taxpayer entity or account information that is not part of the case and is not needed for audit trail purposes. Refer to IRM 21.5.1, <i>General Adjustments</i>, for guidance on handling classified waste to prevent inadvertent/unlawful destruction of records.</p>
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Note: If the taxpayer states they had no taxable income, it is not a valid response. Advise the taxpayer they either marked the checkbox next to question 14 on tax year 2018 forms and subsequent (question 16 on prior year forms), Foreign Partners, on Schedule B, Form 1065, indicating that the partnership had foreign partners (for purposes of IRC 1446). Ask the taxpayer if this is correct and if they are liable or not liable, follow the chart above based on their response.

IRM 21.7.4.4.11.1(12) Added reference to paragraph (9) referencing timeframes to advise the taxpayer when sending Form 4442 referrals to the BMF Entity Unit per SERP Feedback 15262

(12) Although the time frames in paragraph (9) above may not have passed, if either of the time frames in paragraph (10) above has passed and no information is available, or the transaction code on the account is TC 093, prepare Form e-4442/4442, *Inquiry Referral*. Request a copy of the previously submitted Form 2553 from the taxpayer to attach to the referral. Mark the date the Form 2553 was faxed or mailed and advise the taxpayer they will be contacted by the end of the time periods mentioned in paragraph (9) above. **FAX** to BMF Entity Unit in the proper campus:

- Ogden - 855-214-7520
- Kansas City - 855-887-7734