



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

21.8.4

AUGUST 15, 2024

EFFECTIVE DATE

(10-01-2024)

PURPOSE

- (1) This transmits revised IRM 21.8.4, International, United States Certification for Reduced Tax Rates in Tax Treaty Countries.

MATERIAL CHANGES

- (1) IRM 21.8.4.1.2(3) - Revised to update Rev. Proc. 2018-50, 2018-42 IRB 610.
- (2) IRM 21.8.4.1.6(1) - Table updated to add Taxpayer Services (TS).
- (3) IRM 21.8.4.2(6)- IPU 24U0438 issued 3/20/2024 - Updated Note to accept a base return from temporary to a permanent process.
- (4) IRM 21.8.4.2 - IPU 24U0721 issued 06-05-2024 - Updated table to include function and program code for processing applications received within EFS.
- (5) IRM 21.8.4.2(2) - Revised to update Rev. Proc. 2018-50, 2018-42 IRM 610.
- (6) IRM 21.8.4.2.2.5(9) - Updated note to clarify the retention of rejection letters within EFS.
- (7) IRM 21.8.4.2.2.6(2) Updated to include 60 day suspense period for overseas addresses.
- (8) IRM 21.8.4.3.7.3 - IPU 24U0721 issued 06-05-2024 - Updated paragraphs 2-4 to include IRM 10.10.3.3.6, Identity Proofing for Required Taxpayer Authentication and IRM 11.3.2.4, Persons Who May have Access to Returns and Return Information Pursuant to IRC 6103(e).
- (9) IRM 21.8.4.4.3(3) - IPU 24U0721 issued 06-05-2024 - Added note to paragraph 3 due to termination of the United States-Hungary income tax treaty for all purposes as of January 1, 2024.
- (10) IRM 21.8.4.4.3(3) - Updated table and added note to include United States-Chile treaty. Added note under table to include termination of the United States-Russia income tax treaty.
- (11) IRM 21.8.4.4.4.4(1) - Added 2nd Note due to termination of the United States-Hungary income tax treaty for all purposes as of January 1, 2024. Added 3rd Note due to termination of the United States-Russia income tax treaty.
- (12) IRM 21.8.4.4.4.7(3) - Updated table to remove Chile from list of non-treaty countries. Added Note due to termination of the United States-Hungary income tax treaty for all purposes as of January 1, 2024. Added 2nd Note due to termination of the United States-Russia income tax treaty.
- (13) IRM 21.8.4.4.8(1) - Updated indefinite extension on the use of digital signatures on Form 8802.
- (14) IRM 21.8.4.4.11(2) - IPU 24U0438 issued 3/20/2024 - Updated Note to accept a base return from temporary to a permanent process.
- (15) IRM 21.8.4.4.12.2(10) - Added Note due to termination of the United States-Hungary income tax treaty for all purposes as of January 1, 2024. Added 2nd note due to termination of the United States-Russia income tax treaty.

- (16) IRM 21.8.4.4.12.3(14) - Updated Table to include Chile. Added 2nd Note due to termination of the United States-Hungary income tax treaty for all purposes as of January 1, 2024. Added 3rd note due to termination of the United States-Russia income tax treaty.
- (17) IRM 21.8.4.4.12.3(17) - Updated table to add additional countries having treaties with China.
- (18) IRM 21.8.4.4.13.3 - Added note due to termination of the United States-Russia income tax treaty.
- (19) IRM 21.8.4.6 - IPU 24U0721 issued 06-05-2024 - Added new Subsection due to new inventory platform, EFS for receiving and working faxed receipts.
- (20) IRM 21.8.4.6.1 - IPU 24U0721 issued 06-05-2024 - Added new Subsection on the primary and alternate workflow overview of EFS.
- (21) IRM 21.8.4.6.2 - IPU 24U0721 issued 06-05-2024 - Added new Subsection on the roles of EFS.
- (22) IRM 21.8.4.6.2.1 - IPU 24U0721 issued 06-05-2024 - Added new Subsection on the role of a clerk in EFS.
- (23) IRM 21.8.4.6.2.2 - IPU 24U0721 issued 06-05-2024 - Added new Subsection on the role of a clerk manager in EFS.
- (24) IRM 21.8.4.6.2.3 - IPU 24U0721 issued 06-05-2024 - Added new Subsection on the role of a tax examiner in EFS.
- (25) IRM 21.8.4.6.2.4 - IPU 24U0721 issued 06-05-2024 - Added new Subsection on the role of a tax examiner lead or manager in EFS.
- (26) Various editorial changes were made throughout the IRM. This includes updates from Wage and Investment to Taxpayer Services throughout- IPU 24U0721 issued 06-05-2024.

EFFECT ON OTHER DOCUMENTS

IRM 21.8.4 dated August 31, 2023 (effective 10/01/2023) is superseded. Interim Procedural Update (IPU) 24U0438 issued 3/20/2024 and 24U0721 issued 06/5/2024 has been incorporated into this IRM.

AUDIENCE

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21.8.4

United States Certification for Reduced Tax Rates in Tax Treaty Countries

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21.8.4.1
(11-30-2018)
**Program Scope and
Objectives**

- (1) **Purpose:** This IRM describes the procedures to verify evidence that a United States Residency Certification (USRC) applicant is a United States resident for tax purposes during the tax year or period identified on the Form 8802, Application for United States Residency Certification, to issue a Form 6166, U.S. Residency Certificate. The certificates are primarily issued to United States (U.S.) residents seeking to reduce foreign withholding tax on income derived from sources within a country that has an income tax treaty with the United States. A certificate may also be requested for purposes of reducing a Value Added Tax (VAT) on goods taken out of other foreign countries. The United States has tax treaties with over 60 countries. Many of these treaties provide U.S. residents a reduction, elimination or refund of the foreign country's withholding or income tax. The IRS residency certification, Form 6166, is accepted by many of our treaty partners as proof of U.S. residence for tax purposes for the period specified on the certification.
- (2) **Audience:** This IRM provides procedural guidance for Philadelphia Accounts Management lead tax examiners, tax examiners, and clerks who process Form 8802, Application for United States Residency Certification.
- (3) **Policy Owner:** The policy owner is the Director, Accounts Management, Taxpayer Services.
- (4) **Program Owner:** The program owner is Process and Program Management (PPM), Accounts Management (AM), Taxpayer Services (TS) Division.
- (5) **Primary Stakeholders:** The primary stakeholders are Taxpayer Services (TS), Large Business & International (LB&I) and Competent Authority.
- (6) **Program Goals:** United States Residency Certification (USRC) Program goals are to accurately and expeditiously process the Form 8802, "Application for United States Residency Certification" received from taxpayers and/or their representatives. The USRC Program is a specialized program worked only in Philadelphia by specifically identified Accounts Management employees.

21.8.4.1.1
(10-01-2017)
Background

- (1) Employees working the U.S. Certification program process requests received on Form 8802, Application for United States Residency Certification, as well as resolving issues with the processing of Form 8802 and issuance of Form 6166 certification.
- (2) There is a user fee of \$85.00 per individual applicant and \$185 per non-individual applicant who files Form 8802, "Application for United States Residency Certification".
- (3) IRM 21.8.4 provides guidance to employees in Accounts Management assigned to U.S. Certification teams.

21.8.4.1.2
(10-01-2024)
Authority

- (1) Refer to IRM 1.2.1.13, Policy Statements for Customer Account Services Activities, for information.
- (2) The following list of Internal Revenue Code (IRC) sections provide more instructions:
 - IRC 401(a), Qualified pension, profit-sharing and stock bonus plans

- IRC 501(c) & IRC 501(c)(3), Exemption from tax on corporations, certain trusts, etc.
- IRC 761(a), Partnership
- IRC 6103, Confidentiality and Disclosure of Returns and Return Information
- IRC 6105, Confidentiality of Information Arising Under Treaty Obligations

Note: More IRC sections are cited in the IRM where applicable to the issue covered.

(3) Rev. Proc. 2018-50 and 2018-42 IRB 610.

21.8.4.1.3
(09-08-2020)

Roles and Responsibilities

- (1) The Taxpayer Services Commissioner has overall responsibility for the policy related to this IRM, which is published on a yearly basis.
- (2) All Forms 8802, Application for United States Residency Certification, are worked by specifically identified tax examiners (TE) in Philadelphia.
- (3) The Form 6166, U.S. Residency Certificate is printed and mailed in Philadelphia or Ogden, depending on case type.
- (4) More information can be found in IRM 1.1.13.7.3, Accounts Management and IRM 21.1.1, Accounts Management and Compliance Services Overview, also provides guidance for Accounts Management employees.

21.8.4.1.4
(09-08-2020)

Program Management and Review

- (1) Program Reports: The program reports provided in this IRM are for processing purposes for the Accounts Management (AM) Clerks, Tax Examiners (TE), Lead Tax Examiners (TE) and Managers.
 - Pay.gov Report: Is found on the *Pay.gov site* and is run daily by the clerical staff to ensure the user fee payments have been successfully processed.
 - Status Report: Is found on the United States Residency Certification (USRC) Database and is run by tax examiners, leads and managers. These reports show which cases are ready to have certifications issued and cases that need further review.
 - For reports concerning quality, inventory and aged listing, please refer to IRM 1.4.16, Accounts Management Guide for Managers.
- (2) Program Effectiveness is determined by Accounts Management employees successfully using IRM guidance to perform necessary actions and duties.

21.8.4.1.5
(10-01-2018)

Program Controls

- (1) Goals, measures and operating guidelines are listed in the annual Program Letter.
- (2) Quality data and guidelines for measurement are referenced in IRM 21.10.1, Embedded Quality (EQ) Program for Accounts Management, Campus Compliance, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS) and Electronic Products and Services Support.

21.8.4.1.6
(10-01-2024)

Terms and Acronyms

- (1) Some common acronyms used in the United States Residency Certification IRM are listed in the below table.

Acronym	Definition
BMF	Business Master File
CAF	Centralized Authorization File
DRE	Disregarded Entity
EIN	Employer Identification Number
EO	Exempt Organization
IDRS	Integrated Data Retrieval System
IMF	Individual Master File
IRA	Individual Retirement Account/Arrangement
IRC	Internal Revenue Code
LLC	Limited Liability Company
LP	Limited Partnership
LLP	Limited Liability Partnership
LLLP	Limited Liability Limited Partnership
MFT	Master File Tax
NMF	Non-Master File
OTCnet	Over the Counter Channel Application
POA	Power of Attorney
POD	Post of Duty
POP	Penalty of Perjury
P&A	Program & Analysis
SERP	Servicewide Electronic Research Program
SSN	Social Security Number
TIA	Tax Information Authorization
TC	Transaction Code
TS	Taxpayer Services
TDC	Taxpayer Digital Communication
USRC	United States Residency Certification
VAT	Value Added Tax

21.8.4.1.7
(02-01-2022)

Related Resources

(1) The following list of publications provides more instructions:

- Pub 519, U.S. Tax Guide for Aliens
- Pub 901, U.S. Tax Treaties
- Pub 947, Practice Before the IRS and Power of Attorney

Note: More publications are cited in the IRM where applicable to the issue covered.

(2) The following list of IRM references provides more instructions:

- IRM 1.4.16.5.11, Monitoring the Outstanding Cases Listing (OCL)
- IRM 1.10.3.2.1, Secure Messaging & Encryption
- IRM 2.3, IDRS Terminal Responses
- IRM 3.8.44, Campus Deposit Activity
- IRM 3.30.123, Processing Timeliness: Cycles, Criteria and Critical Dates
- IRM 10.5.1.6.8, Email
- IRM 10.5.1.6.9.4, Faxing
- IRM 11.3.2.4.5, Government Agencies
- IRM 13, Taxpayer Advocate Service
- IRM 21.1.1, Accounts Management and Compliance Services Overview
- IRM 21.1.2.2.2, IRM 21 - Change Requests/SERP Feedback
- IRM 21.1.3, Operational Guidelines Overview
- IRM 21.1.7.11.5, Form 3210, Document Transmittal, Retention
- IRM 21.1.7.10.4.5, Validating Form 8802 User Fee Payments via Paper Check Conversion (PCC)
- IRM 21.3.3.4.2, Policy Statement P-21-3 Procedures
- IRM 21.3.3.4.24, Breaches of Personally Identifiable Information (PII) Caused by Manual Stuffing Errors
- IRM 21.3.7.1.4, Taxpayer Digital Communication (TDC) CAF Overview
- IRM 21.3.7.7, Processing Third-Party Authorizations onto the Centralized Authorization File (CAF), International Processing
- IRM 21.3.7.13.1, Reject/Return Authorization to Third-Party
- IRM 21.3.7.5.1, Essential Elements for Form 2848 and Form 8821
- IRM 21.3.8.9.8, Tax Exempt/Government Entities (TE/GE) Customer Account Services (CAS) Telephone Operations, Status Codes - EO
- IRM 21.3.8.12, Exempt Organizations (EO)
- IRM 21.8.2, BMF International Adjustments
- IRM 21.10.1, Embedded Quality (EQ) Program for Accounts Management, Campus Compliance, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS) and Electronic Products and Services Support

Note: More IRMs are cited in the IRM where applicable to the issue covered.

21.8.4.2
(06-05-2024)

Certification Overview

(1) Upon receipt of a processable Form 8802, a user fee, and all the required supporting statements and/or documentation from the certification applicant, the application will be processed.

(2) All Forms 8802 are charged a user fee. Revenue Procedure 2018-50, 2018-42 IRB 610 (October 15, 2018) provides that as of December 1, 2018, the fee is \$85 per application for individuals and \$185 per application for non-individuals (e.g., partnership, corporation, trust, estate or exempt organization), regardless of the number of certificates requested. See IRM 21.8.4.2.2, User Fees.

- (3) If all certification requirements are met, the proper U.S. Residency Certification is issued on Form 6166, Certification Program Letterhead.

Note: Under no circumstances will IRS certify any fact which cannot be proved correct by evidence in office files.

- (4) U.S. Residency Certification confirms, to the best of our knowledge, the applicant (e.g., individual, partnership, corporation, trust, estate or exempt organization) being certified is a U.S. resident that:
- Has filed a statutorily required U.S. income tax return as a resident of the United States

Note: In the case of an exempt organization, the organization may file an annual information return rather than or in addition to a tax return. Also, some organizations are not statutorily required to file an annual information return. See also IRM 21.8.4.4.12.12.

- Has a valid extension to file a U.S. tax return and a resident of the U.S. (when applicable)
- Is not statutorily required to file a U.S. tax return
- Is in its first year of existence and has not yet been required to file a tax return, and has submitted documentation to identify itself and stated, under penalties of perjury, that it anticipates filing a U.S. tax return as a resident for that tax period

Exception: Certification will not be issued to a trust that is part of an employee benefit plan during the employee benefit plan's first year of existence. See IRM 21.8.4.4.12.13, Employee Plan Applicants.

- (5) A certification issued based on an extension to file a U.S. tax return requires the applicant to have filed its prior year tax return as a U.S. resident.
- (6) When the applicant submits a signed copy of their tax return with the Form 8802, you must verify that it is complete. If the return is not posted or if there is no record of its receipt, follow the procedures in the chart below:

If	Then
The return is processed and posted	<ul style="list-style-type: none"> Issue certification, provided the applicant meets all other certification requirements. Discard the return filed with the application as classified waste.

If	Then
The return is not posted and the application is for Individual Master File (IMF)	<ul style="list-style-type: none"> Check TXMOD, FFINQ (IMF) or TRDBV for receipt of the return. If return is located issue certification, provided the applicant meets all other certification requirements. <p>Note: If the return is unpostable, follow local procedures for referral to the Planning and Analysis (P&A) Analyst and leave a remark in the case.</p>
The return is not posted and it is not found on FFINQ (IMF) or TRDBV	<p>Check the return to see if it is complete.</p> <ul style="list-style-type: none"> If return is complete, route original return to processing using Form 1725, Routing Slip. <p>Note: If the return is not an original, mark as possible duplicate.</p>
If return is not yet due or was recently due	<ul style="list-style-type: none"> Check the prior year filing for a U.S. resident tax return (Transaction Code (TC) 150 posted with Document Locator Number (DLN), Document Code (DC) 03, 05, 06, 07, 08, 09, 10, 11, 12, 16, 21, 22, 28). If the applicant filed as a resident in the prior year, issue certification, provided the applicant meets all other certification requirements. Note in Remarks "RT received w/8802, prior year posted."

Note: Effective April 4, 2022, the United States Residency Certification Program will accept a signed copy of the base return (for example, the 2-page Form 1040, the 6-page Form 1120, the 5-page Form 1065, etc.) in order to process the Form 8802. More tax forms can be found at *Forms, Pubs & Correspondence*. The base return will be kept as part of the Form 8802 application and will not be forwarded for processing. The base return will be used to process the Form 8802, rather than requiring the taxpayer to submit a copy of their full return.

(7) The Function and Program codes used for this process are:

Duty Performed	Function	Program
Telephones	700	8056X
Technical Processing of Paper Applications	710	8056X
Technical Processing of Applications in EFS	710	8057X
Clerical Processing of Paper Applications	790	8056X

Duty Performed	Function	Program
Clerical Processing in EFS	790	8057X

- (8) All issues that cannot be resolved using the procedures in this IRM, or the *Instructions for Form 8802*, must be referred to management. If management cannot resolve the issue, follow local procedures for referral to the Planning and Analysis (P&A) Analyst.
- (9) The Planning and Analysis (P&A) Analyst will review and forward, when necessary, any issue requiring the attention of the Headquarters Analyst or Information Technology.
- (10) Servicewide Electronic Research Program (SERP) feedback is used to submit issues concerning the U.S. Residency Certification Program. Follow procedures in IRM 21.1.2.2.2, IRM 21 - Change Requests/SERP Feedback for submitting topics.
- (11) Applicants that either have had their certification application denied or do not qualify for U.S. Residency certification, but believe they are entitled to treaty benefits under a specific treaty article, may request reconsideration and must provide:
 - a. A detailed explanation as to why they are entitled to certification, and
 - b. Any and all documentary evidence
- (12) If a Form 8802 submitted for reconsideration requires further review it must be forwarded to the P&A Analyst. If necessary, the P&A Analyst will forward to Headquarters.
- (13) Form 8802 applicants who believe that they qualify for treaty benefits under a specific treaty article after being denied by both the Certification Unit and Headquarters must follow *Rev. Proc. 2015-40* for requesting Competent Authority help. See IRM 21.8.4.4.2, Requesting Competent Authority Assistance in Determining Eligibility for Treaty Benefits.

21.8.4.2.1
(01-03-2020)
**Form 8802, Application
for United States
Residency Certification**

- (1) The instructions, Form 8802, and reference material is available on the internet at *IRS.gov* under Certification of U.S. Residency for Tax Treaty Purposes, or by calling 267-941-1000 (option 3).
- (2) Form 8802 is used to request certification of United States Residency for purposes of claiming benefits under an income tax treaty or Value Added Tax (VAT) exemption. Many U.S. treaty partners require the IRS to certify that a person claiming treaty benefits (in that foreign country) is a resident of the United States for federal tax purposes. The IRS provides this residency certification on Form 6166, a letter of U.S. residency certification.

Note: Certifications issued for VAT purposes certify certain matters in relation to U.S. federal income tax status and not that the applicant meets any other requirement for a Value Added Tax (VAT) exemption.

- (3) A U.S. Residency Certification Application, Form 8802, must be submitted for all U.S. Residency Certification (Form 6166) requests.

- (4) The Form 8802 must be completed, **signed, dated**, and must include all required supporting statements and/or documentation before the application can be processed.

Note: An application submitted without the date of the signature indicated may be accepted for review if all other required information is included.

- (5) Form 8802 generally requires the following information be included on the form. For specific entity application requirements, see IRM 21.8.4.4.12, Applicant Requirements, Return and U.S. Residency Certification Information.

- Correct User Fee
- Applicant's Name and Taxpayer Identification Number (TIN)
- Line 1, Name and TIN to be printed on the certification when different from the applicant information
- Line 2, Applicant's Certification Address (Permanent)
- Line 3a, Mailing address
- Line 3b, Appointee information (if applicable)
- Line 4, Applicant's Entity Type
- Line 5, Applicant's Filing requirements
- Line 6, Applicant's Parent/Owner information

Note: Line 6 is only required if the applicant checked **No** on Line 5. Common types of entities that must complete Line 6 are disregarded entities — limited liability corporations (DRE-LLCs), qualified subchapter S subsidiaries (QSSSs), minor children, sole proprietors, Financial Asset Securitization Investment Trusts (FASIT)s, and grantor-trusts.

- Line 7, Certification Period (the year the applicant wants printed on the Form 6166)
- Line 8, Verification Tax Period
- Line 9, Certification Purpose
- Line 10, Penalties of Perjury (POP) or other Info

Note: For complete information on Penalties of Perjury Statements see Table 2 of the *Instructions for Form 8802*.

- Line 11, Certification Country

- (6) The IRS cannot issue certification if the required information is not provided on Form 8802.

- a. If all the information is provided and the applicant qualifies, issue Form 6166.
- b. If the applicant fails to provide the required information, do not issue Form 6166. See IRM 21.8.4.3.1, Processing Incoming Documents for more information.

- (7) Applicants may authorize a third-party appointee to request certification for multiple tax years on behalf of the applicant on Form 8802, Form 8821, or Form 2848.

21.8.4.2.1.1
(08-12-2021)
Who Can Sign Form 8802?

- (1) Form 8802 must be signed and dated by the applicant.
- (2) Form 8802 must also include the name and title of the signer.

United States Certification for Reduced Tax Rates in Tax Treaty Countries 21.8.4

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- (3) The chart below indicates who has the authority to sign Form 8802, and authorization forms (Form 8821 and Form 2848) giving authority to request, receive, and/or discuss the certification:

If the applicant is	Then the individual with authority to sign Form 8802 is
A Nominee	The individual or entity the nominee represents or any person duly authorized to act on behalf of the Individual or the entity the Nominee represents.
Individual Retirement Arrangement /Account (IRA)	The IRA holder or the trustee.
An Individual	The individual.
A Married Couple	Both spouses.
A Partnership	Any partner or partners duly authorized to act for the partnership; the partner must certify that he/she has such authority.
Disregarded Entity (DRE) <ul style="list-style-type: none"> DRE- Limited Partnership (LP) DRE - Limited Liability Company (LLC) DRE- Limited Liability Partnership (LLP) DRE- Limited Liability Limited Partnership (LLLP) 	The owner of the DRE or any person duly authorized to act on behalf of the owner.
An S Corporation	Any corporate officer, e.g., president, vice-president, treasurer, chief accounting officer, etc., duly authorized by the corporation to bind the corporation following applicable state law.
A Trust/Common Trust Fund/Grantor Trust/Simple Trust	The fiduciary (trustee, executor, administrator, receiver, or guardian). Note: If the trust is a grantor trust, a grantor may sign with respect to that grantor's portion of the trust that the grantor is treated as owning (the whole trust, where the grantor is treated as the owner of the whole trust).
An Estate	The personal representative (executor, executrix, administrator, or administratrix).
A Corporation	Any corporate officer, e.g., president, vice-president, treasurer, chief accounting officer, etc., duly authorized by the corporation to bind the corporation following applicable state law.
An Employee Benefit Plan/Trust	Any organization officer, e.g., president, vice-president, treasurer, chief accounting officer, etc., duly authorized by the Plan or Trust to bind the Plan or Trust following applicable state law.

If the applicant is	Then the individual with authority to sign Form 8802 is
An Exempt Organization	Any organization officer, e.g., president, vice-president, treasurer, chief accounting officer, etc., duly authorized by the organization to bind the organization following applicable state law.
A Partnership under an IRC 761(a) election	Any partner or partners duly authorized to act for the partnership, the partner must certify that he/she has such authority.
A Financial Asset Securitization Investment Trust (FASIT) (Effective January 1, 2005, the special rules for FASITs were repealed. However, the special rules still apply to any FASIT in existence on October 22, 2004, to the extent that regular interests issued by the FASIT before that date continue to remain outstanding following the original issuance.)	Any corporate officer, e.g., president, vice-president, treasurer, chief accounting officer etc., duly authorized by the corporation to bind the owner corporation following applicable state law.
A Government Entity	An official of the government entity who has authority to bind it during their official duties.

- (4) IRM 11.3.2.4.5, Government Agencies, states that returns and return information of a federal, state, or local government agency may be disclosed to any person legally authorized to act for such agency. Generally, verification that the requestor is a governmental official, such as a Director of Taxation or Personnel, is sufficient to indicate entitlement to returns and return information. The applications must be:

- Made in writing
- Submitted on the government agency's letterhead
- Signed by a government official, such as, but not limited to a Director of Taxation or Personnel

- (5) If the form is signed by an authorized representative, there must be evidence of the authorization (e.g., Form 2848 or similar power of attorney must be attached to the file). Applicants that would like to authorize a recognized individual to sign the Form 8802, thereby representing them before the IRS, must grant the individual Power of Attorney (POA). A power of attorney is written authorization for the individual to act on behalf of the applicant in tax matters.

Note: The person executing the authorization must specifically authorize the recognized individual to sign the Form 8802 or tax information documents. Applicants may only authorize those individuals who are recognized to practice before the IRS. However, if the Form 2848 is attached to the Form 8802, and the Form 8802 is signed by the POA, in most cases the taxpayer intended to provide specific authority to the POA to sign the Form 8802. To avoid creating a hardship for the taxpayer that intended to have the POA sign the Form 8802, but failed to include the proper authorization statement on Form 2848, contact the taxpayer to provide the proper signature authorization.

- (6) Practice before the IRS covers all matters relating to any of the following:

- a. Communicating with the IRS for an applicant about the rights, privileges, or liabilities of the applicant under laws and regulations administered by the IRS
 - b. Representing an applicant at conferences, hearings, or meetings with the IRS
 - c. Preparing and filing necessary documents with the IRS on behalf of an applicant
- (7) Before an individual can practice before the IRS, he or she must file a written declaration with the IRS stating that he or she is authorized (by the applicant) and qualified (a recognized individual) to represent a particular applicant. Part II of Form 2848 is a declaration that can be used for this purpose. The following is a list of individuals recognized to practice before the IRS, and who can be authorized to apply for certification on behalf of a U.S. resident:
- a. An Attorney - any attorney in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia may practice before the IRS.
 - b. A Certified Public Accountant (CPA) - any CPA qualified to practice as a CPA in any state, possession, territory, commonwealth, or the District of Columbia may practice before the IRS.
 - c. An Enrolled Agent - any enrolled agent in active status may practice before the IRS.
 - d. An Unenrolled Individual - any individual who, due to their special relationship with the applicant, can represent that specific applicant. The following individuals, due to their special relationship with the applicant, may represent that specific applicant. However, that individual must provide satisfactory identification and, except in the case of the individual representing themselves, proof of the individual's authority to represent the applicant.

Unenrolled Individual	Definition
Individual	An individual may represent himself or herself before the IRS without having to file a written declaration of qualification and authority.
Family Member	An individual may represent members of their immediate family. Immediate family means a spouse, child, parent, or sibling of the individual.

Unenrolled Individual	Definition
Officer	A bona fide officer of a corporation (including a parent, subsidiary or other affiliated corporation), association or organized group can represent the corporation, association, or organized group. An officer of a government entity with authority, during official duties, to bind the organization.
Partner	A general partner can represent the partnership before the IRS.
Employee	A regular full-time employee can represent their employer.
Fiduciary	Trustee, executor, administrator, receiver, or guardian stands in the position of an applicant and acts as the applicant, not as a representative of the applicant.

- (8) A power of attorney is generally submitted to the IRS on Form 2848. However, the IRS may also accept a power of attorney submitted in a different format. A power of attorney not submitted on Form 2848 may be accepted only when it includes all the information identified below:
- The applicant's name and mailing address
 - The applicant's Social Security Number (SSN) and/or Employer Identification Number (EIN)
 - The employee plan number, when applicable
 - The types of tax involved
 - The federal tax return form
 - The specific years or periods involved
 - For estate tax matters, the decedent's date of death
 - A clear expression of the applicant's intentions concerning the scope of authority granted to the recognized representative
 - The applicant's signature and date
- (9) Powers of attorney must have a Declaration of Representation attached. The Declaration must include the statements listed in Part II of the Form 2848. In addition to the required statements, the Declaration must be signed, dated, and have the designation under which the representative is authorized to practice before the IRS.
- (10) The authorized representative is the only person, other than the applicant, duly authorized to represent the applicant, unless the authorization specifically states the person may designate other authorized representatives.

21.8.4.2.1.2
(10-01-2018)
Three-Year Procedure

- (1) Certain applicants may submit a Form 8802 that covers 3 years, beginning with the three-year period. If the applicant checks the box for Line 4d (Estate), Line 4g (Employee Benefit Plan/Trust), or Line 4h (Exempt Organization), then it does not have to provide an original signature on Form 8802 every year. An applicant may only use this procedure if there are no material changes of fact (including name or permanent address).
- (2) **Year 1** - The third-party designee must submit a complete Form 8802 signed and dated by the applicant along with all other required documentation based on the applicant's entity type, as well as Form 8821 (or other tax information disclosure authorization statement e.g., Form 2848, Power of Attorney and Declaration of Representative) covering a period of up to three years. The applicant's penalties of perjury statement on Line 10 of Form 8802 must include a statement that the applicant will continue to be a resident throughout year one and will continue through years two and three.
- (3) **Year 2** - The third-party designee will complete a new Form 8802 (which need not be signed) and attach a copy of the signed Form 8802 submitted in year one (including the accompanying documentation and tax information disclosure authorization) along with the correct user fee.
- (4) **Year 3** - Follow year two procedures.

21.8.4.2.1.3
(05-31-2023)
**Current Year
Certification
Applications**

- (1) A Form 8802 requesting certification for the current year must have a statement either in box 10, or as a separate attachment to the Form 8802. The statement must state that the applicant is a U.S. resident for tax purposes and will continue to be throughout the current year (the year must be specified). If the applicant makes the statement in box 10, but there is missing information, such as the TIN, and the missing information can be identified on the Form 8802, accept the statement. The Form 8802 is signed under penalties of perjury. This allows us to accept all the information on the Form 8802. Do not delay processing the application when there is sufficient information to establish the applicant is a U.S. resident for tax purposes.

Caution: When the Declaration statement is submitted separately from the Form 8802, it **must** be submitted under penalties of perjury and have a valid signature, title of signer, and date. The penalties of perjury statement does not have to be in a particular format. For example, the statement may state it is signed under penalties of perjury, or it could be identified as a penalties of perjury statement, or a perjury statement.

- (2) Applicants requesting a current year certification can submit Form 8802 as early as December 1st of the prior year. However, early submissions of current year applications received prior to December 1st of the prior year **must** be returned.

Caution: Extreme care must be taken to ensure that only the material relative to the taxpayer(s) to whom the correspondence is addressed is enclosed in the envelope. See IRM 21.3.3.4.24, Breaches of Personally Identifiable Information (PII) Caused by Manual Stuffing Errors.

- (3) When the prior year return has not been filed and isn't yet required to be filed, the statement must address the applicant's residency status in the prior year. Refer to the table in paragraph 4 below.

Note: This statement is required of all applicants in this situation. In some instances, the applicant will not have been a resident for the prior year and therefore, will only attest to its residency status in the current year.

- (4) The chart below lists the statements, by applicant type, that must be made under penalties of perjury when the Form 8802 is for a current year residency certification.

Note: Value Added Tax (VAT) certifications can be issued for the current year. A VAT certification requires a similar statement plus an additional statement that the business activity remains the same.

If the applicant is	Then the Form 8802 penalties of perjury statement must include
A Nominee	A statement from the individual or entity for whom the nominee is acting stating the Individual/entity name, TIN, is a U.S. resident and will continue to be throughout the current tax year.
An Individual	Individual's Name, TIN, is a U.S. resident and will continue to be throughout the current tax year.
An individual claiming treaty benefits for teaching or research activities for countries other than Japan	Countries other than Japan: Individual's Name, TIN, was a U.S. resident within the meaning of Article [X] of the U.S.-[country] treaty immediately before entering [country]. The assignment began on [date] and ends on [date]. Article [#] of the U.S.-[country] treaty provides a [2 or 3] year exemption from income tax. Pub 901, U.S. Tax Treaties provides more instructions.
An individual claiming treaty benefits for teaching or research activities for Japan	Individual's Name, TIN, is (and will continue to be) a U.S. resident within the meaning of Article 4(1) of the U.S.-Japan treaty. The assignment began on [date] and ends on [date]. Article 20 of the U.S.-Japan treaty provides a 2 year exemption from income tax. Pub 901, U.S. Tax Treaties provides more instructions.
An Individual Retirement Account/Arrangement (IRA)	A statement from the IRA holder or the trustee indicating that the IRA Name, IRA Account number, is a U.S. resident and will continue to be throughout the current tax year.

If the applicant is	Then the Form 8802 penalties of perjury statement must include
A Partnership	<p>A statement from each partner for which certification is requested stating: Partner's Name, TIN, is a U.S. resident and will continue to be throughout the current tax year</p> <p>AND</p> <p>A statement from a general partner stating: Partnership Name, TIN, has filed its required return and the entity classification has not changed since the return was filed.</p> <p>Note: When the partner is other than an individual, use the statement that corresponds to the entity type.</p>
An S Corporation	<p>A statement from each shareholder for which certification is requested stating: Shareholder's Name, TIN, is a U.S. resident and will continue to be throughout the current tax year.</p> <p>AND</p> <p>A statement from an officer of the corporation with the authority to legally bind the corporation stating: S Corporation Name, TIN, has filed its required return and the entity classification has not changed since the return was filed.</p>
A Common Trust Fund/Grantor Trust/Simple Trust	<p>A statement from each participant / owner / beneficiary stating: Name, TIN, is a U.S. resident and will continue to be throughout the current tax year.</p> <p>Note: When the participant, owner, beneficiary, is other than an individual, use the statement that corresponds to the entity type</p> <p>AND</p> <p>A statement from the trustee stating: Trust Name, TIN, has filed its required return and the entity classification has not changed since the return was filed.</p>
All Other Trusts	<p>A statement from the trustee stating: Trust Name, TIN, is a U.S. resident and will continue to be throughout the current tax year.</p>
An Estate	<p>A statement from the personal representative stating: Estate Name, TIN, is a U.S. resident and will continue to be throughout the current tax year.</p>

If the applicant is	Then the Form 8802 penalties of perjury statement must include
A Corporation	A statement from an officer of the corporation with the authority to legally bind the corporation stating: Corporation Name, TIN, is a U.S. resident and will continue to be throughout the current tax year.
An Employee Benefit Plan/Trust	A statement from an officer with the authority to legally bind the organization stating: Plan/trust, TIN, is a U.S. resident and will continue to be throughout the current tax year.
An Exempt Organization	A statement from an officer with the authority to legally bind the organization stating: Organization, TIN, is a U.S. resident and will continue to be throughout the current tax year.
A Single-Member LLC or other disregarded entity	Under penalties of perjury, I declare that: (i) [insert name, TIN, of the owner of the disregarded entity], is the single owner of [insert trading name of the disregarded entity], a [insert Limited Liability Company, Limited Partnership, Limited Liability Partnership, or other, as appropriate] that is classified as a disregarded entity for United States income tax purposes; (ii) the single owner is a [insert federal tax classification of the owner, i.e., corporation, partnership, individual, etc.]; (iii) as such, [insert name of the single owner of the disregarded entity] is required to take into account all the income, gain, losses, deductions, and credits against tax of the disregarded entity on its/his/her U.S. federal income tax or information return; and (iv) the single owner of the disregarded entity is a U.S. resident and will continue to be throughout the current tax year. I further declare under penalties of perjury that I am an officer, manager, or member of the disregarded entity with the authority to legally bind the entity and, to the best of my knowledge and belief, the statements herein made are true, correct, and complete.

If the applicant is	Then the Form 8802 penalties of perjury statement must include
A partnership under an IRC 761(a) election	<p>A statement from each member for which certification is requested stating: Member's Name, TIN, is a U.S. resident and will continue to be throughout the current tax year.</p> <p>AND</p> <p>A statement from a general partner stating: The Partnership Name, TIN, has made an election pursuant to IRC 761. As a result, it is not required to file Form 1065, U.S. Return of Partnership Income, on an annual basis and all its members report their respective shares of income, gain, loss, deductions, and credits on their tax returns as required. The partnership's entity classification has not changed since the filing of the partners' returns.</p>
A foreign partnership (including those under Treasury Regulation 1.6031(a)-1(b) not required to file	<p>A statement from the general partner or the tax matters partner stating: Partnership Name, TIN, is not required to file Form 1065, U.S. Return of Partnership Income, under Treasury Regulation or Code (specify i.e., 1.6031(a)-1(b)) and the entity classification has not changed since the filing of the partners' returns.</p> <p>AND</p> <p>A statement from each individual partner for which certification is requested stating: Partner's Name, TIN, is a U.S. resident and will continue to be throughout the current tax year.</p>
A Financial Asset Securitization Investment Trust (FASIT) (Effective January 1, 2005, the special rules for FASITs were repealed. However, the special rules still apply to any FASIT in existence on October 22, 2004, to the extent that regular interests issued by the FASIT before that date continue to remain outstanding following the original issuance.)	A statement from an officer of the corporation with the authority to legally bind the corporation stating: Corporation Name, TIN, is the corporate owner of (FASIT's name, TIN), which is treated as a FASIT under IRC 860H, as such the (corporation name) reports all (FASIT name's) income, gains, deductions, losses, and credits on our Form 1120, U.S. Corporate Income Tax Return. The corporation is a U.S. resident and will continue to be throughout the current tax year.

21.8.4.2.1.4

(10-01-2018)

Tax Information

Authorizations (TIAs)

- (1) When processing a U.S. Residency certification application, Form 8802, ensuring that the requestor is authorized to discuss, receive and/or request the certification is a very important factor.

- (2) IRC 6103(c) provides that an applicant may authorize the IRS to disclose the applicant's return or return information to any person designated by the applicant. IRC 6103(c) distinguishes between authorizations:
 - a. For purposes not directly related to a tax matter
 - b. For purposes of having a third-party provide information or help to the applicant in a tax related matter
- (3) Treasury Regulation 301.6103(c)-1(c) addresses requests by a taxpayer for the IRS to disclose the taxpayer's return information to a third-party so that the third-party can provide information or help relating to the taxpayer's return or transaction or other contact between the taxpayer and the IRS. This section requires that the written authorization:
 - a. Be **signed and dated** by the applicant
 - b. Has the identity of the person(s) to whom disclosure is to be made
 - c. Provide sufficient facts fundamental to the request for the information or help to permit the IRS to determine the nature and extent of the information or help requested and the returns or return information to be disclosed to comply with the applicant's application
- (4) An applicant can authorize the IRS to disclose the applicant's return information with respect to Form 8802 in three ways:
 - a. Form 8802, Application for United States Residency Certification. By completing line 3 on Form 8802, the applicant can appoint a person to whom the applicant wants the IRS to send the Certificate(s). This appointee cannot represent the applicant. This appointee cannot request Certifications for countries other than those indicated on the Form 8802, unless the applicant explicitly authorizes this on line 10 of Form 8802.
 - b. Form 8821, Tax Information Authorization. The applicant can appoint a person to whom the applicant wants the IRS to send the Certificate(s) indicated on Form 8802 using Form 8821. This appointee cannot represent the applicant before the IRS, cannot sign a Form 8802 or a Form 8821 on behalf of the applicant, and cannot authorize the IRS to disclose the applicant's return information to another third-party. This appointee cannot request Certifications for countries other than those indicated on the Form 8802, unless the applicant includes a statement on line 3 of Form 8821 explicitly authorizing an appointee identified on Form 8821 to request Certifications for countries other than those indicated by the appointee. Form 8821 must be signed and dated by the applicant.
 - c. Form 2848, Power of Attorney and Declaration of Representative. The applicant can authorize an individual to represent the applicant before the IRS. An authorized representative can sign a Form 8802 on behalf of the applicant. However, an authorized representative cannot authorize the IRS to disclose any return information to another third-party unless the applicant explicitly authorizes this on line 5 of the Form 2848. The applicant must sign and date the Form 2848, and the authorized representative must complete Part II.
- (5) Use chart in IRM 21.8.4.2.1.1, Who Can Sign Form 8802 to determine who is authorized to sign Form 8802, Form 8821, or Form 2848 giving authority to request, receive, and/or discuss the certification.

- (6) Before discussing an application, making corrections to an application, or issuing certification, first determine whether the requestor is the applicant or a third-party (anyone other than the applicant).

If	Then
The application is signed and dated by the applicant or a person having a valid Power of Attorney (POA)	Process it with the information provided. You may make corrections when necessary.
The applicant <i>signs and dates</i> the application and asks for the certification to be mailed to a third-party	Process according to information provided; make corrections when necessary; no further authorization is needed.
The application is received from a third-party, someone other than for whom the certification is requested and there are issues with the application	You must ensure there is a valid authorization to request, discuss, or correct the application prior to proceeding. Check Form 8802 line 3b, or an attached Form 8821, Form 2848, or like statement.
If uncertain of a person's authorization to request, discuss or receive information	Reject the certification. Issue Letter 3427 or other applicable letter.

Note: Refer to Disclosure and Representation guidelines. See IRM 21.1.3, Operational Guidelines Overview.

- (7) Only provide tax information to authorized individuals.

Caution: Something as simple as revealing an applicant's address or the existence of an application is considered **disclosure, a breach of confidentiality**.

- (8) When a third-party requestor indicates a Power of Attorney (POA) or Tax Information Authorization is on file, research the Centralized Authorization File (CAF) using the Command Code CFINK and/or the Form 8821 Database in the U.S. Residency Certification program to determine if there is authorization and the extent of their authorization. See Document 6209 for Command Code Instructions.

Caution: Do not discuss or disclose any applicant information to the third-party until certain the requestor is authorized to receive the information.

- (9) When the CC CFINK research confirms the requestor as the Power of Attorney (POA) for the applicant needing certification, research the Form 8821 Database to determine if the POA needs to be entered. When confirmed:

1. Enter the POA name and address on the United States Residency Certification (USRC) Database.

2. Enter the POA name on the second name line with either ATTN. or “%(in care of). Continue processing the application for certification.
3. Ensure the POA’s address is entered in the applicant’s address field.

(10) When CC CFINK research doesn’t confirm POA:

- Research the application, Form 8802, and/or attachments for authorization, Form 2848, Power of Attorney and Declaration of Representative, Form 8821, Tax Information Authorization, or documentation giving authorization to the requestor (e.g., Trust Agreement).

If	Then
The Form 8802 application, Line 3b identifies a third-party authorization and the form is signed and dated by the applicant	Enter the information on the Form 8821 Database, if not already in the database.
Attachments include Form 8821 or documentation giving authorization (consent to disclose and purpose) to the requestor	Input the information from this document into the Form 8821 Database, if not already in the database.
Attachments include Form 2848	Input the information from this document into the Form 8821 Database.
Attachments include Form 2848 and it is not specific to the certification	Forward a copy to the Centralized Authorization File (CAF) Unit in Philadelphia Accounts Management Campus (PAMC) for both international and domestic Forms 2848. Fax number is 855-772-3156.
No attachments or the form is not signed and dated	Assume requestor does not have a POA or authorization; reject the application. Issue letter 3427 or other applicable letter.

(11) If a signed and dated new Form 2848 or Form 8821 is received with required certification information, process as a new application.

21.8.4.2.1.5 (10-01-2018)

Processing Time Limits

- (1) The process for issuing a certification for tax residency must be completed and final response initiated within thirty calendar days of the earliest IRS received date. Every effort must be made to provide a complete quality response in the shortest time possible.
- (2) The Form 8802 is not processable until the user fee has been paid.
- (3) Date stamp all Forms 8802 on the day they are received. If Form 8802 is date stamped at a later time, the date stamped on the form must reflect the actual date the Form 8802 was received by the IRS.

- (4) If a Form 8802 cannot be processed within thirty days, an interim letter **must** be sent. Additional interim letters are to be issued every thirty days until the certification can be issued.
- (5) An interim letter must:
 - a. Identify the reason a final response is delayed.
 - b. Specify when the final response will be mailed.
 - c. Include the name, telephone number, organizational code symbols, and the unique identification number of the contact.
- (6) If unable to determine whether an applicant is entitled to a U.S. Residency Certification based on IRM procedures, forward the case to the Planning and Analysis (P&A) staff. The applicant or taxpayer (TP) must be notified via phone or by issuance of the proper letter.
 1. Place the case in 702 status.
 2. Enter in remarks, "Case sent to P&A, TP notified" and an explanation why the case was sent to P&A.
- (7) Processing time limits are specified in IRM 3.30.123, Processing Timeliness: Cycles, Criteria and Critical Dates. For more guidance, see the instructions for correspondence.

21.8.4.2.2 (08-31-2022) User Fees

- (1) The user fee must be verified before a Form 8802 can be processed. A single Form 8802 can be used to request multiple Forms 6166. The user fee is \$85 per application for individuals and \$185 per application for non-individuals (e.g., partnership, corporation, trust, estate or exempt organization), regardless of the country, tax period, or number of certifications requested.
- (2) If an application is submitted without a payment, reject application.
- (3) If an application was accompanied with a partial payment or a miscalculated payment, provide the applicant an opportunity to make a complete payment without having their application rejected.
- (4) The user fee is submitted by check, money order or electronic payment. See IRM 21.8.4.2.2.1, Forms 8802 Received With Check or Money Order, and IRM 21.8.4.2.2.2, Electronic Payments Background for more information.

21.8.4.2.2.1 (08-31-2022) Forms 8802 Received With Check or Money Order

- (1) Applicants send Forms 8802, accompanied with a check or money order for the user fee, to:

Regular Mail	Private Delivery Service
Internal Revenue Service US Residency Certification Philadelphia, PA 19255-0625	Internal Revenue Service 2970 Market Street BLN # 3-E08.123 Philadelphia, PA 19104-5106

- (2) The USRC Remittance Clerical unit processes payments using OTCnet following procedures in IRM 21.1.7.10.4.5, Processing Form 8802 User Fee Payments via Paper Check Conversion (PCC).

- (3) The USRC Remittance Clerical unit verifies payments following the procedures in IRM 21.1.7.10.4.5.1, Validating Form 8802 User Fee Payments.

Note: Prior to January 1, 2020, Forms 8802 accompanied with a check or money order for the user fee were processed by lockbox.

- (4) Once the check or money order has been successfully processed and payment can be verified, place your initials, the date verified, and the word **verified** in the upper right corner of page 1 of the Form 8802 next to the amount verified.
- (5) If the check or money order was not successfully processed, place your initials, the date and the word **rejected**, in the upper right corner of page 1 of the Form 8802.

21.8.4.2.2.2

(10-01-2018)

Electronic Payments Background

- (1) The IRS accepts electronic payments in addition to checks and money orders. Applicants can get more information about making electronic payments on *IRS.gov* and entering e-pay in the search box.
- (2) The web site provides the applicant with information on making electronic payments and by clicking through the user prompts is directed to *Pay.gov* where the applicant can make the payment.
- (3) The applicant is prompted for the necessary information to process the electronic payment. The payment is made by either an Automated Clearing House (ACH) transfer (direct debit) or credit card.
- (4) Two numbers are issued immediately after the payment is processed. The applicant can use either the Agency Tracking ID number or the Pay.gov Tracking ID number as the confirmation number.
- (5) The applicant must write the confirmation number on page 1 of Form 8802. If the payment covers more than one application, the confirmation number is written on each Form 8802.

21.8.4.2.2.2.1

(08-31-2022)

Verifying Electronic Payments

- (1) Verify the confirmation number submitted by the applicant on the Form 8802 is correct by accessing *Pay.gov* and login using your user name and password. Your manager supplies you with a user name and password.
- (2) Select the report list.
- (3) Select ACH debit and enter the confirmation number from the Form 8802 and select the ACH Debit Transaction Search Query. If the payment is not located, use the Credit Card Transaction Query.
- (4) Verify the payment has cleared by reviewing the status codes on the *Pay.gov* report. A status code of "Settled" or "Success", means the payment was successfully processed. If there is any other status code, then the payment is not valid and application is rejected.

Note: If you cannot locate the confirmation numbers on Pay.gov or if the payment shows it was not successfully processed, reject the application. See IRM 21.8.4.2.2, User Fees.

21.8.4.2.2.3 (05-19-2022) Validating Form 8802 Payments

- (5) If the payment is verified, place your initials, the date verified, and the word **verified** in the upper right corner of page 1 of the Form 8802 next to the amount verified.
- (1) The payment information must be notated on Form 8802:
- The USRC Remittance Clerical unit notates the amount paid on the Form 8802 application (on page 1).
 - Applicants using *Pay.gov* are instructed to enter their payment confirmation numbers on page 1 of Form 8802. Information on researching payment confirmation numbers can be found in IRM 21.8.4.2.2.1, Verifying Electronic Payments.
- (2) Determine the correct payment. The fee is \$85.00 per application for individuals and \$185 per application for non-individuals (e.g., partnership, corporation, trust, estate or exempt organization), regardless of the country, tax period, or number of certifications requested.
- (3) If the payment is correct, place your initials, the date verified, and the word **verified** in the upper right corner of page 1 of the Form 8802 next to the amount verified.
- (4) If the payment is less than the full user fee, write the date, your initials and the amount owed on the bottom of the Form 8802.
- (5) If the payment is greater than the amount of the full user fee, write your initials, the date verified and the word **verified** in the upper right corner of page 1 of the Form 8802. On the bottom of the Form 8802, write the date, your initials, the word **overpaid** and the amount overpaid.
- (6) If the payment is more than two weeks older than the submission date of the Form 8802, research the confirmation number on the Form 6166 search screen to ensure the payment was not used for another application.
- (7) When a customer submits payment information to the tax examiner, it **must** be forwarded to clerical for research on *Pay.gov*, to ensure the status shows “Settled” or “Success” prior to processing the Form 8802.

Note: All user fee payments must be verified by clerical prior to processing the Form 8802.

21.8.4.2.2.4 (08-31-2022) Recording Payments

- (1) The applicant’s payment must be recorded in the United States Residency Certification (USRC) Database for each Form 8802.
- (2) Input the deposit amount in the deposit amount field on the Form 6166 input screen and deposit date in the deposit date field on the Form 8802 input screen.
- (3) Input the entire confirmation number in the tracking number field on the Form 6166 input screen.
- For electronic payment, input the 11 digit number first, then one space followed by the 8 digit with letters in all caps; for example, 12345678911 12ABC1DE

- For paper payment confirmation numbers from the US Residency Certification (USRC) Remittance clerical unit, do not enter into the remarks section, but into the tracking number field on the Form 6166 input user fee input screen by inputting the last 8 digits of the IRN, for example, 12345678
- (4) A partial payment is recorded in the first payment field. A subsequent payment is recorded in the second payment field.
 - (5) If there is more than one record created to accommodate the number of certifications requested on a Form 8802, only record the payment associated with the Form 8802 on the first record.
 - (6) If one payment is made (Pay.gov or Paper Check/Money Order) for multiple Forms 8802:
 1. Only record the payment and tracking number with the first Form 8802 submitted by the payor in the USRC Database.
 2. For the remaining Forms 8802 submitted by the payor record your initials, full paid, deposit date, and the Taxpayer Identification Number (TIN) of the application where the payment was recorded in the remarks section. Use abbreviations for full paid and deposit date. For example, Initials FP dep 01/01/2019 11-111111. This remark can be copied and pasted to minimize key strokes on subsequent Form 8802 records that came in with one lump sum payment.

21.8.4.2.2.4.1
(10-01-2018)
Researching Payment Confirmation Numbers on United States Residency Certification (USRC) Database

- (1) The payment tracking ID field on the Form 6166 search screen allows the user to find cases with a given ID number. This search field accepts upper and lower case alpha characters, numerics, hyphens, percentage, asterisks, and period. However, the search is not case sensitive.
- (2) Check both the closed and open check boxes on the search screen when searching for the duplicate confirmation number.
- (3) The % character is a wildcard that allows for an expanded search.

Example: %010 finds every record whose confirmation number has "010" anywhere in the value.

21.8.4.2.2.5
(10-01-2024)
Partial Payment

- (1) If the payment is less than the required amount, a minimum of two attempts to contact the taxpayer must be made. Forms with incomplete payments are not processable. This call is intended to decrease the time needed to process the Form 8802.

Note: Remember to give the applicant the batch or reference number and inform the applicant that this number must be written on the top of the copy of page 3 of Form 8802 when submitting the supplemental payment.

- (2) Prior to making the call, completely review the Form 8802 to determine:
 - If the data from the Form 8802 was input to the United States Residency Certification (USRC) Database
 - If a Penalties of Perjury (POP) statement is necessary for a current year application
 - If a signature and date is needed

- The amount needed for a complete payment
- Any other missing information that is needed to successfully process the Form 8802

Note: The applicant must submit a copy of page 3 of the Form 8802 with the supplemental payment. Give the applicant the batch or reference number to write on top of page 3 of Form 8802. This is needed to associate the supplemental payment with the original partial payment.

- (3) Place the record in 702 status and update the remarks with each contact with the applicant.

Caution: If the record is complete, the partial payment does not stop the automated system from issuing the Form 6166 if the status is not updated.

- (4) When it is necessary to contact the applicant by telephone and the applicant is not available, place the Form 8802 and attachments in the bin for the applicant to receive a follow up call. Note the date of the attempted call on the bottom of page one of the Form 8802. Use the following abbreviations to indicate the nature of the call.

- T = telephone
- POP = Penalties of Perjury
- D = date needed with signature
- \$ = additional user fee needed
- NA = no answer
- NI = not in

Example: A call is placed on January 15, 2019 because a penalties of perjury statement is needed, the date next to the signature is needed, and an additional \$15 is needed to fully pay the user fee, but the applicant was not reached, the notation appears as follows: *1/15/19 T (applicant's name), POP, D, \$15, NA (initials).*

Example: A call is placed on January 15, 2019 because an additional \$20 is needed to fully pay the user fee, and the applicant stated they would mail the check today, the notation appears as follows: *1/15/19 T (applicant's name), \$20, will mail check today (initials).*

Note: The initials of the employee that made the call must be included in the notation.

- (5) If the applicant or authorized representative cannot be reached, leave a message stating: *My name is (name), badge number (The last seven digits of the PID), and I am calling from the U.S. residency certification department. Please return my call at 267-941-1000.* Do not leave any specific case or application information in the message. Make a second call attempt within two business days. Do not make second calls the same day unless a person

indicates the applicant or authorized representative will be available later the same day. If so, the application may be retained for a call back later the same day.

Note: In 2008, IRS issued Smart IDs to staff with a 10 digit Personal Identification Number (PID). The last seven digits of the PID serve as a badge number.

- (6) Place the Form 8802 in suspense filed by the person working the file and by the next action date.
- (7) Make follow-up calls within two business days of the initial call. If the applicant indicates they will send in the missing information and payment, direct him or her to mail the information with the Form 8802 and write the batch or reference number on the top of the Form 8802. Return the Form 8802 with the notations of both telephone calls in the validation suspense wall and note a follow-up within 10 calendar days.
- (8) If the applicant or the authorized representative cannot be contacted by telephone, send a rejection letter informing the applicant we have received their application and we need additional payment and possibly more information.
- (9) File Form 8802 with a copy of the rejection letter on the suspense wall. File the application by tax examiner, action date (30 calendar days from the day the rejection letter was mailed) and by TIN within date.

Note: If the case is received by fax and is located within EFS, there is no need to file the rejection letter on the suspense wall. The case can be suspended and a copy of the letter can be attached to the case within EFS.

- (10) If there is no response to this request within 30 calendar days, send the abandonment letter and enter in remarks, "No reply". Purge the application and attachments from the suspense wall then close the record on the USRC Database. Keep partially paid applications without a response to the abandonment letter for six months from the date of the application.

21.8.4.2.2.6
(10-01-2024)
**No Response After
Telephone Contact**

- (1) The applicant may send all, part, or none of the information requested in the telephone conversation. If payment is not received within ten calendar days of the telephone contact, send the form letter confirming the telephone conversation requesting missing information to the applicant.

Note: Do not send this letter if the applicant has sent the full payment. Once the payment is verified, send Form 8802 for batching and processing. If there is more information necessary, follow the appropriate sections of this IRM.

- (2) Place the record in 702 status and suspend the case for 30 calendar days (60 calendar days for applicants with an address overseas).
- (3) If neither payment nor other information is received from the applicant, see IRM 21.8.4.2.2.5, Partial Payment.

21.8.4.2.2.7
(08-31-2022)
Refund of User Fee

- (1) The user fee is non-refundable. For example, the user fee will not be refunded if the Form 8802 is procedurally deficient and the applicant fails to submit (in a timely manner) the other information necessary to complete processing the application. Further, do not refund the user fee if the Form 8802 is withdrawn at any time after it is received by the IRS. Likewise, if foreign claim forms are submitted after a certification request has been processed, return the foreign claims to the applicant. These forms must be submitted with a Form 8802 and a new user fee based on the new Form 8802.

Exception: If a taxpayer makes a payment via *Pay.gov* and applies it to the US Residency Certification user fee account in error, research the USRC database to confirm no Form 8802 has been submitted. If no Form 8802 was received, then the payment can be refunded.

Caution: Extreme care must be taken to ensure that only the material relative to the taxpayer(s) to whom the correspondence is addressed is enclosed in the envelope. See IRM 21.3.3.4.24, Breaches of Personally Identifiable Information (PII) Caused by Manual Stuffing Errors.

- (2) The overpayment of a user fee is refunded when it is the result of a mathematical error or mistake. Issue the refund to the payor of the fee. In most instances, this will be the applicant. However, if the fee was paid by a custodian or an appointee for one or more applicants, return the fee to the custodian, appointee, or other entity that paid the fee.
- (3) Prepare a Form 3210, Document Transmittal, identifying the applicant's name or the correct recipient's name and address along with the amount of the refund identified from the U.S. certification user fee and forward to the clerical function for review.
- (4) Once it is confirmed that a refund will be issued, the designated employee(s) will contact the payor to inform them of the overpayment and that a refund will be sent. In the remarks field, leave a note that a refund is being issued and the amount of the refund.

Note: Contact the payor via phone call, if a phone number is provided on the Form 8802. If no phone number is provided, contact the payor via mail.

- (5) The Form 3210 can be scanned and attached to an E-mail using IRS IT-
-
- memorandum is filed by notice date and stored for 12 months. For more information on IRS IT-approved encryption technology see IRM 1.10.3.2.1, Secure Messaging & Encryption, and IRM 10.5.1.6.8, Email.
- (6) Beckley Finance Center notifies the designated U.S. Certs manager(s) if a refund check was returned or was not cashed within a year. Research United States Residency Certification (USRC) Database for the payor's phone number and follow the instructions in the chart below:

If	Then
A phone number is found	<ul style="list-style-type: none"> • Call payor to obtain an updated address • Provide the updated address to Beckley Finance Center
A phone number is not found	<ul style="list-style-type: none"> • Inform Beckley Finance Center that no updated information can be found.

Note: A detailed explanation containing research findings and actions taken must be input in the remarks field.

21.8.4.3
(10-01-2018)
The Certification Process

- (1) The Certification Process is a consolidated effort involving three processes:
 - Payment Verification
 - Clerical
 - Tax Examination
- (2) All applications for U.S. residency certification are subject to a user fee. If, at any time, it is discovered the correct user fee has not been paid, return the document to the clerical team. For more information on user fees see IRM 21.8.4.2.2, User Fees.

21.8.4.3.1
(08-31-2022)
Processing Incoming Documents

- (1) All user fees must be verified before the Form 8802 can be processed.
- (2) All documents, applications, and correspondence **must be date stamped with the date of IRS receipt** and processed as first in/first out, unless they meet the criteria identified for correspondence or telephonic inquiries and responses. See IRM 21.8.4.3.6, Correspondence, and IRM 21.8.4.3.7, Telephonic Inquiries and Responses.
- (3) A Form 8802 with a paper check/money order payment must be mailed.
- (4) A Form 8802 with confirmation of Pay.gov payment can be faxed or mailed.
- (5) A Form 8802 must have specific application information and must be signed and dated by the applicant when the Form 8802 is used to give a third-party authorization. See IRM 21.8.4.4.12, Applicant Requirements, Return and U.S. Residency Certification Information.
- (6) Any early submission for Current Year certification received with a postmark date before December 1st **must** be returned to the sender. However, the application will be accepted with the previously paid user fee with a new submission on or after December 1st if the taxpayer includes the prior payment confirmation number on the newly submitted application.
- (7) Sort all incoming documents into categories beginning with the earliest received dates, starting with the separation of:
 - Original Applications (Form 8802)
 - Original Applications with Foreign Claim forms

Note: Foreign claim forms received with the applications must remain attached until the foreign claim form can be associated with the Form 6166 or a rejection letter that will be issued.

- Additional Certification Application
 - Correspondence (paper or telephonic responses to letters, questions or request for other than certification)
- (8) Once the various applications are separated from the correspondence, sort them according to the list below:
- a. Individual Master File (IMF) applications received by mail
 - b. Business Master File (BMF) applications received by mail
 - c. IMF applications with foreign claim forms attached, received by mail
 - d. BMF applications with foreign claim forms attached, received by mail
- (9) Once the applications that were mailed are separated into IMF and BMF, perform the following:
- 1. Assign a control number to each batched group.
 - 2. Control and account for batches always.
- (10) Applications that state “second” or “duplicate” application or have an indication that it is not an original, may have already been processed.
- a. Check the application to determine if it is a third-party application.
 - b. If it is a third-party application, then check for line 3b information or Form 8821 attachment. Then check the Form 8821 Database to see if the appointee information is already listed. If so, do not enter it again. Ensure that the attention name and mail stops are included when listed and continue processing the Form 8802 application.
 - c. When appointee information is not listed on the Form 8821 Database it must be manually entered.
- (11) Applications that have the Additional Request box checked do not require the re-submitting of original documentation, if a certification has been issued for the original application within the last 12 months and there has been no change to the applicant’s tax information. A new user fee is required for processing an additional request submitted on a new Form 8802.

Note: A name change is a change in tax information.

- Third-party appointees cannot re-submit an application requesting additional certifications for countries for which they were not originally authorized to receive. For example, an additional application identifying Italy as the country in which certification is needed must have Italy listed on the original Form 8802, or the applicant must be authorized to receive certification for other countries.

Reminder: For detailed information about the Additional Request box on Form 8802, see page 4 of the *Instructions for Form 8802*.

- (12) Possible duplicate applications must be researched on the United States Residency Certification (USRC) Database for the original Form 8802.

1. Choose Form 6166 from the menu bar.
 2. Choose Search.
- (13) When researching possible duplicates, first determine if there is a duplicate or an additional request. Pay careful attention to the details of the application, the entity, the year of certification, the countries requested, the volume of certifications, and the type of certification when making your determination. When a determination is made, use the following chart to process the application:

If	Then
The Form 8802 is a duplicate	Check the status of the original.
The original case is in an open or suspended status	Associate the application with the original application. Notify the requestor via telephone, if number provided.
No original case has been found but the case clearly indicates that it is a duplicate application	The application must be given to a manager or lead to determine how it must be handled.
The original case is in closed status, but certification was not issued Note: If an applicant was denied certification of a previously filed Form 8802, do not use the additional request box.	Associate with original application and/or letter and notify the requestor of the status of the case via telephone, if telephone number is provided. If all information needed is provided, process the case.
The original Form 8802 was recently processed (within the last two weeks) and certification was issued	The duplicate application is classified waste and can be discarded.
The Form 8802 is not a duplicate but a modification of the original requesting additional certifications	Verify that the user fee has been paid and that any alterations or modification made to the form were made by an authorized person. See IRM 21.8.4.2.2.1, Verifying Electronic Payments.
The modifications of the Form 8802 were made by a person authorized to do so	Process the application following certification procedures.

- (14) Correspondence must also be sorted into categories:
- Suspense
 - Open
 - Closed
 - Inquiries

- (15) Correspondence in response to a specific suspended case, and information required to process a case, must be associated with the original case and given to a tax examiner to be worked.
- (16) Correspondence specific to an open case, must be associated with the case and given to a tax examiner to be worked.
- (17) Correspondence specific to a closed case must be associated with the original case. If the information provided indicates that an error may have occurred or the information was needed during the processing of the original, then give the case to a tax examiner to **initiate a new case**.

Note: When reprocessing a closed case, the original application received date must be circled out using red or brown pencil and enter the correspondence date as the received date.

- (18) Correspondence inquiring about the certification process, or to check on the status of a case, must have a response issued.

21.8.4.3.2 (02-05-2021) Entering Tax Information Authorization (TIA) on Form 8821 Database

- (1) Once the Form 8821 input screen in the Form 8821 Database has been accessed, enter the applicant's authorization information from the applicant's Form 8821, Form 2848, Form 8802 or clone the information, when possible.

Note: When authorization information is entered from a form or document other than Form 8821, notate the form or document in the remarks section of the Form 8821 Database.

- (2) A Form 8821 giving authorization for a married couple must be entered into the Form 8821 Database as two separate documents.
- (3) Prior to entering Form 8821 information, verify that the information is not already in the Form 8821 Database for the certification application.

Note: Authorization forms that address the same tax matter revoke any previous authorization, **unless the Form 8821 has box 5 checked**.

- (4) A Form 8821 may also be input in bulk by using the Form 8821 TIA/POA Cloning feature. This feature must be used when the TIA information is needed for two or more records.

Note: All fields in the Tax Information Authorization Box are cloned.

If	Then
The TIA information is needed for two or more records	Click on the “Clone TIA” button <i>located at the right hand corner of the TIA frame.</i>
A red bar appears <i>to be cloned</i>	Cloning is activated.
Click on the NEW button	The TIA information remains the same for each new record, if the cloning feature is active.
A new or different TIA needs to be input	Click the “Clone TIA” button again. The cloning feature should deactivate.
Another TIA needs to be cloned	Click the “Clone TIA” button again. This feature can be turned on and off when needed by simply clicking the “Clone TIA” button.

Note: Once the process to clone data from the Form 8821 Database has begun, a red bar appears on the fields to be cloned.

- (5) To enter the **Applicant’s Taxpayer Identification Number (TIN)** on the Form 8821 Database:
- Check the Social Security Number (SSN) box if the applicant’s TIN is a SSN.
 - Enter either the applicant’s SSN or Employer Identification Number (EIN) when given and press TAB.
 - Once the TIN has been entered, the program will require it be entered again. Enter the TIN in the small pop up box within the form. It must be placed exactly on top of the original TIN, then press ENTER. This is for verification purposes.

If	Then
The system verifies that the TIN(s) match and the TIN is currently a part of the authorization information, a Form 8802, a Form 2848 or the United States Residency Certification (USRC) Database	The program begins to populate the Form 8821 entity fields with information from the first available record found for this TIN. THIS INFORMATION MUST BE VERIFIED.
The generated entries on the Form 8821 Database screen match the Form 8802 line 3b, Form 8821, or Form 2848	Do Not enter the information again. Continue inputting the Form 8802 application onto the USRC Database.
The generated entries fail to match the application	Override the generated fields by entering the information from the Form 8802, Form 2848, or Form 8821, in the required fields.
The TIN(s) entered do not match	This field turns blue and the TIN(s) will either need to be corrected to match or the process is cancelled before the system will continue.
The TIN is not provided	Contact the requestor.
Unable to secure the TIN information from the appointee/requestor	The appointee (requestor) is not authorized to receive the applicant's certification. Issue letter 4064 or other applicable letter.

(6) Enter the applicant's **Name Control**.

- a. This is a four character field.
- b. See IRM 3.8.44, Campus Deposit Activity, for Name Control rules.

(7) Entering the **Plan Number** for all authorizations for any of the Form 5500, Annual Return/Report of Employee Benefit Plan series of returns:

- a. This is a three character field.
- b. If a plan number is not provided on Form 8821, Form 2848, similar form or Form 8802, line 4g and the authorization is for the Form 5500 series of returns, research IDRS. If the plan number cannot be determined, correspond using letter 3427 or letter 3431.

Exception: When the applicant is a Government Entity, Master Trust or has a 990-T-2 filing requirement, do not correspond; enter Plan number 001.

(8) Enter the **Applicant's Entity** information.

- a. Enter the applicant's entity information when necessary (not previously generated);

If	Then
Generated correctly (compare generated information with Form 8802 / Form 8821 / Form 2848) during the input of the TIN	Continue processing; otherwise correct, if needed.

If	Then
The entity information is not provided	Leave this section blank and contact the requestor (contact via telephone when the requestor's telephone number is provided) for a valid Form 8821.
Unable to secure a valid Form 8821 from the requestor, no telephone number available	The requestor (appointee) is not authorized to receive the applicant's information. Issue letter 3427 or other applicable letter.

- (9) Enter the **Tax Information Authorization Information**. This information is taken from line 2 of Form 8821 or Form 2848, or Line 3b of Form 8802.

Note: Verify that tax disclosure authorization information does not already exist for the applicant prior to entering the authorization information. See IRM 21.8.4.3.2 (1), Entering Tax Information Authorization (TIA) on Form 8821 Database.

If	Then
This section of the Form 8821 is not complete	Enter the name of appointee, if available. Check the forms and the envelope for an address for the appointee for issuance of correspondence.
Unable to secure all the Tax Information Authorization information using the forms provided	Contact the applicant (not requestor), when contact information is available.
Unable to secure the authorization information from the applicant	The appointee is not authorized to receive the applicant's information. Issue letter 3427 or other applicable letter.

- (10) Verify signature, date and title if applicable. The applicant **must** sign and date any form that gives a third-party authorization to receive the applicant's information. The taxpayer's dated signature is required. An electronically signed, printed or stamped signature is **not** acceptable. The signature **date** can be typed, stamped or hand written. See IRM 21.3.7.5.1, Essential Elements for Form 2848 and Form 8821 for more information.

Exception: An electronic signature received via the Taxpayer Digital Communication (TDC) Platform is acceptable. Any authorization received with an electronic signature **not** submitted via the TDC Platform, must be rejected. See IRM 21.3.7.1.4, Taxpayer Digital Communication (TDC) CAF Overview for more information.

If	Then
The Form 8821 or the appointee information on Form 8802 is not signed and dated by the applicant or an authorized party	It is not valid. Note: Research CFINK to verify the signature, and title if applicable when the Form 8802 is signed by the POA rather than the applicant.
The Form 8821 or Form 8802 appointee information is invalid	The appointee is not authorized to receive the applicant's certification; issue letter 3427 or other applicable letter.

(11) Enter the **Received Date**. This is the earliest received date.

If	Then
There's no received date	Enter the postmark date from the envelope.
There's no envelope	Enter the date on the folder.
If received by fax	Enter the faxed date.

(12) Enter the **CAF number** if it is provided on the Form 8802 and the authorization Form 2848 is not attached.

(13) Check the type of **Authorized Tax Form**. This *must* be specified and it must be for the form for which the applicant is requesting certification.

If	Then
This information is not provided	It must be secured from the applicant or the application is not valid.
The authorized tax form information can not be secured from the applicant or requestor	The appointee is not authorized to receive the applicant's information for that form and the authorization is not valid.
Form 2848, Form 8821, similar form, or Form 8802 indicates the authorized tax form	Check the appropriate tax form box.
Form 2848, Form 8821, similar form, or Form 8802 indicates N/A, Not Required, and the application indicates tax exempt entity	Verify via IDRS that the applicant is a tax exempt entity, not required to file.
Tax Exempt status is verified	Check the Form 990 box.
Form 2848, Form 8821, similar form, or Form 8802 indicates N/A, Not Required, and the application indicates an Employee Benefit Plan	Verify via IDRS that the applicant is an Employee Benefit Plan and not required to file.
Employee Benefit Plan is verified	Check the Form 5500 box.

(14) Enter the **Authorized Tax Year or Years**.

- a. This is a four digit field.
- b. The tax authorization year or years must be specified on either the authorization form or lines 7 and 8 of Form 8802 when the Form 8802 has the appointee information.
- c. You may enter as many *prior* years as provided by the authorization Form 8821.
- d. *No more than 3 future years (that is, tax years that end after the date the Form 8821 is signed by the taxpayer) can be entered.*

Note: Check the IRS received date to determine what future years can be entered.

- e. When the Form 8821 identifies a year that is beyond the 3 years after the date the Form 8821 is signed by the taxpayer, notify the applicant that the year or years are invalid and a new Form 8821 must be submitted at a later date. Notate this information in the Remarks Section.
- f. When the tax years are invalid and more information is required from the requestor or applicant, issue letter 3427 or other applicable letter.

- (15) After the form has been completed, click on the **SAVE button**.
- (16) To continue entering Form 8821, click on the **New button**.
- (17) When complete or there is no need to continue, click on the **Exit button**.
- (18) Once the batches of authorizations have been entered and the system has been updated, a status report must be printed and worked.

Caution: Extreme care must be taken to ensure that only the material relative to the taxpayer(s) to whom the correspondence is addressed is enclosed in the envelope. See IRM 21.3.3.4.24, Breaches of Personally Identifiable Information (PII) Caused by Manual Stuffing Errors.

21.8.4.3.3
(03-19-2020)
**Entering Form 8802,
Application for U.S.
Residency Certification**

- (1) The information on the certification application must be entered in the United States Residency Certification (USRC) Database.
- (2) Once the screen containing the Form 6166 has been reached, begin entering the data.
- (3) The Cloning feature is available on the USRC Database. Use this feature when the application information is needed for two or more records or when the "Additional request" application box is checked. The following are cloning restrictions:
 - All fields in the Case Information Box
 - All fields in the Tax Information Authorization Box
 - The Newly Formed Box
 - VAT Certification Box
 - Current Year Box
 - Penalties of Perjury Statement Box
 - Country Code
- (4) Enter the **Primary Applicant's Taxpayer Identification Number** (TIN) from Form 8802.

Exception: See (5) below for the TIN to enter for a Nominee, a FASIT, a qualified subsidiary (Q-Sub), a Single Member LLC, a Single Member LLP, a Minor Child or a Sole Proprietor applicant.

If	Then
SSN provided	Check the SSN block and enter the applicant's SSN.
EIN is provided	Enter the applicant's EIN. See Exceptions above and the instruction in (5).
A TIN is not provided	Research attachments and Integrated Data Retrieval System (IDRS) (if not a third-party applicant).
TIN located on attached documentation	Enter the applicant's TIN.
This is a third-party application, and the applicant's TIN can be secured from the attached authorization	Enter the applicant's TIN in the Primary TIN field.
This is a third-party application, and the applicant's TIN cannot be secured from the Form 8821 or Form 2848	Correspond using Form 8821 procedures above.
Applicant's TIN located	Enter found TIN in the Primary TIN field.
Applicant's TIN not located	The primary TIN field remains blank.

- (5) Use the chart below to determine what TIN to enter in the **Primary Applicant's Tax Identification Number** field when the certification applicant is a Nominee, a FASIT, a Single Member LLC, a DRE-LLP, a DRE-LP, a Minor Child, a Q-Sub or a Sole Proprietor:

If	Then
A Nominee	Enter the TIN of the individual or entity the Nominee represents.
A FASIT (financial asset securitization investment trust)/IRC 860H	Enter the TIN of the FASIT's Corporate Owner.
A DRE-LLC, DRE-LP, DRE-LLP, or DRE-LLL	Enter the TIN of the single member owner of the limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership.
A Minor Child	Enter the TIN of the person who claimed the minor child on the tax return.
A Q-Sub (Qualified Subchapter S Subsidiary)	Enter the TIN of the Subchapter S subsidiary's parent, Line 6 of Form 8802.
A Sole Proprietor	Enter the TIN used to claim the income on the individual's tax return.

- (6) Enter the **Secondary Tax Identification Number** (TIN) field when the certification applicant is married and filed a joint return, or is a Nominee, a FASIT, a Q-Sub, a Single Member LLC, a DRE LLP, a DRE LP, a Minor Child or a Sole Proprietor.

If	Then
TIN is a SSN	Check the SSN block and enter the applicant's SSN.
TIN is an EIN	Enter the applicant's EIN.
Nominee	Enter the TIN of the Nominee.
FASIT	Enter the TIN of the FASIT.
Q-Sub	Enter the TIN of the Qualified Subchapter- S (Q-Sub) in this field.
LLC, LP, LLP, or LLLP- DRE	Enter the TIN of the Disregarded Entity (DRE) limited liability company or limited liability partnership.
Minor Child	Enter the TIN of the minor child. Note: You must also check Non-Spouse indicator when using the child's TIN on the certification.
Sole Proprietor	Enter the TIN of the business.
Any other Disregarded Entity	Enter the TIN of the disregarded entity.

- (7) Non-spouse Indicator box must be checked when the Primary and Secondary TIN(s) are both SSNs. However, the Primary TIN is used for verification purposes ONLY and the Secondary TIN is printed on the certification.
- (8) Enter the **applicant's** entity information from the applicant box on Form 8802. See exceptions in the IF/Then box below.

- Name

Reminder: Do not issue joint certification if only one of the applicants is mentioned in the penalties of perjury statement, or only one of the applicants signs the application. For example, a married filing joint couple applies using both names, but only one spouse is mentioned in the perjury statement, issue the certification in the name of the spouse mentioned in the perjury statement.

- Street Address

Note: Currently, this is the address where the certifications or correspondence are being mailed.

- City, State and ZIP
- Phone number (when applicable)

Note: Input the appointee's phone number if supplied on Form 8802 line 3b. If the line is blank, input the applicant's phone number from Form 8802 page 2.

Reminder: If this is an international phone number, input the number in the case remarks.

Exception:

If	Then
IRA	Enter the Account name (this is generally the IRA holder's name).
Minor Child	Enter the name of the person who claimed the minor child on the tax return from Form 8802.

(9) Enter the applicant's **Name Control**.

- a. This is a four character field.
- b. See IRM 3.8.44, Campus Deposit Activity, for information on determining the Name Control.

(10) The **Name Control** is the applicant's **unless** the applicant is a Nominee, a FASIT, a Q-Sub, a Single Member LLC, a DRE LLP, a DRE LLLP, a Minor Child or a Sole Proprietor.

If	Then
A Nominee	Enter the name control of the individual or entity that the nominee represents. See the nominee's required attachments.
A FASIT/IRC 860H	Enter the name control of the FASIT's corporate parent from Line 6 of the Form 8802.
A DRE LLC, LP, LLP, or LLLP	Enter name control of the owner of the limited liability company, the limited partnership, the limited liability partnership or the limited liability limited partnership from Line 6 of the Form 8802.
A Minor Child	Enter the name control of the person who claimed the minor child on the tax return from Line 6 of the Form 8802.
A Q-Sub	Enter name control of the subchapter S subsidiary's parent from Line 6 of the Form 8802.
A Sole Proprietor	Enter the name control of the person who claimed the business income on the individual tax return from Line 6 of the Form 8802.

(11) Enter the **Certification Tax Year Residence** from Form 8802 if different from the address entered in applicant entity field. This field must be the address where the applicant had a Substantial Presence.

Note: This must be the address of residence for the year in which certification is requested.

This address must include the:

- Street Address
- City, State and ZIP

(12) Enter the **Certified Name Line**, when applicable.

- a. This line is automatically generated from the entry in the applicant information field.
- b. This field *will not be entered, unless* there is an entry on Line 1 of the Form 8802.

Caution: Use this field if the requested name on the certification has more than 35 characters or the application is for a FASIT, Nominee, LLC, LLLP, LLP, LP, minor child, Q-Sub, sole proprietor, and the entity requesting the certification (the parent entity, the single member owner, etc.) is other than the entity being certified.

- c. This line must be the name just as it appears on Line 1 of Form 8802, or applicant name if line 1 is blank.

(13) Enter the **Year/Period of Certification**, Line 7, Form 8802.

- a. This is the year that will be printed on the certification. When this year is the current year, then the applicant must provide a statement attesting to their current residency status.

Note: When this statement is submitted separately from the Form 8802, it must be made under penalties of perjury.

- b. This is a four character field.
- c. This is a required field.
- d. Enter the year specified on the certification application, Form 8802, line 7.
- e. You must enter a separate record for each year identified on Line 7.

Reminder: Use the cloning feature.

- f. When the year is not specified, you must correspond.

(14) Enter the **Tax Period Ending** from box 8, Form 8802.

- a. This field is required since the tax period is used when verifying the fact of filing.
- b. This is a six character field, which indicates the four digit year and two digit month.

Note: If the application only has the four digit year input "12" as the default month for the tax period ending.

Caution: The tax period ending must be researched when working status reports/errors received once IDRS is systemically researched.

- c. When the certification application is for a prior year in which a return was due, the tax period must correspond to the year of certification.
- d. When the tax period requested is a tax period for which a tax return is not yet due, enter the tax year for the tax return currently required to be filed, based on the IRS received date of the Form 8802.
- e. See the chart below for factors that must be considered when determining the due date for Form 1040 series tax returns.

Form 1040	
If the year ends in month	Then form due in 3.5 months
January	May 15th
February	June 15th
March	July 15th
April	August 15th
May	September 15th
June	October 15th
July	November 15th
August	December 15th
September	January 15th
October	February 15th
November	March 15th
December	April 15th

- f. See the chart below for factors that must be considered when determining other tax return due dates.

If	Then
Form 1065	See IRM 21.7.4.4.2.3, Form 1065 Return Due Dates and IRM 3.11.15-3, Due Date Chart
Form 1120	See IRM 21.7.4.4.4.2, Form 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016, IRM 21.7.4.4.4.2.1, Form 1120 Corporate Series Return Due Dates - Tax Years Beginning After December 31, 2015, and IRM 3.11.16-2, Due Date Charts
Form 1120-C	See IRM 21.7.4.4.4.2, 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016, IRM 21.7.4.4.4.2.1, Form 1120 Corporate Series Return Due Dates - Tax Years Beginning After December 31, 2015, and IRM 3.11.16-2, Due Date Charts

If	Then
Form 1120-IC DISC	See IRM 21.7.4.4.4.2, 1120 Series Due Dates - Tax Years Beginning Before January 1, 2016, IRM 21.7.4.4.4.2.1, Form 1120 Corporate Series Return Due Dates - Tax Years Beginning After December 31, 2015, and IRM 3.11.16-2, Due Date Charts
Form 1041	See IRM 21.7.4.4.1, Form 1041, U.S. Income Tax Return for Estates and Trusts and IRM 3.11.14-4, Due Date Chart
Form 990, Form 990-EZ, Form 990-PF, Form 990-T (IRC 501 (c))	See IRM 21.7.7.6.22.2, Extension Due Dates and IRM 3.12.12.3.3, Due Date of Returns
Form 990-T (IRC 401(a) and 408(a))	See IRM 21.7.7.6.22.2, Extension Due Dates and IRM 3.12.12.3.3, Due Date of Returns
Form 5227	See IRM 21.7.7.6.9, Split Interest Trust Information Return and IRM 3.12.12.3.3, Due Date of Returns
Form 5500	See IRM 21.5.11.5.2, Due Date for Form 5500 Filings

Note: If the due date falls on a Saturday, Sunday, or legal holiday, the due dates will fall on the next day that is not a Saturday, Sunday, or holiday. Refer to IRS Processing Codes and Information Document 6209 for Forms not listed.

(15) Enter the **Form Number** from line 5 or line 6 of Form 8802.

- a. This is the type of Form that the applicant or its parent files annually.
- b. Enter the form number as it is submitted on application.

If	Then
A form number has not been given	Check the type of entity checked on Form 8802.
There is no entity checked in the Entity Type section of the Form 8802	Research for the Form type. Exception: Third-Party applications require correspondence.

(16) When certification is for a Q-Sub and the Q-Sub election has been verified, check the **QSSS verified box**.

(17) Check the **Newly Formed Box** when the applicant is a newly established partnership, Employee Plan, Common Trust, Grantor Trust, Simple Trust or S Corporation that has not been required to file a return.

Note: When processing Employee plans in their first year, check the newly formed box and input remark "Employee Plan First Year." See IRM 21.8.4.4.12.13, Employee Plans Applicants.

- (18) Check the **VAT Certification box** when the Form 8802, certification application, indicates that the application is for Value Added Tax. The North American Industry Classification System (NAICS) Code must be entered when provided.
- (19) Check the **Current Year Box** when the applicant is requesting a current year certification.
- (20) Check the **Perjury Statement Box** when the applicant must provide, and has included, a declaration statement in box 10 of Form 8802 or a separate statement.

Note: The statement must be signed under penalties of perjury when the Form 8802 is signed by someone other than the taxpayer/applicant or when submitted separately from Form 8802.

If	and	Then
Certification application is for a newly formed LLC, Current Year LLC, or one established by default	There's a declaration statement on Form 8802 or attached	Check the box.
Certification application is for a newly formed LLC, Current year LLC, or one established by default	There's no declaration statement on Form 8802 or attached	Leave blank.
Certification application is for a current year	There's a declaration statement on Form 8802 or attached	Check the box.
Certification application is for a current year	There's no declaration statement on line 10 of Form 8802 or attached	Leave blank.
Certification application is for a current year Partnership, S Corp., Common Trust Fund, FASIT/IRC 860H, Grantor Trust, or Simple Trust	There's a declaration statement on Form 8802 or attached for the entity	Check the box.
Certification application is for a current year Partnership, S Corp., Common Trust Fund, FASIT/IRC 860H, Grantor Trust, or Simple Trust	No declaration statement on Form 8802 or attached for the entity	Leave blank.

- a. In the case of an LLC that is a disregarded entity, the LLC penalties of perjury statement is a declaration under penalties of perjury that the parent organization reports all the LLC income on its return.
- b. The FASIT/860H, Partnership, S Corp., Grantor Trust, or Common Trust Fund penalties of perjury statement is a declaration under penalties of perjury that the organization's tax classification hasn't changed since the filing of its last required return. These penalties of perjury statements are submitted along with penalties of perjury statements from the partners,

shareholders, trust owners, trust beneficiaries, and trust participants that they are U.S. residents and will remain so throughout the current tax year.

- c. Use the following chart to determine who must sign the penalties of perjury statement when it is not provided on the Form 8802 or as an attachment:

If	Then
Nominee	The individual or POA with legal authority to bind the nominee applicant.
Minor child	Either parent may sign the child's name on the statement. The parent must also sign as parent of minor child.
Deceased individual	Executor or administrator of the estate.
Partnership	A partner duly authorized under state law to act for the partnership. This may not always be the Tax Matters Partner (TMP).
Corporation, Q-Sub, FASIT	Corporate officer or the POA with legal authority to bind the corporation.
Trust, IRA	Trustee or the POA.
Estate	Executor, administrator of the estate, or the fiduciary of the estate.
Exempt organization	Corporate officer or the organization's POA that has legal authority to bind the organization.
Employee benefit plan	Corporate officer or the organization's POA that has legal authority to bind the Trust or plan.
Disregarded Entities	An individual that has legal authority to bind the DRE owner.

- (21) The **Country Code** is a computer generated entry and applicable to the country identified on the Form 8802 once the number of certifications is entered in paragraph (22) below.

- This is a required field.
- This is the code established for the country for which the applicant is requesting certification.
- See the list of *valid country codes*.
- If the country is not identified on the application, contact the applicant by phone or letter.
- If the country information appears to be altered, verify that the person who altered the application is authorized to do so.

Note: Either applications or additional requests submitted by a third-party must indicate that the third-party has a POA or the original Form 8802 must have authorized the third-party to receive certification for countries not listed.

- (22) Enter the specific **Number of certifications** requested for each country, see Form 8802.
- a. This is a required field. If this information is not provided, correspond using letter 3636.
 - b. When it appears that these numbers have been altered, verify that the additional request box is checked. When the alterations involve other countries, verify that the requestor was authorized in box 10 of Form 8802 or by an attached statement to make the changes. Continue to process. See IRM 21.8.4.3.2, Entering Tax Information Authorization (TIA) on Form 8821 Database.
 - c. When a third-party is not authorized to request additional certifications (no POA, no statement in box 10 or attached, or the applicant did not initial changes to alter the form), reject the application.

Note: If the current Form 8802 does not indicate authorization for third-party changes, check to see if an original form is attached authorizing the changes prior to rejecting the form due to lack of authorization.

- (23) Enter the **IRS Received Date**.
- a. This must be the earliest IRS received date stamped on the Form 8802.
- Note:** When the Form 8802 is an *early submission for a current year certification*, the received date must not be prior to December 1. If so, return the application to the sender. Extreme care must be taken to ensure that only the material relative to the taxpayer(s) to whom the correspondence is addressed is enclosed in the envelope. See IRM 21.3.3.4.24, Breaches of Personally Identifiable Information (PII) Caused by Manual Stuffing Errors.
- b. This is a required field.
 - c. When there is no date stamped, enter the postmarked date from the envelope.
 - d. When there is no envelope, enter the date on the folder.
 - e. When the Form 8802 is faxed, enter the fax receipt date.

- (24) Enter the **Inquiry Date**
- a. This must be the date the requestor made the application for certification; it must be taken from the signature line. If the date on the signature line is after the received date, input the earliest IRS stamped received date as the inquiry date.
 - b. This is a required field.

- (25) Enter the Correspondence Received Date.
- a. This must be the date that a correspondence or response was received.
 - b. Correspondence/responses can be paper, telephonic, or electronic form.

- (26) Check the reserve for paragraph override box when it is necessary to override the language in the systemically generated certifications.

- (27) Enter the **Employee Plan Number**, line 4g of Form 8802, when applicable.
- a. This field is only used when the certification application is for Form 5500 series.
 - b. This field is a three character field.

- c. If a plan number is not provided, use IDRS to research for the number or correspond for the number.

Exception: Government Entities, Master Trust and Form 990-T-2 applicants, enter Plan Number 001.

- (28) Check the **Dual Status Box** if the application is for a dual status resident.

- a. This is indicated on Line 4a of Form 8802.
b. Enter the date on which U.S. Residency began and the date it ended (this date **cannot be later** than the current date) in the certification year.

Note: Use this field to enter the date on which U.S. Residency began and ended in the certification year both for dual status residents and for partial year Form 2555 filers.

- (29) Check the **Tax Information Authorization** box. See appointee information on line 3b, Form 8802.

Reminder: If this box is checked the Certification(s) will be mailed to the Third-Party address automatically.

- a. If the TIA information is not on the Form 8802, check to see if Form 8821 or Form 2848 is attached.
b. Use this box only if the application is to be sent to the third-party.
c. Click, "**Press here to select TIA from the list of validated TIA's**".
d. Select the TIA that matches the requestor for this certification.
e. When the TIA (requestor) is not listed, **click Trustee**. This generates status code 609 indicating that the requestor may not have authorization to receive the applicant's tax information, ensure TIA information is present in the entity section of the USRC Database. See IRM 21.8.4.3.4, Working Status Reports, for working status code 609.

- (30) Entering **Partnership/S Corporation/Common Trust Fund/Grantor Trust/Simple Trust listings**. Partnerships, S Corporations, Common Trust Funds, Grantor Trust, Nominee and Simple trust certifications all require verification of the required return for the tax year for which certification is requested for each partner, shareholder, participant, owner, and beneficiary listed on the list provided with the application.

- a. A requestor (this includes partners within the partnership) of a partnership certification must have written authorization from each partner/shareholder/participant/owner/beneficiary for which certification is requested to receive the certification information.

If	Then
Application is for a current year certification	Verify that current year penalties of perjury statements are attached.
Current year penalties of perjury statements attached	Check the POP box for each partner, shareholder, participant, owner, and beneficiary statement attached to the application.

If	Then
Current year penalties of perjury statement is not attached	Leave the POP box blank for each partner, shareholder, participant, owner, or beneficiary whose statement is missing.

- b. When a partnership or any other type of pass-through entity is listed as a partner within the partnership, verify fact of filing and authorization of all its partners, shareholders, participants, etc. involved in that pass-through entity and that are requesting certification. When a second tier list is not provided, but the second tier pass-through entity is listed as a partner on the original list, correspond with the taxpayer to obtain the missing information. Once received, enter the second tier partnership list in the second tier partnership list. Do not include the second tiered partnership when the list is not provided.

Note: This process must continue until all partners requesting certification are identified, all partners have given authorization, and all have been added to the Partnership/associates page/listing.

- (31) Enter the information on suspense cases and any other pertinent information received with the certification application in the **Remarks Section**.

Example: The 3rd party designee is authorized to receive certification for countries not listed.

- a. Click on the Open Remarks button or use CTRL "R",
b. When it is not necessary to add information to the Remarks Section, allow the field to remain blank.

- (32) Click the force local box when it is necessary to keep the certifications from printing at the Centralized Print Site.

Note: When printing a manual certification, a copy of the cover letter and certification must be kept with the case file.

- (33) Click the foreign claim form box whenever foreign claim forms are part of the certification package.

- (34) After all possible fields have been entered, review entries for accuracy, and click the **Save Button**.

- a. If all the required information was entered, during the update phase of the U.S. Residency Certification program, the system begins the process of systematically verifying residency.
b. If there is insufficient information or the system fails to find the required data to verify residency, a specific error generates on the status report and a tax examiner must perform more research or issue correspondence.

- (35) Once the certification application has been saved, click **NEW** to continue inputting certification applications.

- (36) Upon completion of a batch of work and an update has been performed, a status report must be printed and worked.

21.8.4.3.4
(02-01-2022)

Working Status Reports

- (1) Once the update phase of the Certification Program is run, status reports are generated and printed. For instruction on printing status reports, see lead/manager.
- (2) The Status Reports consist of all applications that are validated and ready for certification issuance (status code 099); as well as those in error, requiring more research.
- (3) Once the status report has been printed, use Form 8802, Form 8821, the Form 6166 screen and various IDRS Command Codes to research all the cases in error (those not in status 099) when necessary.

Note: For help with IDRS research, refer to IRM 2.3, IDRS Terminal Responses, for input instructions; Document 6209, IRS Processing Codes and Information.

- (4) When **working status code 609**, manually research the TIA and the applicant information on IDRS.

If	Then
TIA information found	Enter the TIA information, when necessary. Note: You will also need to include the TIA information on the second name line with Attn. or c/o (in care of). Be sure to enter the TIA address in the applicant's address field.
TIA information is not found	Decline the application and return it to the requestor.

- (5) See the Status Code Charts below for a list of the Pre-IDRS Status codes, an explanation and abbreviated correction guidelines. See the instructions for your specific applicant for more correction procedures.

Code	Explanation	Corrective Action
600	Ready for IDRS research	None required, override if manual verification performed.
601	Sent for IDRS research	None required, override if manual verification performed.
605	Applicant entity not valid	Verify taxpayer entity, the Name, the TIN and the Form 8802. Correct or correspond using Letter 4064.
608	Possible Foreign Entity	Verify taxpayer residency, using Form 8802 and IDRS. If research indicates U.S. resident for the Certification year, override.

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Code	Explanation	Corrective Action
609	Manual verification needed on TIA	Research for TIA on Form 8802, Form 8821, Form 2848, or IDRS. If found, enter TIA information and override. If not located, issue letter 3427. Exception: When the tax period being researched is not present on Form 8802, Form 8821, Form 2848, or IDRS, but the certification year is, issue certifications if all other requirements are met.
611/612	No record of this POA/TIA (6166 only)	Research for TIA on Form 8802, Form 8821, Form 2848, or IDRS. If found, enter TIA information and override. If not located, issue letter 3427.
615	Tax form type missing	Verify type of tax form. If information found, enter. If not found, correspond unless the application is from applicant. If application is from applicant, then research.
616	Invalid TIN and Tax Form combination	Verify TIN and Tax Form, from application; correct, if needed. If unable to locate correct information, research IDRS if applicant is the requestor; otherwise, correspond.
617	Form 5500 and no plan number	Enter plan number from Form 8802. If unable to locate plan number, research IDRS if applicant is the requestor; otherwise, correspond.
620	Tax Year blank or invalid	Verify and correct tax year according to Form 8802 application. If not found, correspond using letter 4064.
621	Applicant may not be required to file (does not go to IDRS)	Verify applicant's filing requirement, using Form 8802 and IDRS. If no filing requirement - Override.
625	One or more data fields are invalid	Verify data input on Form 6166 input screen.
626	Certified year must equal tax period field, current year, or prior year	Verify, then correct, override, or correspond.
630	Multiple errors	Compare information entered with Form 8802, then correct.
633	Paragraph code does not exist	Verify that you have selected all the correct boxes, entity type, tax form filed, etc.
635	QSSS Verified box not checked	Verify via attachments to Form 8802 or IDRS that the entity is an approved Q-Sub. If unable to verify Q-Sub, correspond.
640	No record of POP but one required	Verify, using Form 8802 that POP is required. If required and on the form, correct, if needed. If not on form, correspond. Note: Before corresponding, ensure that no other information is needed.

Code	Explanation	Corrective Action
645	Country Code not Valid	Verify the country using Form 8802; verify the code. If not listed, notify the manager.
650	No list entered and applicant is a Partnership/S Corp./ Grantor/Simple or 584 Trust	Verify, using Form 8802, that the correct entity type has been entered. If so, check for attached list and enter. If list is not attached, you must correspond.
660	The supplied NAICS code is invalid	Verify entry and correct NAICS code when an error occurred, or correspond for a valid code.

- (6) See the Status Code Charts below for a list of the Post-IDRS Status codes, an explanation, and abbreviated correction guidelines. Prior to working Post-IDRS status codes, using all documentation available, verify that there are no input errors, e.g., misspelling, typing errors, wrong TIN, etc. When input errors are found, correct the record. You can override codes beginning with 5, 1, E and 0.

Exception: Status Codes 099 and 000.

Code	Explanation	Corrective action
E05	Requested account not found	Check input.
002	BMF Request -Command discrepancy	Input Data Indicates-BMF data; if correct, use command code (CC) BMFOL.
012	Requested Module doesn't exist on Master File or RRR	Check input, correct and re-enter.
016	There is currently no such SSN with this validity indicator on the Master File	Check SSN and re-enter if in error. If SSN is correct, resubmit the command with the reverse validity e.g., SSN followed by *.
091	Form 1065, Partnership Applicant - no partner list	Using Form 8802, verify the type of certification application and correct, if needed.
099	Application Accepted	Using Form 8802, verify the Certified Name line, generate Certification.
101	Record not on Master File	Manual Research required to verify if the required return was filed for the certification year requested. Using all documentation available and/or IDRS CC BMFOLT, verify that there are no input errors, correct, if necessary. If unable to correct, correspond using letter 3444.

Code	Explanation	Corrective action
103	Name control does not match IDRS name control	Using Form 8802 and command code ENMOD, verify that you are working with the same entity: <ul style="list-style-type: none"> • If name is slightly different, correct the record to match IDRS. • If name matches a previous name on IDRS, issue certification in name requested on Form 8802, if applicant meets all other requirements. • If unable to verify the name stated on Form 8802, correspond using letter 3432.
315	An 1120-S was input but a valid 1120-01 was found on IDRS	Verify on Form 8802 or IDRS is correct. Check DLN of TC150 posted. Correct, override or correspond.
322	One of the shareholders filed Form 1040-NR for Q-Sub or 1120-S (6166) Primary TIN/ Spousal TIN mismatch	Issue Correspondence, unable to certify as S Corporation.
360	The NAICS code supplied failed to match the NAICS on applicant's account	Override the 360 to status code 000 and manually issue the VAT paragraph that indicates the applicant's representation of their NAICS. Verify that the NAICS code is a valid code.
399	A return was filed for the application tax year, but the exempt organizational code must be manually obtained from IDRS	Secure the exempt organizational code from IDRS.
500	Possible foreign entity (Form 1120-F or Form 1120-FSC) - DO98	Using IDRS, verify the filing requirements and the type of return filed. If either indicates a foreign entity, issue letter 3425.
501	No Exempt Organization (EO) status on IDRS	Using all documentation available and IDRS, verify that there are no input errors. If record input correctly, use INOLE to verify EO status, then use the EO Applicant instructions to work this status code.
502	NAICS-FLAG present but no NAICS value available on IDRS or an incorrect value was returned	Using all documentation available and IDRS, verify that there are no input errors. If record input correctly and NAICS Code is required, correspond.

Code	Explanation	Corrective action
505	Filing requirement not on Master File	Using all documentation available and IDRS, check for exemption from filing. If exemption is verified or if applicant is a non-filer and the parent exemption is verified, override and generate certification. See applicant instructions for more correction procedures.
507	The input plan number did not match IDRS	Using all documentation available, verify that there are no input errors. If input is correct, correspond.
508	No tax return filed and extension date prior to current date	Using all documentation available and IDRS, verify that the tax year and period is correct. If correct and no return is posted, correspond using letter 3444 for BMF and letter 3426 for IMF (IMF responses, if a copy of the return is provided, check FFINQ for filing).
509	No tax return or extension on file	Using all documentation available and IDRS, verify that the tax year and period is correct. If correct and no return is posted, correspond (for IMF, check FFINQ for filing).
510	Form 2555 indicator present	Using all documentation available and IDRS, verify that there are no input errors. If record input correctly, use the Individual Applicant instructions to work this status code.
511	Form 990/Invalid EO status code; does not equal one of the following values: 01, 02, 06, 07, 11 or 12	Using all documentation available and IDRS, verify that there are no input errors. If record input correctly, manually verify EO status, then use the EO Applicant instructions to work the status code.
512	Form 990/Invalid Subsection code; does not equal one of the following values: 01-27	Using all documentation available and IDRS, verify that there are no input errors. If record input correctly, manually verify EO status, then use the EO Applicant instructions to work this status code.
513	Filing requirement value for Form 1120 equals 06 or 15	Using all documentation available and IDRS, verify that there are no input errors. If record input correctly, use the Corporate Applicant instructions to work this status code.
514	Subsidiary – further research required (6166)	Using all documentation available and IDRS (BMFOLT), verify that the applicant is a subsidiary (verify a posted TC514, 1120-14 filing requirement, or schedule 851), then verify using the X-ref TIN that the parent organization has filed a return which included the sub.
515	Form 1120-S Corp.- No shareholders list	Manual research required. Using Form 8802, verify the type of certification application and correct if needed. Once corrections have been made, you must be manually override to Status Code 099.
516	Multiple forms requested, not all filing requirements found (Form 8821)	Verify information input matches information given. Check IDRS for filings.
520	No tax return filed and VAT indicator equals 1	Using all documentation available, verify that there are no input errors and the application is for VAT. If VAT, correspond.

Code	Explanation	Corrective action
555	Primary TIN/ Spousal TIN mismatch	Using all documentation available and IDRS (CC INOLES), verify that there are no input errors and that you have a valid SSN. Correct SSN and override to Status 099 or correspond using letter 4064.

- (7) See the Status Code Charts below for a list of the Manually Entered Status codes, an explanation and abbreviated correction guidelines:

Code	Explanation	Corrective Action
000	Case input in error such as a duplicate input situation or applicant rescinds the application or manually issues certification or no response from international address	Not Correctable - The tax examiner must leave a detailed explanation in the remarks field on why the case was "000".
199	Manual Override - Suspense Case Closed	Use this override status code when No Reply from taxpayer after 30 days (domestic cases only) or taxpayer unable to provide required info.
702	Hold in suspense	Indicates tax examiner is waiting for more information.

- (8) If an attempt to correct the error status has been made, but there is insufficient information to process the application, complete the following:
- Correspond using one of the letters in the Correspondence Chart; see IRM 21.8.4.4.9, IRS Initiated Correspondence - Guidelines.
 - Identify the information needed using the paragraph specified for the type of tax form needing certification.
 - Allow 30 days for a response, 60 days for applicants overseas.
 - If the applicant responds (correspondence or phone call) with the requested information, input the response date in the correspondence received date field, enter in remarks what information was received and continue processing.
 - If the applicant fails to respond with the requested information within 30 days (60 days for applicants overseas) and the status of the application has not been updated since issuance of the suspense letters, the application will appear on the weekly correspondence list. Update the status

of the letter or close the application as a status code 199 for domestic taxpayers - 000 for international taxpayers, and in the remarks field, enter "no reply".

- f. Certification applications are closed as a No Reply by entering status code 199 for domestic taxpayers - 000 for international taxpayers and "no reply" in the remarks field.

Note: All open correspondence that has a letter issue date and a status date older than 60 days will auto close as a No Reply.

- g. If a response is not received within the proper time frame, close the case as status code 199 for domestic taxpayers - 000 for international taxpayers, in the remarks field, enter "No Reply" and issue abandonment letter.

- (9) When all research has been completed, the status of the cases in error must be updated. The status can be updated to:

- 000 - indicating termination of the case.

Reminder: A detailed explanation on why the case was "000" must be left in the remarks field.

- 099 - indicating a verified residency.
- Any type of suspense letter, see IRM 21.8.4.4.9, IRS Initiated Correspondence - Guidelines.
- Any type of Rejection letter, see IRM 21.8.4.4.10, Notification of Rejection.

- (10) The status of a case can be changed from the input screen or status screen.

- a. The override options can be accessed from the status screen or from the input screen.
- b. Choose 099 or 000.
- c. Answer "YES" if you want that status or "NO" if you don't.
- d. This process must be repeated until all cases in the current batch are in status 099, 000, reject, or suspense.

- (11) While in the status screen, you can complete all status changes within that batch.

Caution: While moving in the batch and making changes, to return to a previous page, you must exit the status report and re-enter the batch by clicking on the drop down arrow and choosing the number you are working with again. Failure to follow this process results in all previous changes being lost.

- (12) When the status report has been worked and all cases have been updated, the batch of work must be printed and mailed by the appropriate personnel.

21.8.4.3.5
(10-01-2017)
**Printing Form 6166
Certifications, Cover
Letters, and Rejection
Letters**

- (1) Use the following procedures for accessing the print screen, which allows for the printing of the Form 6166, Certifications, and Cover Letters.
- (2) To print Certifications and Cover Letters:
 1. Choose **Console** on the menu bar.
 2. Choose **"Main Print Console"** (Main Console Shelf appears).
 3. Choose the batch to print and click arrow. A drop down menu appears.

Note: Cover letters must be printed prior to Certification letters or the program defaults to printing Cover letters and Certifications as selected by the check marks evident on the Printing Console screen.

4. Printing different letters can be accomplished by adding or removing check marks in the various columns. Clicking the mouse on an empty box adds a check mark and clicking on a box with a check mark already present removes it.
5. Make sure the correct paper is in the printer.
6. To print Cover letters only, CLICK the **Print 6166 Covers/ Print U.K. Covers** icon, if applicable.
7. To print Certifications only, CLICK the **Print certifications** icon, if applicable.

Note: All Cover letters must be printed prior to printing certification letters. Once the Certification letters are printed, the batch is closed and the batch cannot be accessed again unless the batch is reset by the manager or the lead.

21.8.4.3.6 (10-01-2016) Correspondence

- (1) Correspondence is all communication from an applicant or their representative, excluding tax returns, whether solicited or unsolicited. This includes:
 - a. Written communications in response to IRS requests for information or data.
 - b. Written communications, including annotated responses, that provide more information or dispute IRS correspondence.
 - c. A telephone call that results in a written referral (Form 4442, Inquiry Referral) or research.
- (2) All correspondence, IRS initiated and Applicant Correspondence, is handled following IRM 21.3.3.4.2, Policy Statement P-21-3 Procedures.
- (3) Policy Statement P-21-3 (formally referred to as Action 61) was created to improve the quality and timely handling of applicant correspondence. When working replies sent in by the applicant (in response to the IRS notice or letters sent), remember that care must be taken to conform to the Policy Statement P-21-3 requirement.
 - a. Respond to the applicant inquiry within 30 days.
 - b. If correspondence was received through email, do not reply back by email but offer to either phone or fax the reply. Enterprise Electronic Fax (EEFax) is the most secure method of responding to a taxpayer to avoid any loss of Personally Identifiable Information (PII).
 - c. When unable to issue a response to the applicant within the required time frame, Policy Statement P-21-3 requires an interim letter. Interim letters must be sent every thirty days until you issue the certification or determine that certification cannot be issued.

21.8.4.3.6.1
(10-01-2010)
**Taxpayer Advocate
Service (TAS)**

- (1) The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should.
- (2) Refer taxpayers to TAS (see IRM 13, Taxpayer Advocate Service) when the contact meets TAS criteria (see IRM 13.1.7, Taxpayer Advocate Service (TAS) Case Criteria) and you can't resolve the taxpayer's issue the same day. The definition of "same day" is within 24 hours. "Same day" cases include cases you can completely resolve in 24 hours, as well as cases in which you have taken steps within 24 hours to begin resolving the taxpayer's issue. Do not refer "same day" cases to TAS unless the taxpayer asks to be transferred to TAS and the case meets TAS criteria. Refer to IRM 13.1.7.5, Same Day Resolution by Operations. When you refer cases to TAS, use Form 911, Request for Taxpayer Advocate Service Assistance (and Application for Taxpayer Assistance Order), and forward to TAS.

21.8.4.3.7
(02-05-2018)
**Telephonic Inquiries and
Responses**

- (1) The certification unit handles various types of telephone calls:
 - General information
 - Application help
 - Application status
 - Procedure clarification
 - Correspondence clarification
 - U.S. Residency Certification problem assistance
 - Request for more information
- (2) Calls in reference to general information do not require verification of tax authorization.
- (3) Calls are answered in the order received.
- (4) Calls cannot be transferred to a specific individual. If the caller asks to speak to a specific individual, research the account and respond to the caller. If the caller insists, prepare a Form 4442.
- (5) When a call is reduced to writing for future research or referral (Form 4442) to another person/area, then it is considered correspondence.
 - a. Referrals to the U.S. Residency Certification Unit that do not meet Taxpayer Advocate Service case criteria must be processed within 10 business days.
 - b. Referrals to the U.S. Residency Certification Unit that meet Taxpayer Advocate Service case criteria are processed immediately.
 - c. Referrals to the U.S. Residency Certification Unit can be sent via FAX. The numbers are 877-824-9110 (for taxpayers within the U.S., toll-free) and 304-707-9792 (for taxpayers inside or outside the U.S., non toll-free).

21.8.4.3.7.1
(10-01-2008)
Answering the Phones

- (1) The following script must be used when answering telephone calls:
"Internal Revenue Service, U.S. Residency Certification Department, my name is _____ and my ID number is _____. How can I help you?"
- (2) Once the caller indicates the issue is not generic, establish if the call is in reference to the caller or someone represented by the caller. Probe, make a

statement similar to the following:

“Before I can help you, I need to ask you some questions to protect the privacy of our applicants’ accounts. Is this call in reference to you or are you calling in reference to someone else?”

- (3) When the call is in reference to the caller’s own account, then proceed to the appropriate Disclosure Procedure - Applicant Verification, see IRM 21.8.4.3.7.3, Disclosure Procedure - Applicant Verification; refer to IRM 10.5.1.6.9.4, Faxing, if the caller intends to fax in information.
- (4) When the call is in reference to an account other than that of the caller, then proceed to the Disclosure Procedure - Third-Party Verification; see IRM 21.8.4.3.7.4, Disclosure Procedure - Third-Party Verification.
- (5) Complete all necessary research while the caller is on the line. Do not keep the caller on hold for more than five to seven minutes without giving an explanation and/or apology.

21.8.4.3.7.2
(10-01-2007)

**Language and
Procedures for Handling
Telephone Calls**

- (1) When initiating or returning telephone calls, the following script must be used:

“Hello my name is _____. I am calling from the Internal Revenue Service U.S. Residency Certification Department and my ID number is _____ I am trying to contact _____.”

- (2) When it is determined that the correct person has been contacted, explain the reason for your call.

Example: I’m calling because we received the application you submitted, but more information is needed to continue processing it.

Example: I’m returning your call.

- (3) When handling telephone inquiries, sufficient questions must be asked to establish the identity of the person on the phone.
- (4) Prior to revealing any specific tax information, verify the person to whom you are speaking is authorized to receive the information using the Disclosure Procedures outlined below.
- (5) When the person to whom you are speaking claims to be the applicant, proceed with the appropriate disclosure procedure, Applicant Verification; see IRM 21.8.4.3.7.3, Disclosure Procedure - Applicant Verification.
- (6) When the person to whom you are speaking is other than the applicant, proceed to Disclosure Procedure - Third-Party Verification; see IRM 21.8.4.3.7.4, Disclosure Procedure - Third-Party Verification.

21.8.4.3.7.3
(06-05-2024)

**Disclosure Procedure -
Applicant Verification**

- (1) When the person with whom you speak claims to be the applicant, begin probing to ensure that you are speaking with the applicant.
- (2) If the applicant is on the phone, follow procedures in IRM 10.10.3.3.6, Identity Proofing for Required Taxpayer Authentication.

- (3) If the applicant is not an individual, determine the type of entity to be discussed and follow procedures in Identifying Proofing for Required Taxpayer Authentication, IRM 10.10.3.3.6 (3). Only release information to certain people in the organization or to the organization's authorized representative. Use the following questions in making these determinations:
- What is your name?
 - What is the legal name of the organization?
 - What is the organization's mailing address?
 - What is the organization's TIN?
 - What is your relationship (position) with the organization?
 - Can you legally bind the company? (*Ask if you do not recognize position (title) as binding officer.*)
 - Do you have a valid POA or TIA? (*Ask when caller is not a representative of the company.*)
 - If a pension plan, ask for the name, TIN and address of the sponsor.
- (4) Only disclose information to persons authorized to receive it. See IRM 11.3.2.4, Persons Who May Have Access to Returns and Return Information Pursuant to IRC 6103(e) for more information. When in doubt, do not disclose.

If	Then
You initiated the call	Inform the caller the questions will be issued in writing to the address on file.
The caller initiated the call	Inform the caller that "the person who is legally authorized to discuss this account should submit the questions and/or issues to the certification unit in writing."

21.8.4.3.7.4
(10-01-2016)

**Disclosure Procedure -
Third-Party Verification**

- Always determine if the third-party is authorized to receive the applicant's information.
- Third-party callers claiming to have tax information authorization, must provide some personal information to verify their authorization.
 - The caller's name
 - The legal name of organization the caller represents
 - The organization's mailing address
 - The organization's TIN or Centralized Authorization File (CAF) number
 - The name, address and TIN of the applicant.
- Once it has been determined the contact is a third-party, verify that the caller is authorized to discuss the account using one of the following:
 - Form 8821
 - Form 8802
 - Form 2848
 - Form 8821 Database
 - CFINK on IDRS
- Verification of the individual listed on the authorization must be completed. Use the individual's name, TIN/CAF number and any other appropriate questions to

authenticate the caller. See IRM 21.8.4.3.7.3, Disclosure Procedure - Applicant Verification.

- (5) Upon determining that the authorization is valid, proceed with the processing of the request.
- (6) If the caller is not authorized, advise the caller that the application must provide authorization for the Service to discuss any specific information concerning the applicant.

21.8.4.3.7.5 (10-01-2016) Incoming Calls

- (1) Calls in reference to correspondence issued from the Certification Unit must be handled following the telephone procedures. See IRM 21.8.4.3.7.1, Answering the Phones.

- 1. Ask the caller to provide the reference number that is located at the top of the notice.
- 2. Using the reference number provided, retrieve the case.
- 3. When complete information has been received from the caller, determine the type of help being requested.
- 4. Once a determination has been made that will move the case to resolution, advise the caller what is required to receive certification, and to send the required information to the attention of the tax examiner handling the case.
- 5. Leave in the Remarks section, the date, the person you spoke with, and the information discussed during the telephone conversation.

Note: Use the Remarks Procedure when uncertain how to include remarks on the United States Residency Certification (USRC) Database.

21.8.4.3.7.6 (10-01-2016) Closed Case Inquiries

- (1) When a call is received in reference to a closed case, inform the caller of the date that a certification or a rejection letter was issued.
- (2) If the certification or rejection was printed within the last two weeks, inform the caller to wait the two weeks and call back after the two-week period has ended if the certification or rejection was not received.
- (3) When it has been more than two weeks, but less than 60 days, and the inventory is current:
 - 1. Reprint the certification.
 - 2. Expedite the mailing of the certification.
 - 3. Inform the caller of the reprinting of the certification and that it will be mailed expeditiously.
 - 4. Note the actions taken in the Remarks section on the United States Residency Certification (USRC) Database. For guidance on entering remarks, proceed to the Remarks Procedure.
- (4) When it has been more than 60 days but not more than 120 days since the printing of the certification or rejection, you must notify your manager or lead and process according to their instruction. For example, if the applicant states they haven't received the certification or have lost it and they haven't requested another copy during this time, reprint it. If over 120 days, applicant needs to submit a new application.

- (5) When a caller asks about a rejection letter, provide the caller with the rejection explanation and what information is needed to qualify for certification.
- (6) When an application was rejected but the caller has the information to qualify for certification, inform the caller to fax or mail all the required information, including the original application to the Certification Unit.
 1. Explain to the caller that once all required information is received, the Service will issue the certification or correspondence requesting any more information within 30 days from the date the requested information was received.
 2. Note the date, the name of caller and the information requested in the Remarks section on the USRC Database. For guidance on entering remarks, proceed to the Remarks Procedure.
- (7) When all the required information (including the original application) is received, process it as a new application.

21.8.4.3.7.7
(10-01-2016)

**Calls in Reference to
Certifications Issued
with Errors:**

- (1) When a call is received concerning a certification that was issued with errors, complete the following activities.
 1. Determine the nature of the error.
 2. Obtain a TIN/reference number for the application in question.
 3. Verify the information issued on the certification.
 4. When a discrepancy exists with what the caller states was requested and what was processed, complete further research to determine if the discrepancy was a service error.

Example: The caller states that the year of certification should have been 2019, but the certification was issued for 2018; research the original application to see if the year processed for certification differs from the certification year stated on the application.

5. Retrieve the Form 8802, if possible, and verify the caller's information.
- (2) Applications processed incorrectly must be corrected at the time of the call.
- (3) When research shows there is no discrepancy between what is included on the United States Residency Certification (USRC) Database and the Form 8802 submitted, then let the caller know that a new application is required.
- (4) If unable to determine where the error originated, such as unable to locate the Form 8802, request substantiation for proof of the error.

Note: Proof must include a copy of the original Form 8802.

- (5) When the error is in the taxpayer's name, verify the name on IDRS.
 - a. Names misspelled on IDRS must be referred to Customer Service at 800-829-4933.
 - b. Names misspelled on the USRC Database must be corrected at the time of the call.

21.8.4.3.8
(10-01-2016)
**Filing and Retrieving
Documents**

- (1) All U.S. Residency Certification documents must be stored in an easily retrievable manner. The documents may be kept in date order, alphabetical order, or batch order.
- (2) The filed documents are to be separated into three categories:
 - Suspense
 - Closed
 - Foreign forms
- (3) All correspondence must be associated with the original application in suspense prior to working the case
- (4) Correspondence that has been researched, and the original application is closed, must be associated with the original application. Once associated, determine if the case needs to be reopened.
 - If the applicant correspondence responds to correspondence initiated by the U.S. Residency Certification unit, **initiate a new case**.
 - If the information provided indicates that an error may have occurred, or the information was needed during the processing of the original application, **initiate a new case**.
- (5) Correspondence that requires the reopening of a case as **a new case** must be processed using a new received date.
 1. Circle out the original application received date using red or brown pencil.
 2. Stamp the new received date on the document, using the correspondence received date.
 3. Enter the correspondence received date as the received date.

21.8.4.4
(11-30-2018)
**Who is Eligible for U.S.
Residency Certification**

- (1) Generally, persons/entities that are statutorily required to file a return for a specific period and have done so (i.e., are not delinquent), are eligible for U.S. Residency Certification.

21.8.4.4.1
(10-01-2017)
**Who is Not Eligible for
U.S. Residency
Certification**

- (1) Generally, persons/entities that are statutorily required to file a return for a specific period but have not done so, are not eligible for U.S. Residency Certification.
- (2) Any person/entity that filed a return as a nonresident, including Form 1040-NR, U.S. Nonresident Alien Income Tax Return, Form 1040-NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens with No Dependents, Form 1120-F, U.S. Income Tax Return of a Foreign Corporation, and Form 1120-FSC, U.S. Income Tax Return of a Foreign Sales Corporation, are not eligible for U.S. Residency Certification.

Exception: If an individual files a Form 1040-NR for the tax year but attaches a Form 1040 covering a portion of the tax year, a Form 6166 can be issued to the individual for that portion of the tax year covered by the Form 1040.

- (3) Any other entity that is not liable for tax in the United States at the entity level, such as a partnership or grantor trust, to the extent the owners, partners, par-

ticipants, etc., of that entity are not themselves eligible for U.S. residency certification. Accordingly, a U.S. LLC owned by a foreign corporation, trust, or estate is not eligible for certification if it is disregarded as an entity separate from its owner (DRE) or if the LLC has elected to be treated as a partnership for federal tax purposes.

21.8.4.4.2
(10-01-2016)

Requesting Competent Authority Assistance in Determining Eligibility for Treaty Benefits

- (1) Competent Authority provides help to any applicant that is authorized by a U.S. treaty to seek Competent Authority help.
- (2) Competent Authority also provides help to any applicant that has been declined certification but believes that they are entitled to treaty benefits under a specific U.S. treaty article, provided:
 - a. The request for such help is made following *Rev. Proc. 2015-40*.
 - b. It can be established that the issue requires consultation with the foreign competent authority to ensure consistent treatment by the United States and the applicable treaty country.
- (3) The Competent Authority does not make unilateral determinations with respect to residency. Therefore, all requests for residency determination are made by mutual/bilateral agreement between the two Competent Authorities.

21.8.4.4.3
(10-01-2024)

Tax Treaties

- (1) Income tax treaties between the United States and foreign countries typically provide for either a reduction in the statutory rate of tax or an exemption from tax for certain types of income received by citizens and/or residents of the contracting countries.
- (2) Many foreign countries withhold tax at the source on income flowing out of such country. If the statutory withholding rate exceeds the treaty rate of tax, one of the following methods may be used to adjust for the treaty rate of tax.
 - a. The foreign country may automatically reduce the withholding rate to the treaty rate of tax in the case of income of recipients who have evidence of United States residency; or
 - b. The foreign country may withhold income taxes at its statutory rates and require recipients to recover taxes paid in excess of the reduced treaty rate by filing claims for refund which include evidence that the recipient is a resident of the United States and entitled to the treaty benefits.
- (3) The following chart is a list of the most current treaty countries. Use the corresponding country codes when entering the Form 8802, certification application, on the United States Residency Certification (USRC) Database:

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Country	Country's Codes
Armenia (U.S.S.R. Treaty)	AM
Australia	AS
Austria	AU
Azerbaijan (U.S.S.R. Treaty)	AJ
Bangladesh	BG
Barbados	BB
Belarus (U.S.S.R. Treaty)	BO
Belgium	BE
Bulgaria	BU
Canada	CA
Chile	CI
China (Peoples Republic of China - does not apply to Hong Kong)	CH
Cyprus	CY
Czech Republic	EZ
Denmark	DA
Egypt	EG
Estonia	EN
Finland	FI
France	FR
Georgia (U.S.S.R. Treaty)	GG
Germany	GM
Greece	GR
Hungary	HU
Iceland	IC
India	IN
Indonesia (including Bali, Belitung, Flores, Moluccas, Sumatra, Timor)	ID
Ireland	EI
Israel	IS
Italy	IT
Jamaica	JM

Country	Country's Codes
Japan	JA
Kazakhstan	KZ
Korea, Republic of (South)	KS
Kyrgyzstan (U.S.S.R. Treaty)	KG
Latvia	LG
Lithuania	LH
Luxembourg	LU
Malta	MT
Mexico	MX
Moldova (U.S.S.R. Treaty)	MD
Morocco	MO
Netherlands	NL
New Zealand	NZ
Norway	NO
Pakistan	PK
Philippines	RP
Poland	PL
Portugal	PO
Romania	RO
Russia (Federation)	RS
Slovakia (Slovak Republic)	LO
Slovenia	SI
South Africa	SF
Spain	SP
Sri Lanka	CE
Sweden	SW
Switzerland	SZ
Tajikistan (U.S.S.R. Treaty)	TI
Thailand	TH
Trinidad and Tobago	TD
Tunisia	TS
Turkey	TU
Turkmenistan (U.S.S.R. Treaty)	TX

Country	Country's Codes
Ukraine	UP
United Kingdom	UK
Uzbekistan (U.S.S.R. Treaty)	UZ
Venezuela	VE

Note: The United States-Hungary income tax treaty has been terminated for all purposes as of January 1, 2024. If an applicant is requesting a Form 6166 for a tax period before January 1, 2024, a Form 6166 can be issued for Hungary indicating the proper tax period(s).

Note: The United States-Russia income tax treaty is suspended for all taxes withheld at source and in respect of other taxes as of August 16, 2024. If an applicant is requesting a Form 6166 for a tax period ending before August 16, 2024, a Form 6166 can be issued for Russia indicating the proper tax period(s).

Note: The United States-Chile income tax treaty entered into effect with respect to taxes withheld at source paid or credited on or after February 1, 2024, and for all other taxes for taxable periods beginning on or after January 1, 2024. A Form 6166 can be issued to an applicant to claim benefits under the treaty consistent with these dates.

- (4) More information is available in Publication 901, U.S. Tax Treaties, or the international income tax treaty page at *United States Income Tax Treaties - A to Z*.
- (5) For specific U.S. residency certification language for the following countries: Armenia, Azerbaijan, Belarus, Georgia, Greece, Kyrgyzstan, Moldova, Portugal, Russia, Spain, Tajikistan, Turkmenistan, Uzbekistan, refer to IRM 21.8.4.4.13, Specific U.S. Residency Certification Language for Specific Treaty Countries.

21.8.4.4.4
(10-01-2018)
Claiming Treaty Benefits

- (1) Applicants can claim treaty benefits by submitting Form 8802, Application for United States Residency Certification, and foreign claim forms, when applicable.
- (2) Applicants that fail to file a claim with the foreign country for treaty benefits, which they are entitled to, and have paid or accrued foreign taxes exceeding the treaty rate may be double taxed. Applicants cannot submit a claim to the IRS (Form 1116, Foreign Tax Credit, or Form 1118, Foreign Tax Credit - Corporations) for the amount in excess of the treaty rate.

21.8.4.4.4.1
(10-01-2018)
**Teacher/Researcher
Time of Benefit**

- (1) The U.S. income tax treaties that provide benefits to teachers and/or researchers provide such benefits for a two-year period, except for the treaties with China and Greece, which provide benefits for a three-year period.
- (2) The two (or three) year period during which treaty benefits are available begins on the date the taxpayer enters the foreign country to begin teaching or con-

ducting research. Thus, the teacher or researcher may be eligible for a Form 6166 for three (or four) different calendar years.

Example: The teacher enters the foreign country on October 1, 2017 and continues to teach through September 30, 2019. The teacher is eligible for a Form 6166 in 2017, 2018, and for the period between January 1, 2019 and September 30, 2019

21.8.4.4.4.2
(10-01-2018)
**Teachers and
Researchers (Except
Japan)**

- (1) Generally, an applicant who files Form 2555, Foreign Earned Income, with their tax return is not eligible for Form 6166, U.S. Residency Certification, without providing more information.
- (2) Some tax treaties provide an exemption from foreign country income tax on remuneration received in consideration of teaching or research activities if, among other treaty requirements, the individual was a U.S. resident immediately before visiting the foreign country. The treaty benefits are generally available for a period of two or three years. See IRM 21.8.4.4.4.4, Teacher and Researcher Treaty Articles for more information.
- (3) Many foreign countries require a U.S. individual to submit Form 6166 to claim a treaty benefit.
- (4) A statement made under penalties of perjury must accompany the Form 8802 if the applicant states they are eligible for treaty benefits. The statement must include the following:
 - The tax treaty and article that provides such benefits
 - The period of time the benefit is available under the tax treaty (i.e., two or three years)
 - The beginning and ending dates of the teaching assignment
 - That the individual was a U.S. resident within the meaning of the Residence article of the treaty immediately before entering the foreign country. Depending on the treaty, a statement regarding the physical presence in the United States for U.S. citizens and green card holders may be required. See IRM 21.8.4.4.4.4, Teacher and Researcher Treaty Articles, for more information.
- (5) Verify the individual's last return was filed as a U.S. resident.
- (6) If the individual's application includes the statement and falls within the time constraints identified in the tax treaty, issue the Form 6166.

21.8.4.4.4.2.1
(10-01-2018)
**Teacher/Researcher
Certification Paragraph
(Except Japan)**

- (1) If an individual applies for a Form 6166 after filing a Form 2555 with their tax return, and they meet the requirements in IRM 21.8.4.4.4.2, Teachers and Researchers (Except Japan), the Form 6166 must be printed using the manual override function.
- (2) The certification must read, *"I certify that, to the best of our knowledge, the above-named taxpayer was a resident of the United States of America for purposes of U.S. taxation immediately before entering [Name of Country]."*

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21.8.4.4.4.3 (10-01-2016) **Teachers and Researchers - Japan**

- (1) Generally, an applicant filing a Form 2555, Foreign Earned Income, with a tax return is not eligible for Form 6166, U.S. Residency Certification, without providing more information.
- (2) Under Article 20 of the U.S. - Japan tax treaty, an individual who continues to be a U.S. resident (within the meaning of Article 4(1)) while visiting Japan for purposes of teaching or conducting research may be exempt from tax on such salary in Japan for a period not to exceed two years.
- (3) Japan requires U.S. individuals to submit Form 6166 to claim treaty benefits.
- (4) A statement made under penalties of perjury must accompany the Form 8802 if the applicant states they are eligible for treaty benefits. The statement must include the following:
 - The person is claiming benefits under U.S. - Japan tax treaty Article 20
 - The treaty benefit is available for 2 years
 - The beginning and ending dates of the teaching assignment
 - That the individual is (and will continue to be) a U.S. resident within the meaning of Article 4(1) of the U.S. - Japan treaty (i.e., he is a U.S. citizen or green card holder).
- (5) Verify the individual's last return was filed as a U.S. resident.
- (6) If the individual's application includes the statement and falls within the time constraints identified in the tax treaty, issue the Form 6166.

21.8.4.4.4.3.1 (10-01-2018) **Teacher/Researcher Certification Paragraph - Japan**

- (1) If an individual applies for a Form 6166 after filing a Form 2555 with their tax return, the application systematically rejects with post-IDRS Status Code 510. If this occurs and the individual meets the requirements in IRM 21.8.4.4.4.3, Teachers and Researchers - Japan, the Form 6166 must be printed using the manual override function.
- (2) The certification must read, *"I certify that, to the best of my knowledge, the above-named taxpayer is, and will continue to be, a resident of the United States of America for purposes of U.S. taxation."*

21.8.4.4.4.4 (10-01-2024) **Teacher and Researcher Treaty Articles**

- (1) This is a chart of treaty countries, the Teacher/Researcher Article number and sample statements needed if a Form 2555 was filed for the year of the requested U.S. Residency Certification.

Country	Teacher Article	Sample additional statement required for U.S. citizens and green card holders
Bangladesh	21	None
Belgium	19	Immediately before entering Belgium, I was a U.S. resident who had a substantial presence, permanent home or habitual abode in the United States, and I was not a resident of a State other than Belgium for the purposes of a double taxation convention between that State and Belgium.
Bulgaria	19	None

Country	Teacher Article	Sample additional statement required for U.S. citizens and green card holders
China (3 years)	19	Immediately before entering China, I was a U.S. resident who had a substantial presence within the United States, and I was not a resident of a State other than China for the purposes of a double taxation convention between that State and China.
Czech Republic	21	Immediately before entering the Czech Republic, I was a U.S. resident who had a substantial presence, permanent home, or habitual abode in the United States.
Egypt	22	Citizens: Immediately before entering Egypt, I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering Egypt, I was a U.S. resident in accordance with the principles of IRC 7701(b).
France	20	Immediately before entering France, I was a U.S. resident who had a substantial presence in the United States or was a resident of the United States and not of a third State under the principles of Article 4(3)(a) and (b) of the U.S.-France Income Tax Treaty.
Germany	20	Immediately before entering Germany, I was a U.S. resident who had a substantial presence, permanent home, or habitual abode in the United States.
Greece (3 years)	XII	None
Hungary	17	None
India	22	None
Indonesia	20	Immediately before entering Indonesia, I was a U.S. resident who had a substantial presence in the United States.
Israel	23	Immediately before entering Israel, I was a U.S. resident who was not a resident of Israel and had a substantial presence, permanent home or habitual abode in the United States.
Italy	20	Immediately before entering Italy, I was a U.S. resident who was not a resident of Italy and had a substantial presence, permanent home, or habitual abode in the United States.
Jamaica	22	Citizens: Immediately before entering Jamaica, I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering Jamaica, I was a U.S. resident in accordance with the principles of IRC 7701(b).
Japan	20	None (See IRM 21.8.4.4.4.3, Teachers and Researchers - Japan)
Korea	20	Citizens: Immediately before entering Korea, I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering Korea, I was a U.S. resident in accordance with the principles of IRC 7701(b).
Luxembourg	21	Immediately before entering Luxembourg, I was a U.S. resident who was not a resident of Luxembourg and had a substantial presence, permanent home or habitual abode in the United States.

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Country	Teacher Article	Sample additional statement required for U.S. citizens and green card holders
Netherlands	21	Immediately before entering the Netherlands, I was a U.S. resident who was not a resident of the Netherlands, and (i) I was a resident of the United States and not a third State, under the principles of Article 4(2)(a) and (b) of the U.S.-Netherlands Income Tax Treaty, if that third State is one with which the United States does not have a comprehensive income tax Convention, or (ii) I was a resident of the United States and not a third State, if that third State is one with which the United States does have a comprehensive income tax Convention, under the provisions of that Convention.
Norway	15	Citizens: Immediately before entering Norway, I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering Norway, I was a U.S. resident in accordance with the principles of IRC 7701(b).
Pakistan	XII	Citizens: Immediately before entering Pakistan, I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering Pakistan, I was a U.S. resident in accordance with the principles of IRC 7701(b).
Philippines	21	Citizens: Immediately before entering the Philippines, I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering Philippines, I was a U.S. resident in accordance with the principles of IRC 7701(b).
Poland	17	Citizens: Immediately before entering Poland, I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering Poland, I was a U.S. resident in accordance with the principles of IRC 7701(b).
Portugal	22	Immediately before entering Portugal, I was a U.S. resident who had a substantial presence in the United States, or I was a resident of the United States and not of a third country under the principles of Article 4(2)(a) and (b) of the U.S. - Portugal Income Tax Treaty.
Romania	19	Citizens: Immediately before entering Romania, I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering Romania, I was a U.S. resident in accordance with the principles of IRC 7701(b).
Slovak Republic	21	Immediately before entering Slovakia, I was a U.S. resident who had a substantial presence, permanent home, or habitual abode in the United States.
Slovenia	20	Immediately before entering Slovenia, I was a U.S. resident who was not a resident of Slovenia, and who had a substantial presence, permanent home or habitual abode in the United States.
Thailand	23	Immediately before entering Thailand, I was a U.S. resident who was not a resident of Thailand, and who had a substantial presence, permanent home or habitual abode in the United States.

Country	Teacher Article	Sample additional statement required for U.S. citizens and green card holders
Trinidad and Tobago	18	Citizens: Immediately before entering Trinidad and Tobago, I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering Trinidad and Tobago, I was a U.S. resident in accordance with the principles of IRC 7701(b).
Turkey	20	Immediately before entering Turkey, I was a U.S. resident in accordance with the principles of Article 4(2)(a)-(d) of the U.S.-Turkey Income Tax Treaty.
United Kingdom	20A	Immediately before entering the United Kingdom, I was a U.S. resident who had a substantial presence, permanent home or habitual abode in the United States, and was not a resident of a State other than the United Kingdom for the purposes of a double taxation convention between that State and the United Kingdom.
U.S.S.R. (Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, and Uzbekistan)	VI	Citizens: Immediately before entering [country name], I was a U.S. resident in accordance with the principles of Treas. Reg. 1.871-2(b). Green card holders: Immediately before entering [country name], I was a U.S. resident in accordance with the principles of IRC 7701(b).
Venezuela	21	Immediately before entering Venezuela, I was a U.S. resident who was not a resident of Venezuela and who had a permanent home or habitual abode in the United States.

Note: There is a 2 year time limit for benefits (all countries except China and Greece (3 year time limit))

Note: The United States-Hungary income tax treaty has been terminated for all purposes as of January 1, 2024. If an applicant is requesting a Form 6166 for a tax period before January 1, 2024, a Form 6166 can be issued for Hungary indicating the proper tax period(s).

Note: The United States-Russia income tax treaty is suspended for all taxes withheld at source and in respect of other taxes as of August 16, 2024. If an applicant is requesting a Form 6166 for a tax period ending before August 16, 2024, a Form 6166 can be issued for Russia indicating the proper tax period(s).

21.8.4.4.5
(02-01-2022)

Certifications Rejected by Treaty Countries

- (1) Refer inquiries involving Forms 6166 rejected by Treaty Countries that result in a double taxation to the U.S. Competent Authority.

Note: See IRM 21.8.4.4.13.5, Certification Issues With a Foreign Country

, for more information.

- (2) Refer certification recipients that are entitled to a reduction in the foreign statutory rate of tax, or an exemption from foreign tax for certain types of income according to U.S. treaties but are denied, to Rev. Proc. 2015-40.
- (3) Rev. Proc. 2015-40 can be found on the internet at *Rev Proc 2015-40*. It explains the procedures for requesting U.S. Competent Authority assistance.
- (4) The U.S. Competent Authority only addresses matters covered in the applicable U.S. income tax treaty.
- (5) Requests for U.S. Competent Authority assistance must be mailed to:
Commissioner, Large Business & International Division
Internal Revenue Service
1111 Constitution Ave. N.W.,
SE:LB:TTPO:APMA:TAIT:K
Washington, DC 20224
(Attention: TAIT)

21.8.4.4.6
(10-01-2011)
**Dependencies and Areas
of Special Sovereignty**

- (1) The following chart shows Federal Information Processing Standard (FIPS) codes for Dependencies and Areas of Special Sovereignty. Use these codes when processing certification requests when the applicant specifies one of these dependencies.
- (2) When the dependency's FIPS code is not valid, contact the P&A analyst.
- (3) The U.S. does not have treaties with dependencies. Therefore, an applicant for a certification for a dependency must provide an explanation on Form 8802, Line 9, Purpose for Certification, as to why certification is being requested.

Note: Enter applications that do not specify purpose on the United States Residency Certification (USRC) Database and issue letter 4064.

Dependencies and Areas of Special Sovereignty	FIPS Code
Akrotiri	AX
American Samoa	AQ
Anguilla	AV
Antarctica	AY
Aruba	AA
Ashmore and Cartier	AT
Baker Island	FQ
Bermuda	BD
Bouvet Island	BV
British Indian Ocean Territory	IO
Cayman Islands	CJ
Christmas Island	KT

Dependencies and Areas of Special Sovereignty	FIPS Code
Clipperton Island	IP
Cocos (Keeling) Islands	CK
Cook Island	CW
Coral Sea Islands	CR
Dhakelia	DX
Falkland Islands (Islas Malvinas)	FK
Faroe Islands	FO
French Guiana	FG
French Polynesia	FP
French Southern and Antarctic Lands	FS
Gibraltar	GI
Greenland	GL
Guadeloupe (Currently considered part of France)	FR unless GP required by GP
Guam	GQ
Guernsey	GK
Heard Island and McDonald Island	HM
Hong Kong	HK
Howland Island	HQ
Jan Mayen	JN
Jarvis Island	DQ
Jersey	JE
Johnston Atoll	JQ
Kingman Reef	KQ
Macau	MC
Man, Isle of	IM
Martinique (Currently considered part of France)	Use FR unless MB required
Mayotte	MF
Midway Island	MQ
Montserrat	MH
Navassa island	BQ
New Caledonia	NC
Niue	NE

Dependencies and Areas of Special Sovereignty	FIPS Code
Norfolk Island	NF
Northern Mariana Islands	CQ
Palmyra Atoll	LQ
Paracel Islands	PF
Pitcairn Islands	PC
Puerto Rico	RQ
Reunion (Currently considered part of France)	Use FR unless RE required
Saint Barthelemy	TB
Saint Helena	SH
Saint Pierre and Miquelon	SB
South Georgia and South Sandwich Islands	SX
Spratly Islands	PG
Svalbard	SV
Taiwan	TW
Tokelau	TL
Turks and Caicos Islands	TK
Virgin Islands - U.S.	VQ
Virgin Islands - British	VI
Wake Island	WQ
Wallis and Futuna	WF
Western Sahara	WI

21.8.4.4.7
(10-01-2024)
Non-Treaty Countries

- (1) The following are non-treaty country codes. Applicants requesting certification for the following non-treaty countries, or any new non-treaty country, must provide an explanation on Form 8802, Line 9, Purpose for certification, as to why certification is being requested.
- (2) Applicants that request certification for a non-treaty country, and later receive a refund of all or part of the foreign taxes paid, **must amend their U.S. filing when** a foreign tax credit was taken for taxes they were refunded. Applicants that fail to notify the IRS of foreign tax refunds or change in the dollar amount of foreign taxes paid, may have to pay a penalty.
- (3) When an explanation of why certification is requested for a non-treaty country is not provided, enter the Form 8802 on the United States Residency Certification (USRC) Database and issue letter 4064.

Non-Treaty Countries	Code
Afghanistan	AF
Albania	AL
Algeria	AG
Andorra	AN
Angola	AO
Antigua and Barbuda	AC
Argentina	AR
Bahamas	BF
Bahrain	BA
Belize	BH
Benin	BN
Bhutan	BT
Bolivia	BL
Bosnia and Herzegovina	BK
Botswana	BC
Brazil	BR
Brunei	BX
Burkina Faso	UV
Burma	BM
Burundi	BY
Cambodia	CB
Cameroon	CM
Cape Verde	CV
Central African Republic	CT
Chad	CD
Colombia	CO
Comoros	CN
Congo (Brazzaville)	CF
Congo (Kinshasa)	CG
Costa Rica	CS
Cote d'Ivoire (Ivory Coast)	IV
Croatia	HR
Cuba	CU

Non-Treaty Countries	Code
Djibouti	DJ
Dominica	DO
Dominican Republic	DR
East Timor	TT
Ecuador	EC
El Salvador	ES
Equatorial Guinea	EK
Eritrea	ER
Ethiopia	ET
Eswatini	SZ
Fiji	FJ
Gabon	GB
Gambia	GA
Ghana	GH
Grenada	GJ
Guatemala	GT
Guinea	GV
Guinea-Bissau	PU
Guyana	GY
Haiti	HA
Holy See	VT
Honduras	HO
Iran	IR
Iraq	IZ
Jordan	JO
Kenya	KE
Kiribati	KR
Korea, North	KN
Kuwait	KU
Laos	LA
Lebanon	LE
Lesotho	LT

Non-Treaty Countries	Code
Liberia	LI
Libya	LY
Liechtenstein	LS
Macedonia	MK
Madagascar	MA
Malawi	MI
Malaysia	MY
Maldives	MV
Mali	ML
Marshall Islands	RM
Mauritania	MR
Mauritius	MP
Micronesia	FM
Monaco	MN
Mongolia	MG
Montenegro	MJ
Mozambique	MZ
Namibia	WA
Nauru	NR
Nepal	NP
Nicaragua	NU
Niger	NG
Nigeria	NI
Oman	MU
Palau	PS
Panama	PM
Papua New Guinea	PP
Paraguay	PA
Peru	PE
Qatar	QA
Rwanda	RW
Saint Kitts and Nevis	SC
Saint Lucia	ST

Non-Treaty Countries	Code
Saint Vincent and the Grenadines	VC
Samoa	WS
San Marino	SM
Sao Tome and Principe	TP
Saudi Arabia	SA
Senegal	SG
Serbia	RI
Seychelles	SE
Sierra Leone	SL
Singapore	SN
Solomon Island	BP
Somalia	SO
South Sudan	SS
Suriname	NS
Syria	SY
Tanzania	TZ
Togo	TO
Timor-Leste	TL
Tonga	TN
Tuvalu	TV
Uganda	UG
United Arab Emirates	AE
Uruguay	UY
Vanuatu	NH
Vietnam	VM
Yemen	YM
Zambia	ZA
Zimbabwe	ZI

Note: The United States-Hungary income tax treaty has been terminated for all purposes as of January 1, 2024. If an applicant is requesting a Form 6166 for a tax period before January 1, 2024, a Form 6166 can be issued for Hungary indicating the proper tax period(s).

Note: The United States-Russia income tax treaty is suspended for all taxes withheld at source and in respect of other taxes as of August 16, 2024. If an applicant is requesting a Form 6166 for a tax period ending before August 16, 2024, a Form 6166 can be issued for Russia indicating the proper tax period(s).

21.8.4.4.8
(10-01-2024)

**Processing
Procedures/Policy on
the Use of FAX
Signatures**

- (1) Procedures have been developed to reduce applicant/practitioner burden as well as reducing the time it takes to resolve applicant cases or inquiries.

Note: The Internal Revenue Service has temporarily allowed the use of digital signatures on certain forms that cannot be filed electronically, including Form 8802, since August 28, 2020; see IRM 10.10.1.6.2 and Exhibit 10.10.1-2. The IRS still cannot accept electronic signatures via fax or mail on Forms 2848 or 8821. The signature date can be typed, stamped or handwritten.

Exception: The only method for accepting electronic signatures on the Form 2848 and Form 8821 is through the Taxpayer Digital Communication (TDC) online platform. See IRM 21.3.7.1.4, Taxpayer Digital Communication (TDC) CAF Overview for more information.

- (2) The filing of original tax returns via fax **is only allowed:**

- As part of a return perfection process (e.g., secure missing schedule or missing signature) initiated by the IRS
- As part of a return in post-filing/non-filing activity.

Note: Per Chief Counsel, fax signatures are allowed, even when an applicant signature is required, in circumstances where contact with the applicant has been made and documented.

- (3) Submission of documentation, forms, letters, and returns related to post-filing/non-filing inquiries and interactions can be allowed via fax, based on taxpayer or IRS request, unless there is a specific prohibition.
- (4) Do not acknowledge faxes received from taxpayers during tax administration activities. Exceptions can be made in unusual circumstances as determined by management.
- (5) The specific forms, documents, and letters listed below can be received by fax. The list is not all inclusive.
- EIN Requests (Form SS-4)
 - Power-of-Attorney (Form 2848)
 - Taxpayer Information Authorization (Form 8821)
 - 1120S Election (Form 2553)
 - Return Transcript Requests (Form 4506)
 - Appeals Conference Requests, and
 - Response/documentation needed to resolve filing or post-filing questions or correspondence.

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21.8.4.4.9 (03-19-2020) IRS Initiated Correspondence - Guidelines

- (1) When the certification requestor fails to provide the required information for the type of entity needing certification, the requestor must be notified. If the issue cannot be resolved by telephone contact, the requestor must be notified in writing.
- (2) The following chart has some of the letters established for requesting more information for the U.S. Residency Certification applications:

Letter No.	Title/Description
3426	No U.S. tax return on file for requested year - Individual/Possible Minor Child
3429	Partnership - Required certification application information needed
3430	Exempt Organization - Required certification application information missing
3431	Employee Plans (EPMF) - request for required certification application information
3437	Request valid NAICS code
3441	“S” Corp. — Request for required certification application information
3443	Partnership - None of the Partners filed
3444	No Return Filed - Possibly newly formed business - Additional information required
3446	Resident Alien VISA holders - Request for 1040 filing explanation
3536	Request for Current Year required information for pass-through entities .
3633	Request for Current Year required information for Single member LLC
3634	Request for Current Year required information for all entity types except pass through entities .
3635	Request for POP for newly formed Single Member LLC
3636	Request for Certification Country
3637	Request for Second Tier Partnership information
3644	Request for Corporation’s Country of Incorporation
4056	Required certification application information for a Form 1116 Filer
4058	Required certification application information for Additional Request
4059	Required certification application information for First Year Resident
4060	No S Corporation Shareholders Filed
4061	Sole Proprietor - No Schedule C Filed
4062	Required certification application information for a Nominee
4064	Incomplete Form 8802 information

- (3) If more information is needed and there is not a letter in the chart above to request the information, submit a request to have one established via your Planning and Analysis Analyst.

Reminder: All new letters or revisions to existing letters must be approved by the Taxpayer Correspondence Services.

- (4) When one of the letters in the above chart has been issued, the system generates a letter issue date.
- (5) You must allow the applicant 30 days (60 for taxpayers overseas) from the letter issued date to respond to your request for more information.

If	Then
The applicant responds (by mail, FAX, or phone call) with the requested information within the 30 day time frame (60 days if overseas)	Enter the response date in the Correspondence Received date field and continue processing.
The applicant responds (by mail, FAX, or phone call) with the requested information after the allotted 30 days (60 days overseas), and if the status of the application has not been updated since the issuance of the suspense letter	Enter the response date in the Correspondence Received date field and continue processing.
The applicant responds (by mail, FAX, or phone call) with the requested information after the allotted 30 days (60 days overseas), and the case is closed	A new case must be opened.
The applicant fails to respond with the requested information within 30 days (60 days if overseas)	Update the status of the letter or close the application as a No Reply or the application will remain on the weekly correspondence list.
Contact has been made with the applicant and the service is waiting for a response	Update the status of the application, or risk having the case auto closed. Note: All open correspondence that has a letter issued date and a status date that is 60 days or older is auto closed as a No Reply.
An applicant contacts the Certification Unit to question under what authority the requested information is being required	Inform the applicant of the following: "you are only required to provide the requested information if you wish to have your U.S. Residency for tax purposes confirmed".
An applicant refuses to provide the requested information	Close the Certification application as a No Reply, using status code 199 and entering "No reply" in the remarks field.

- (6) The Status Code 702 is an additional suspense status code - 700 series status codes are suspense codes that cannot be corrected or overridden.
- (7) A Status Code 702 is used to hold an application in suspense when it is being forwarded to P&A, or when awaiting more information from the applicant. The case stays in this status for 60 days from the Status Date; however, a P&A analyst usually responds within 45 days.

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21.8.4.4.10
(10-01-2016)

Notification of Rejection

- (1) Certifications must only be issued to U.S. residents that filed a U.S. Income Tax Return as a resident, or to U.S. residents who aren't required to file a return.
- (2) Deny certification when IRS records indicate that the applicant must file a return but failed to or filed as a nonresident.
- (3) Deny certification when IRS records indicate the applicant claimed a foreign tax home in the countries listed below, and then requested certification for the same country:
 - Bangladesh
 - Bulgaria
 - Cyprus
 - Hungary
 - Iceland
 - India
 - Kazakhstan
 - Malta
 - New Zealand
 - Russia
 - South Africa
 - Sri Lanka
 - Ukraine
- (4) When the certification application needs to be rejected, issue one of the following letters:

Letter No.	Title/Description
3425	Taxpayer is a bona fide resident of a foreign country or possession
3427	Third-Party Application/requestor not authorized
3436	Requested Form is not Eligible for U.S. Residency Certification
3442	S Corp. - None of the Shareholders filed or one filed a 1040NR
3445	No Return Filed - Taxpayer Deceased
4063	U.S. Certification Declined Possible Foreign Residence

- (5) When one of the letters in the above chart has been issued, the certification application has been rejected and the case is considered closed. If the requestor provides more information for consideration after one of the rejection letters has been issued and the case is closed, then:
 1. Open a new case.
 2. Circle out the original received date on the application.
 3. Notate the received date on the application as the date of the Correspondence.
 4. Enter that date as the received date on the United States Residency Certification (USRC) Database.

21.8.4.4.11
(03-20-2024)

Verifying Residency

- (1) In certifying an applicant as a United States resident, verify that the applicant either:
 - Filed the required tax return
 - Filed a valid extension and the return due date has not passed
 - Is not liable to file a tax return or
 - Is tax exempt.
- (2) When the certification application is for a tax year for which the return or extension was recently due but is not yet posted, the requestor must have submitted a signed copy of the return with the application.

If	Then
The copy of the return was not submitted with the Form 8802	Correspond for a signed copy of the applicant's entire tax return. Contact can be made via phone, letter 3426, or letter 3444.
The return is received	Verify that the applicant meets the certification requirements.
The applicant meets the certification requirements	Issue certification and shelve the return until the end of the filing season.
The filing season has ended	Research for posting of the return.
The return has posted	Discard as classified waste.
The return has not posted	Label return as possible duplicate and follow local procedures for forwarding the return for processing.

Note: Effective April 4, 2022, the United States Residency Certification Program will accept a signed copy of the base return (for example, the 2-page Form 1040, the 6-page Form 1120, the 5-page Form 1065, etc.) in order to process the Form 8802. More tax forms can be found at *Forms, Pubs & Correspondence*. The base return will be kept as part of the Form 8802 application and will not be forwarded for processing. The base return will be used to process the Form 8802, rather than requiring the taxpayer to submit a copy of their full return.

- (3) When the certification application is for a tax year for which the return is not yet due or an extension has been filed, verify:
 - a. That applicants have submitted the correct penalties of perjury statements for current year Form 990, Form 1040, Form 1065, Form 1120, Form 1120-S Form 5500, Common Trust Fund (CTF), LLC, and Trust applications, and
 - b. That a return has been filed for the most recently required tax year, or
 - c. If there is a valid extension posted, you must apply all certification requirements to the prior year tax return.

Note: A valid extension, for purposes of receiving certification, is one that has not expired.

- (4) When verifying residency, use any command code available. See IRM 2.3, IDRS Terminal Responses, or Document 6209 (IRS Processing Codes and information) for input instruction.
- (5) Using one of the command codes available and the TIN provided, verify that the applicant has filed the type of form and tax period specified on the application for certification.

If	Then
The applicant has met all requirements	Certify using the instructions specified for that form.
The applicant has not met all requirements	Issue the proper letter for the type of form specified on the application. See IRM 21.8.4.4.9, IRS Initiated Correspondence - Guidelines and IRM 21.8.4.4.10, Notification of Rejection.
The application is from the applicant, and the form filed is other than the form specified on the application	Certify the application using the instructions for the type of form posted to the applicant's account.
The requestor is someone other than the applicant, and the form filed is other than the form specified on the application	Reject with the proper letter.

Note: See the specific form instructions when determining all the information and documentation necessary to certify the application.

21.8.4.4.12
(10-01-2007)
**Applicant Requirements,
Return and U.S.
Residency Certification
Information**

- (1) The following section has the information and guidance necessary for certifying an applicant as a U.S. resident for tax purposes.

21.8.4.4.12.1
(10-01-2017)
Nominee Applicants

- (1) An individual or organization that acts as a nominee on behalf of another individual or organization is considered the individual's or the organization's nominee.

Note: If a nominee is a partnership, **do not** provide information concerning the partners in the Nominee partnership. Verification of the residence of the individual or organization the nominee represents must be completed.

- (2) Nominee applicants must submit:
 - a. An authorization statement signed under penalties of perjury by the individual or an officer of the organization with legal authority to bind the organization for whom the applicant is a nominee explicitly authorizing the nominee to act on behalf of the individual or organization and to receive the individual's or organization's tax information.

Note: The authorization statement must be for specific tax matters, or it must be rejected.

- b. A statement signed under penalties of perjury from an individual with legal authority to bind the nominee applicant, explicitly stating that the nominee is acting as an agent on behalf of the above-named individual or entity for whom the Form 6166 is being requested.
- c. A list and the requirements of all the individual(s) or entity(ies) for which the applicant is a nominee.

Example: A nominee for a Partnership must attach the Partnership's list of partners as well as authorization from each partner giving the nominee the authority to receive the Partner's tax information. When the application is for the current year, the nominee must also provide a current year penalties of perjury statement.

- (3) When entering a Nominee applicant in the United States Residency Certification (USRC) Database:

- 1. Enter the TIN of the taxpayer the Nominee is representing in the Primary TIN field.

Note: If the taxpayer is an individual and an SSN is being entered, the SSN box must be checked.

- 2. Enter the Nominee's TIN in the Secondary TIN field.
- 3. Enter the Nominee information in the Applicant field.
- 4. Enter the Name Control of the taxpayer the Nominee represents. See IRM 3.8.44, Campus Deposit Activity, for more information on name controls.
- 5. Select the type of taxpayer the Nominee represents in the Applicant Type field. Verify that the Nominee has met all the form requirements, as well as the certification requirements, for the taxpayer the nominee represents.

Note: Currently, all Nominee applicants are partnerships. If a Nominee application is received and the nominee is not a partnership, contact the Process and Analysis Analyst.

- (4) Do not certify the Nominee applicant as a resident. Certify the taxpayer for whom the applicant is a nominee.

- (5) When the taxpayer the Nominee represents has its residency status verified, certification will be issued using the paragraph NOM.PTR:

"I certify that the above-named partnership is an agent acting on behalf of the following list of individuals and entities, and to the best of our knowledge, each individual or entity listed below is a resident of the United States of America for purposes of U.S. taxation."

21.8.4.4.12.2
(10-01-2024)
Individual Applicants

- (1) U.S. citizens must file Form 1040, Form 1040-A, Form 1040-EZ or Form 1040-SR and report their worldwide income when their gross income exceeds the minimum dollar amount established for the filing status and the tax year for which the applicant is claiming U.S. residency. The Form 8802 for these applicants must include entries for all lines as outlined in IRM 21.8.4.2.1, Form 8802, Application for United States Residency Certification, with the following

item specific to U.S. citizens required to file:

- Line 4, Applicant Entity Type must be box a, individual
- (2) U.S. citizens that file married filing joint returns, but need individual certification and are not the primary taxpayer on the joint filed return, must have:
- a. CC INOLES verified to ensure that the TIN of the applicant requesting certification is listed on the primary taxpayer's entity screen, and
 - b. CC IMFOLT verified to ensure that the primary applicant filed a joint return for the tax year being certified.
- Note:** Check IMFOLT for the most recent year when processing current year certification.
- c. Once the application has been verified utilizing the command codes listed above, the certification application can be processed.
- (3) U.S. citizens not required to file a tax return must provide a written statement under penalties of perjury explaining why the law does not require the filing of a tax return for the tax period the treaty benefit is claimed. Check Form 8802 for the statement. The applicant must also supply proof of income such as Form W-2, Form 1099, etc. when applicable. The Form 8802 must also include entries for all lines as outlined in IRM 21.8.4.2.1, Form 8802, Application for United States Residency Certification, with the following items specific to U.S. citizens not required to file:

Note: This information must be verified using the following: Form instructions, Internal Revenue Code or Regulations, an Examination Classifier, Program and Analysis Analyst, etc.

- Line 4, Entity type is individual
 - Line 5, NO box must be checked
 - Line 10, Penalties of Perjury statement, indicating why applicant is not required to file and proof of income
- (4) For an applicant **under the age of 19**, a full-time student under the age of 24, or a dependent who is permanently and totally disabled, regardless of age, Form 8802 must include entries for the following items:
- Applicant Information (Child's Name and TIN)
Note: This TIN must be placed in primary TIN field.
 - Line 4, Entity type is individual
 - Line 5, NO box must be checked
 - Line 6, Parents' information
 - Line 10, Penalties of Perjury statement, indicating why applicant is not required to file and proof of income
 - If the applicant's parents have submitted Form 8814, Parents' Election to Report Child's Interest and Dividends, to report the child's income on their return, a copy of that form must be attached to Form 8802.

Note: A minor/dependent must file their own income tax return if the parents did not file a Form 8814 claiming the minor's income. A minor can request a certification if he or she did not have to file a tax return because their income

fell below the filing requirement. The minor must provide proof of income and a penalties of perjury statement explaining this situation.

- (5) When entering information concerning the application of an individual under the age of 19, a full-time student under the age of 24, or a dependent who is permanently and totally disabled, regardless of age, in the United States Residency Certification (USRC) Database:
 1. Check the SSN box.
 2. Enter in the Primary TIN field, the TIN of the Parent that filed the return which included the income of the minor child.
 3. Check the SSN box.
 4. Enter in the Secondary TIN field, the Minor's TIN.
 5. Check the Non-spouse box.
 6. Enter in the Applicant field, the Minor's entity information.
 7. Enter in the Name Control field, the name control of the Minor's parent that filed the return which included the Minor's income. See Document 6209, or Document 7071, Name Control Job Aid for Individual Master File Taxpayers, for more information on name controlling.
 8. Select Individual as the applicant in the Applicant Type field.
- (6) Certification applications for deceased U.S. citizens must include:
 - a. Proof that requestor is executor or administrator of the decedent's estate.
Note: Proof includes a court document identifying the executor or administrator.
 - b. The Form 8802 must include all the information identified in paragraph 1 above.
- (7) In addition to the information required above (IRM 21.8.4.4.12.2, Individual Applicants), U.S. citizens and green card holders may attach to their Form 1040, U.S. Individual Income Tax Return, one of the following:
 - a. Form 2555, Foreign Earned Income
 - b. Form 1116, Foreign Tax Credit, claiming either a foreign tax credit amount in excess of 5,000 U.S. dollars or a foreign tax credit for any amount of foreign earned income
 - c. Form 5074, Allocation of Individual Income Tax to Guam or the Commonwealth of the Northern Mariana Islands (CNMI)
 - d. Form 8689, Allocation of Individual Income Tax to the U.S. Virgin Islands
 - e. Form 4563, Exclusion of Income for Bona Fide Residents of American Samoa
- (8) Except as provided in paragraph (10) and (11) below, these applicants must include additional information to establish that the taxpayer has sufficient connection with the United States to be considered a U.S. resident for the purposes of the applicable tax treaty with the foreign country for which certification is requested. The type of connection that is required depends upon the language in the specific treaty for which certification is requested. However, treaties usually require the taxpayer to have either:
 - A substantial presence within the United States (at least 31 days during the current year and 183 days during the period that includes the current year and the 2 years immediately preceding the current year, counting each day during the first preceding year as 1/3 of a day, and

- each day in the second preceding year as 1/6 of a day). See Pub 519, U.S. Tax Guide for Aliens, to apply the substantial presence test.;
- A permanent home within the United States; or
 - A habitual abode within the United States.

- (9) Certification may also be issued to such taxpayer if the Form 2555 was not filed by the applicant (it belongs to the spouse), or if Form 2555 is for a partial year, and the certification year requested is for the remainder of the year.
- (10) Exception: U.S. citizens and green card holders living outside the United States who are requesting certification for any of the countries in the below table, are not required to submit additional information (described above in paragraphs (8) and (9)), and may be certified, provided that the individual is not a dual resident of the country for which certification is requested. Use the following chart with CC RTVUE and or TRDBV when processing a Form 8802 from an applicant that has filed Form 1040, with an attached Form 2555 requesting certification for any of the countries in the table below to check the Post of Duty (POD) to ensure that the applicant was not a resident of that same country.

If Certification Country Is	And	Then
Bangladesh	If the POD is other than BG	Issue certification.
	If the POD is BG	Issue letter 3425.
Bulgaria	If POD is other than BU	Issue certification.
	If POD is BU	Issue letter 3425.
Cyprus	The POD is other than CY	Issue certification.
	The POD is CY	Issue letter 3425.
Hungary	The POD is other than HU	Issue certification.
	The POD is HU	Issue letter 3425.
Iceland	The POD is other than IC	Issue certification.
	The POD is IC	Issue letter 3425.
India	The POD is other than IN	Issue certification.
	The POD is IN	Issue letter 3425.
Kazakhstan	The POD is other than KZ	Issue certification.
	The POD is KZ	Issue letter 3425.
Malta	The POD is other than MT	Issue certification.
	The POD is MT	Issue letter 3425.
New Zealand	The POD is other than NZ	Issue certification.
	The POD is NZ	Issue letter 3425.

If Certification Country Is	And	Then
Russia	The POD is other RS	Issue certification.
	The POD is RS	Issue letter 3425.
South Africa	The POD is other than SF	Issue certification.
	The POD is SF	Issue letter 3425.
Sri Lanka	The POD is other than CE	Issue certification.
	The POD is CE	Issue letter 3425.
Ukraine	The POD is other than UP	Issue certification.
	The POD is UP	Issue letter 3425.

Note: The United States-Hungary income tax treaty has been terminated for all purposes as of January 1, 2024. If an applicant is requesting a Form 6166 for a tax period before January 1, 2024, a Form 6166 can be issued for Hungary indicating the proper tax period(s).

Note: The United States-Russia income tax treaty is suspended for all taxes withheld at source and in respect of other taxes as of August 16, 2024. If an applicant is requesting a Form 6166 for a tax period ending before August 16, 2024, a Form 6166 can be issued for Russia indicating the proper tax period(s).

- (11) If an individual is a resident of both the United States and the country for which certification is requested, the certification may be denied, unless the individual can establish that the individual is solely a resident of the United States under the tiebreaker provision of the applicable treaty. For example, Article 4(3) of the 2016 United States Model Income Tax Convention, the tiebreaker provision, states that where an individual is a resident of both Contracting States, then the individual's residency status will be determined as follows:

If	Then
Has a permanent home in the specific state	The individual will be deemed to be a resident of the State in which a permanent home has been established.
A permanent home is available to the individual in both States	The individual will be deemed to be a resident of the State with which personal and economic relations are closer (center of vital interests).
The State in which the individual has a center of vital interests cannot be determined, or if a permanent home has not been established in either state	The individual will be deemed to be a resident of the State in which a habitual abode has been established.
A habitual abode has been established in both States or in neither of them	The individual will be deemed to be a resident of the national state.

If	Then
The individual is a national of both States or neither of them	The competent authorities of the Contracting States endeavor to settle the question by mutual agreement.

Note: Most U.S. treaties have similar tiebreaker provisions for individuals. Residency must be determined according to the provisions of the U.S. tax treaty applicable to the specific dual resident individual.

- (12) Once the return has been secured, review the Form 2555, or Form 1116 filed in lieu of Form 2555, and follow the procedures below for processing the certification application:

If	Then
The application is for the primary applicant and the return indicates the Form 2555 was for the spouse	Certify the primary applicant by overriding the status code 500/510, and entering in the remarks "return indicates Form 2555 for spouse."
The application is for the primary applicant and the return indicates the primary taxpayer claimed the 2555 exclusion	Verify the country for which certification is requested.
The country for which certification is requested is NOT Bangladesh, Bulgaria, Cyprus, Hungary, Iceland, India, Kazakhstan, Malta, New Zealand, Russia, South Africa, Sri Lanka, or the Ukraine	Do not issue a certification. Issue letter 3425.
The country for which certification is requested is Bangladesh, Bulgaria, Cyprus, Hungary, India, Kazakhstan, Malta, New Zealand, Russia, South Africa, Sri Lanka, or the Ukraine	Use the Certification Country/POD Code Chart to determine if certification can be issued, or issue letter 3425.
The return indicates that Form 2555 is for the primary applicant and the Certification application is for the Secondary	Certify the secondary applicant, by overriding the status code 500/510, and entering in the remarks "return indicates Form 2555 for spouse."
The return indicates that both applicants' names were entered on the Form 2555 in error (<i>only one person may be listed on Form 2555</i>)	Do not issue a certification; see (15) below.
Correspondence is received from an applicant who claims the 2555 exclusion was for the spouse; however, both names were present on the form	The applicant must amend the filing, identifying the correct applicant on the Form 2555.
The applicant amends the filing to indicate that the Form 2555 was for the spouse	Certify the applicant by overriding the status code 500/510, enter in the remarks field "Amended Form 2555 for spouse" and associate the amended form with the original return.
The return specifically states DUAL STATUS	Verify the portion of the year the taxpayer was a U.S. resident. Enter Dual Status in the remarks field and issue Certification for the period in which the applicant was a U.S. resident.
The return doesn't specifically state DUAL STATUS	Do not issue a certification; see (24) below.

Note: Use CC IMFOL when researching amended returns; see Command Code Job Aid for more instructions.

- (13) If the applicant is a resident of a foreign country for the year certification is requested, the applicant is not entitled to treaty benefits, unless approved by mutual agreement between the competent authorities.
1. Issue letter 3425, which explains that, according to our records, the applicant claimed a foreign tax home. Accordingly, it has been determined that the applicant is not entitled to treaty benefits and therefore, a U.S. residency certification can not be provided.

Note: Applicants from a U.S. possession that did not claim a possession exclusion, or that are requesting certification for other than the U.S. possession for which the exclusion was taken, can be certified as a resident of the U.S.

2. Close the case and indicate in the remarks field "International Return".

(14) U.S. Citizens living in a Foreign Country or Possession are treated as if living in the United States:

- In the U.S. Armed Forces
- In the Peace Corps
- Diplomatic Personnel

Note: These applicants are treated as U.S. citizens living in the U.S. See (1) above in establishing residency.

(15) Resident Aliens are individuals who:

- Have been admitted for permanent residence in the United States (green card holders)

Exception: Applicants who hold green cards as commuters from Canada or Mexico.

- Have been in the United States at least 31 days during the current year and 183 days during the period that includes the current year and the 2 years immediately preceding the current year, counting each day during the first preceding year as 1/3 of a day, and each day in the second preceding year as 1/6 of a day (See Pub 519, U.S. Tax Guide for Aliens, to apply the Substantial Presence Test.)
- Make an election under subsection 6013(g) or (h) to be treated as a resident alien (See Pub 519, Choosing Resident Alien Status.)

(16) Resident Aliens living in the United States are taxed on their worldwide income in a manner similar to U.S. citizens living in the United States; therefore, follow the guidelines above. See IRM 21.8.4.4.12.2, Individual Applicants.

Exception: A1, F1, M1, J1 and Q1 visa holders and their families are subject to special rules. See IRM 21.8.4.4.12.2 (20), Individual Applicants, for more information.

(17) Resident aliens recently arriving in the United States and have not yet filed a U.S. income tax return, in addition to the requirements listed in IRM 21.8.4.4.12.2, Individual Applicants, must submit:

- a. A copy of the current Alien Registration Receipt Card (green card)

Note: In lieu of a copy of the green card, the applicant may submit a statement from the Bureau of Citizenship and Immigration Services that gives the alien registration number, date and port of entry, date of birth, and classification.

- b. Form I-551, or
- c. The current Form I-94, Arrival-Departure Record (VISA) must be provided.

- (18) First year U.S. Residents who have made, or intend to make, the first-year residence election under IRC 7701(b)(4) must, in addition to the requirements in IRM 21.8.4.4.12.2, Individual Applicants, provide a copy of the election statement required with the 1040 income tax return for the taxable year of the election. See Publication 519, for details about the first-year residency statement requirements.
- (19) When the calendar year for which certification is requested has not yet passed and the applicant has not yet filed a first-year residence election statement, the applicant must attach a statement of intent to file an election statement and that the applicant is eligible to make the election signed under penalties of perjury.

Note: Refer applicants needing more information on eligibility to file a first-year residence election to Treas. Reg. Sec. 301.7701(b)-4(c)(3).

- (20) Generally, A1, F1, M1, J1 and Q1 Visa Holders and their families (A2, A3, F2, F3, M2, J2, Q2, etc.) are not eligible for U.S. residency certification. If an application is received from one of these type visa holders, who filed a Form 1040, the applicant must provide an explanation as to why the Form 1040 was filed, and provide proof that the applicant's worldwide income was reported on the Form 1040.

1. Place the case in status 702.
2. Forward all applications with documentation to the P&A Analyst for approval.

- (21) Treat an individual applicant as Dual Status taxpayers when, during the tax year for which certification is requested, the individual was both:

- A U.S. resident
- A nonresident

Note: A U.S. resident for part of the tax year and a resident of another country for the remainder of the year.

- (22) Dual Status situations generally occur in the year an alien first arrives in the United States (the year the alien becomes a U.S. Resident for tax purposes), or the year the alien departs from the U.S. (losing or giving up residency status). The dates of residency, on line 4a of Form 8802, must be entered in the dual resident field.
- a. U.S. citizens and green card holders are considered dual status residents when their citizenship or green card holder status was lost during the calendar year.
 - b. U.S. residents whose residency termination date occurred during the tax year are also considered dual resident aliens.
 - c. Dual status residents must enter the dates of U.S. resident status on line 4a of Form 8802.

Note: A dual status taxpayer who gives up U.S. residency during the tax year files a Form 1040-NR. A dual status taxpayer must attach a separate schedule to the Form 1040-NR to show the income tax computation for the part of the taxable year during which the indi-

vidual was a citizen or resident of the United States. A Form 1040, clearly marked "Statement" across the top, may be used as such a separate schedule.

- (23) Individual certification applicants that need certification for the Current year must include a penalties of perjury statement.

Note: When the prior year return has not been filed and isn't yet required, the penalties of perjury statement must address the applicant's residency status for both the prior year and the current year.

See IRM 21.8.4.2.1.3, Current Year Certification Applications.

- (24) Follow instructions in the chart below when a Status Code 508 or 509 is generated.

If status 508	Then verify that the correct tax year was entered, correct accordingly.
Correct tax year entered	Check FFINQ to see if return received.
Return received	Override 508, issue certification.
No return located	Reject the certification, no return filed.

If status 509	Then verify that the correct tax year was entered, correct accordingly.
Correct tax year entered	Check for spouse.
Spouse located	Check to see if return filed using filing status 2 for certification year.
Filing Status 2	Check to see if applicant identified as the spouse for the tax year of certification.
Applicant is spouse for the tax year of certification	Override status code 509, issue certification.
No spouse indicated	Reject application.
Spouse located but no filing	Reject application.

- (25) Once the applicant is verified as a U.S. resident, and therefore entitled to treaty benefits, issue the certification (status code 099). Certify using the proper IND.1040 certification paragraph:

- IND.1040 for basic individuals
- IND.1040.Dual for Dual Residents
- IND.1040.GR for Greece
- IND.1040.SP for Spain
- IND.1040.RS for Russia

- (26) When no return has been filed (CFOL status code 012) and the Date of Birth (DOB) field on the entity indicates that the application is for a minor, issue letter 3426.

(27) When an Individual Applicant (Resident Alien or U.S. citizen) appears to have a filing requirement, but has not filed a U.S. tax return (CFOL status code 509), issue letter 3426. Letter 3426 requires one of the following:

- Completion of the penalties of perjury statements in Section I and a signed copy of the return
- Completion of the penalties of perjury statements in Section II and copies of income statements
- A copy of the Form 8814 that was filed along with the parent name and TIN that filed the form, if applicant is a minor child

21.8.4.4.12.2.1
(10-01-2024)
Sole Proprietor

- (1) U.S. Citizens living in the United States who operate a business, or practice a profession as a sole proprietor, report their income and expenses on Schedule C or Schedule C-EZ of the Form 1040.
- (2) Form 8802 for sole proprietors must have all the requirements with the name and SSN of the person who filed the Form 1040, Schedule C. See IRM 21.8.4.4.12.2, Individual Applicants.
- (3) A Form 8802 may be received that identifies a sole proprietor applicant as:
 - An individual, or
 - A business
- (4) A sole-proprietor can have an EIN when a legitimate reason exists for having one, such as:
 - a. Being an administrator of a Pension Plan
 - b. Doing business with a federal agency
 - c. Being classified as an independent contractor with employees and liable for employment tax or excise tax
 - d. Establishing a pension, profit sharing, or retirement plan
 - e. Having household employees
 - f. Being a single member LLC and needing an EIN for banking purposes
- (5) When an application is received for a sole proprietor, it must identify the individual name and SSN of the individual who filed the Form 1040, Schedule C, as well as the name of the business and its EIN (when applicable) for which certification is requested.

If	Then
The Form 8802 does not have the individual's name and social security number	Check IDRS for an x-ref TIN using the business TIN. Note: Third-party applications require correspondence when the Form 8802 does not have the individual's TIN.
An x-reference TIN is found	Using IDRS, research the name associated with the TIN. Then, using the Form 8802, compare the name on IDRS with the signature on the form.
There is a match of the Form 8802 signature and IDRS individual name line	Process the application using the individual's information.

- (6) When entering sole proprietors in the United States Residency Certification (USRC) Database:

1. Check the SSN box.
2. Enter the SSN of the individual who filed the return that included the Schedule C income in the Primary TIN field.
3. Check the SSN box, if the sole proprietor doesn't have an EIN.
4. Enter the Sole Proprietor's TIN, if applicable, in the Secondary TIN field.

Reminder: Be sure to check the SSN box if the Sole Proprietor's SSN is required in the Secondary TIN field. This is only a requirement if the tax return was filed under the Sole Proprietor's spouse's SSN.

5. Enter the Sole Proprietor's entity information in the Applicant field.
6. Enter in the Name Control field the name control of the taxpayer who filed the return that included the Minor's income. See Document 6209, or Document 7071-A, BMF Name Control Job Aid, for more information on name controlling.
7. Select Individual as the applicant in the Applicant Type field.
8. Enter all other required information.

- (7) When an application is received for a sole proprietor, and you cannot identify the individual name and SSN of the individual who filed the Form 1040, Schedule C, correspond using letter 3432.

- (8) When the individual name and the TIN of the sole proprietor can be determined, verify that the individual has filed a Schedule C using CC IMFOL or RTVUE. Verification consists of:

- a. Seeing a Y indicator next to the Schedule C on line 5 of the IMFOL screen
- b. Viewing the actual Schedule C information on RTVUE

Note: If unable to verify that the individual filed a Schedule C, correspond using letter 4061.

- (9) Once it is verified that the sole proprietor has met the filing requirement, issue certification using the proper IND.1040.SPRO paragraph for all certification applications, except those for Greece, Spain, Russia or the nine commonwealths. Use:

- IND.1040.SPRO.GR for all certification applications for Greece
- IND.1040.SPRO.SP for all certification applications for Spain
- IND.1040.SPRO.RS for all certification applications for Russia

Note: Currently, these paragraphs are only available using the override button of the 6166 screen on the USRC Database.

21.8.4.4.12.3
(10-01-2024)
Corporate Applicants

- (1) United States Corporations are incorporated in the United States and are automatically considered resident corporations even if doing business abroad. All such corporations would File Form 1120.

- (2) United States Corporations may also include any domestically organized entity that is treated as a corporation for federal tax purposes under the “Check the Box” rules (Treas. Reg. 301.7701-2 through -3).
- (3) Corporate applicants not incorporated in the United States must specify their country of incorporation on Form 8802.
- (4) As a general rule, a corporation that is not incorporated in the United States is not entitled to U.S. Residency Certification. However, there may be exceptions for corporations that, under the following Internal Revenue Code sections, are treated as domestic (U.S.) corporations:
 - IRC 269B
 - IRC 953(d)
 - IRC 1504(d)
 - IRC 7874(b)
- (5) Corporations that are not incorporated in the United States, **but are treated as U.S. corporations** under IRC 269B, IRC 953(d), IRC 1504(d), or IRC 7874(b), must specify on Form 8802 the Code section under which the corporation is treated as a domestic corporation. When certification is requested for the same country in which the corporation is incorporated, the application must be forwarded to the P&A analyst for review.

Note: Only Canadian and Mexican corporations are eligible to be treated as domestic corporations under IRC 1504(d).

- (6) Corporations neither incorporated in the United States, nor treated as a domestic corporation under IRC 269B, IRC 953(d), IRC 1504(d), or IRC 7874(b) but believe entitlement to U.S. Residency Certification, must seek competent authority help using *Rev. Proc. 2015-40* to request certification. In addition, the applicant must:
 - Complete Form 8802.
 - Attach a detailed explanation, as to their entitlement.
 - Submit all documentary evidence.
- (7) U.S. corporations must file one of the corporate forms within the 1120 series to qualify for certification. The filing requirements on the Form 1120 filer’s entity module are shown as **1120-01**.

Reminder: Form 1120-F (1120-06) and Form 1120-FSC (1120-15) are excluded.

- (8) The Form 1120-IC DISC, Interest Charge Domestic International Sales Corporation Return, is processed on Non-Master File (NMF). To verify a fact of filing, contact the NMF Accounting Unit.
- (9) Certain foreign organized entities that are disregarded for U.S. tax purposes (e.g., a single member LLC) may be certified, provided their income is reported on a consolidated Form 1120 and verified that the U.S. corporation has identified the foreign entity on Schedule N of the Form 1120. See IRM 21.8.4.4.12.10, Limited Liability Company Applicants, for more instructions.
- (10) U.S. corporations, in addition to having filed a tax return or obtained an extension, must include entries for all lines as outlined in IRM 21.8.4.2.1, Form 8802, Application for United States Residency Certification, and must provide

the following specific to corporations with their certification application:

- Line 4 Entity Type must be Corporate
 - Penalties of Perjury statements (when applicable), and
 - Form 8802 must have a signature of corporate officer or the corporation's POA.
- (11) Current year Corporate applications must also include a penalties of perjury statement from a corporate officer with legal authority to bind the corporation stating under penalties of perjury that,
- “XXX corporation is a United States Corporation and will remain so throughout the current tax year.”
- (12) Corporate applicants must indicate on Form 8802 whether it is a Dual Resident Corporations (DRCs). DRCs must name the other country in which the corporation is a resident. DRCs may not be entitled to U.S. Residency Certification, if requesting certification for the corporation's other country of residence.
- (13) Generally, a DRC of Canada and the U.S. is considered a resident of the country in which the DRC is incorporated. However, an exception to the general rule applies if a DRC is incorporated in both the U.S. and Canada. In such a case, determine where the company was incorporated initially, and if the company continues to be a resident of such country.
- a. If the company is a U.S. corporation that continues into Canada and is incorporated in Canada, then it is not a U.S. resident.
 - b. If the company originated in Canada and continues into the U.S. and is incorporated in the U.S., then it does get benefits as a U.S. resident.
- (14) Dual resident corporations may not be entitled to U.S. residency certification, if requesting certification for the other country of residence named on Line 4e of Form 8802. See the chart below for determining if a DRC is entitled to treaty benefits in its dual resident country:

Dual Resident Country	Corp. entitled to benefit from the other country?
Austria	Yes, if incorporated in the U.S.
Australia	No, never entitled to benefits
Bangladesh	Yes, if incorporated in the U.S.
Bermuda	Yes, if incorporated in the U.S.
Belgium	Yes, if the competent authorities so agree
Bulgaria	Yes, if the competent authorities so agree
Canada	Yes, unless the company is incorporated in both the U.S. and Canada. See (13) above.
Chile	Yes, if the competent authorities so agree
China	Yes, if the competent authorities so agree. However, if U.S. corp. is a DRC, not with China but with a country that has a treaty with China, no benefits allowed.

Dual Resident Country	Corp. entitled to benefit from the other country?
Czech Republic	Yes, if incorporated in the U.S.
Denmark	Yes, if the competent authorities so agree
Estonia	Yes, if the competent authorities so agree
Finland	Yes, if the competent authorities so agree
France	Yes, if the competent authorities so agree
Germany	Yes, if the competent authorities so agree
Hungary	Yes, if incorporated in the U.S.
Iceland	Yes, if the competent authorities so agree
India	No, never entitled to benefits from the other country
Indonesia	Yes, if incorporated in the U.S.
Ireland	Yes, if the competent authorities so agree
Israel	Yes, if the competent authorities so agree
Italy	Yes, if the competent authorities so agree
Jamaica	No, never entitled to benefits from the other country
Japan	Yes, if the competent authorities so agree
Kazakhstan	Yes, if the competent authorities so agree
Latvia	Yes, if the competent authorities so agree
Lithuania	Yes, if the competent authorities so agree
Luxembourg	Yes, if the competent authorities so agree
Malta	Yes, if incorporated in the U.S.
Mexico	No, never entitled to benefits
Morocco	Yes, if the competent authorities so agree
Netherlands	Yes, if the competent authorities so agree
New Zealand	Yes, if the competent authorities so agree
Pakistan	No, never entitled to benefits
Portugal	Yes, if the competent authorities so agree
Russian Federation	Yes, if the competent authorities so agree
Slovak Republic	Yes, if incorporated in the U.S.
Slovenia	Yes, unless the company is incorporated in both the U.S. and Slovenia, and then only if the competent authorities agree
South Africa	Yes, if incorporated in the U.S.
Spain	Yes, if the competent authorities so agree
Switzerland	Yes, if the competent authorities so agree

Dual Resident Country	Corp. entitled to benefit from the other country?
Thailand	Yes, if the competent authorities so agree
Tunisia	Yes, if the competent authorities so agree
Turkey	Yes, if incorporated in the U.S.
Ukraine	Yes, if the competent authorities so agree
United Kingdom	Yes, if the competent authorities so agree
Venezuela	Yes, if the competent authorities so agree

Note: Treaty Benefits may be granted for all other countries, if incorporated within the U.S.

Note: The United States-Hungary income tax treaty has been terminated for all purposes as of January 1, 2024. If an applicant is requesting a Form 6166 for a tax period before January 1, 2024, a Form 6166 can be issued for Hungary indicating the proper tax period(s).

Note: The United States-Russia income tax treaty is suspended for all taxes withheld at source and in respect of other taxes as of August 16, 2024. If an applicant is requesting a Form 6166 for a tax period ending before August 16, 2024, a Form 6166 can be issued for Russia indicating the proper tax period(s).

- (15) Dual resident corporations that are only entitled to treaty benefits if the competent authorities agree, must have obtained this mutual agreement using Rev. Proc. 2015-40 prior to seeking U.S. residency certification. Applicants that have copies of the mutual agreement reached on their corporations, must submit a copy with their application.
 - a. When a copy of the mutual agreement is submitted along with the application, take the necessary steps to issue certification.
 - b. When the applicant does not have a copy of a mutual agreement attached, reject using letter 3644.
- (16) Dual resident corporations that are never entitled to treaty benefits in their other country of residence must be denied certification.
- (17) DRCs requesting certification for China are not entitled to treaty benefits if it is a Dual Resident Corporation in a country that has a treaty with China. The following countries have treaties with China:

Albania	Hungary	Philippines
Algeria	Iceland	Poland
Angola	India	Portugal
Armenia	Indonesia	Qatar
Australia	Iran	Romania

Austria	Ireland	Russia
Azerbaijan	Israel	Rwanda
Bahrain	Italy	Saudi Arabia
Bangladesh	Jamaica	Serbia
Barbados	Japan	Seychelles
Belarus	Kazakhstan	Singapore
Belgium	Korea	Slovakia
Bosnia and Herzegovina	Kuwait	Slovenia
Botswana	Kyrgyzstan	South Africa
Brazil	Laos	Spain
Brunei	Latvia	Sri Lanka
Bulgaria	Lithuania	Sudan
Cambodia	Luxembourg	Sweden
Canada	Macau	Switzerland
Chile	Macedonia	Syria
Congo	Malaysia	Tajikistan
Croatia	Malta	Thailand
Cuba	Mauritius	Trinidad and Tobago
Cyprus	Mexico	Tunisia
Czech Republic	Moldova	Turkey
Denmark	Mongolia	Turkmenistan
Ecuador	Montenegro	Ukraine
Egypt	Morocco	United Arab Emirates
Estonia	Nepal	United Kingdom
Ethiopia	Netherlands	Uzbekistan
Finland	New Zealand	Venezuela
France	Nigeria	Vietnam
Georgia	Norway	Zambia
Germany	Oman	Zimbabwe
Greece	Pakistan	
Hong Kong	Papua New Guinea	

- (18) A DRC that requests certification for China and indicates on Form 8802, line 4e, a dual residence with one of the countries listed in IRM 21.8.4.4.12.3 (17) above, must be denied certification. According to the China treaty, the corporation is not entitled to treaty benefits.

(19) Use the following chart to work status codes 500, 508, 509, 513 or 514:

If	Then
Status Code 500	Verify that there are no input errors, correct, if needed. If correction reveals 1120-01 and return filed, issue certification.
No input errors and taxpayer filed a 1120-F or 1120-FSC	Reject application.
Status Code 508	Verify that the correct tax year was entered, correct, if needed.
Correct tax year entered	Reject the certification, No return filed.
Status Code 509	Verify, using Form 8802, that the correct tax year was entered, correct, if needed.
Correct tax year entered	Check IDRS for different tax year ending, correct, if needed.
Tax period ending corrected and return located	Issue certification, using one of the corporate paragraphs: COR.1120.XX.
Status Code 513	Verify that there are no input errors, correct, if needed. If correction reveals 1120-01 and return filed, issue certification using one of the corporate paragraphs: COR.1120.XX.
No input errors and taxpayer filing requirement is a 1120-06 or 1120-15	Reject application.
Status Code 514	Verify that there are no input errors. If error identified and the correction reveals 1120-01 and return filed, issue certification using one of the corporate paragraphs: COR.1120.XX.
No input errors and taxpayer filing requirement is a 1120-14 and/or a TC590-14 posted on module	Follow instructions for processing a Corporate Subsidiary applicant. Continue processing using the procedures in the next section.

(20) Once the applicant has met the requirements specified for a U.S. corporation and the residency has been verified, issue the certification. When the applicant is a subsidiary, see IRM 21.8.4.4.12.4, Corporate Subsidiary Applicants.

(21) U.S. corporations that have applied for an extension of time to file are qualified to receive certification. If the extension cannot be verified, do not certify the corporation.

a. Verify a fact of filing for the prior year tax return.

- b. Obtain the extended due date from the applicant's account or a copy of the approved extension.
- c. After verifying the previous filing and obtaining the extended due date, issue the certification using one of the corporate paragraphs:

COR.1120
 COR.1120.SP
 COR.1120.GR
 COR.1120.RS

- (22) When the U.S. corporation indicates that it is newly formed and the corporation has not yet been required to file a tax return, use the letter 3444 to request a copy of its corporate charter in lieu of the tax return.
 - a. When a copy of the charter is received, verify that the corporation is a domestic corporation (incorporated in the United States); if so, issue certification.
 - b. If the applicant fails to provide a copy of the corporate charter within 30 days (60 days if overseas), close as a no reply.
- (23) When IDRS indicates that the account has not been established:
 - a. Using the letter 3444, request a copy of the corporate charter.
 - b. Follow local procedures for establishing the account, when charter is received (forward to Entity using a Form 4442).
 - c. Once notified by Entity that the account is established, issue certification.
 - d. If the applicant fails to provide a copy of the corporate charter within 30 days (60 days if overseas), close as a no reply.
- (24) Foreign Corporations and Foreign Sales Corporations are not entitled to treaty benefits. These forms can be identified on IDRS by the tax class of "3" and a document code of 66, 67, 69 or 07.
- (25) Any Corporation that has had its application declined or certification rejected, but believes it is entitled to treaty benefits under a specific treaty article, must follow Rev. Proc. 2015-40 to request Competent Authority help.

21.8.4.4.12.4
 (10-01-2016)

Corporate Subsidiary Applicants

- (1) A U.S. corporation that is a subsidiary of another corporation may be a member of a consolidated group. A corporation that is a subsidiary of another corporation is included in that corporation's consolidated return.
 - a. The subsidiary is an affiliate defined in IRC 1504 (i.e., child) of the corporation.
 - b. The corporation that is liable for filing the corporate tax return is the common parent corporation.
 - c. The consolidated return, Form 1120, must be filed by the common parent corporation.
 - d. The consolidated return is the tax return which includes the information pertaining to the parent and all its affiliates' (subsidiaries') information.
- (2) A corporate subsidiary applicant that **filed** a Form 1120-F, generally is not entitled to U.S. Residency Certification. If the subsidiary filed Form 1120-F, and believes it is entitled to U.S. Residency Certification under a specific treaty article, refer the applicant to *Rev. Proc. 2015-40*.

- (3) A corporate subsidiary applicant that **has a filing requirement** of Form 1120-F, is not entitled to U.S. Residency Certification. Issue letter 4057.
- If the applicant claims during a telephone conversation the filing requirement is incorrect, refer to Customer Service at 800-829-4933.
 - If the applicant submits correspondence stating the filing requirement is incorrect, forward to Entity to request a Filing requirement determination using Form 4442.
 - If filing requirement is corrected, issue certification.
- (4) A corporate subsidiary applicant's Form 8802 must include:
- Application Information (Name of applicant for which certification is being requested)
 - Applicant's TIN, EIN (the subsidiary)
 - Mailing Address (if other than applicant's address)
 - Permanent Residence Address (when applicable)
 - Parent Corporation, Entity information
 - Parent Corporation's EIN
 - Entity Type must be corporate
 - Tax Form Filed
 - Requested certification year (the year the applicant wants printed on the Form 6166)
 - Tax period
 - Certification Type
 - Country and number of certifications requested
 - TIA (when applicable)
 - Penalties of Perjury statements (when applicable)
 - A signature and date
 - A signed copy of page one of the consolidated return filed
 - A copy of Schedule 851, Affiliation Schedule

Note: Form 1120-F filer must provide a detailed explanation, including documentary evidence, as to why it believes it is entitled to certification.

- (5) If the application is for a corporate subsidiary, and the applicant failed to supply a copy of the consolidated return and/or the Schedule 851, research the corporate subsidiary's entity and tax module to verify that the applicant is recognized as a subsidiary by IRS.
- Form 1120-14 filing requirement on the corporate subsidiary's entity indicates the entity is a subsidiary. The x-ref TIN must be that of the parent corporation.
 - A Transaction Code 590-14 in the subsidiary's tax module indicates that the subsidiary's 851 schedule was filed with the parent return, or that it has been verified as a subsidiary under the common parent corporation. The x-ref TIN must be that of the parent corporation.

Note: Do not correspond for the consolidated return when verification of a Form 1120-14 filing requirement on the subsidiary's entity is completed, and/or a transaction code 590-14 on the subsidiary's tax module, and the TIN of the parent corporation, unless the subsidiary files a Form 1120-F.

- (6) Once verification that the entity is a subsidiary corporation is completed, verify the common parent corporation has filed its required return.
- (7) Begin entering the Form 6166 application information when all required information has been verified. See Form 8802 lines in (3) above.
- (8) In addition to inputting the other required fields specified in IRM 21.8.4.4.12.3, the following must be completed:
 1. Enter the TIN of the subsidiary, from Form 8802, in the primary TIN field.
 2. Enter the form filed, from Form 8802, in the Form field.
 3. Enter the subsidiary's name, from Form 8802, in the Applicant Entity field.
 4. Enter the subsidiary's Name Control, from Form 8802, in the Name Control field.
- (9) Use the chart below to work status codes 103, 508, 509, and 514.

If	Then
Status Code 103	Check for input errors. Verify that the Form 8802 information was entered according to (3) above.
Corrections made and parent filed as required	Issue certification using one of the corporate paragraphs: COR.1120.XX.
Corrections cannot be made based upon Form 8802 (no input errors)	Check CC ENMOD or BMFOL, correct, if needed.
If no errors found on Form and IDRS does not provide help	Certification cannot be issued.
Status Code 508	Verify that the TIN and tax year were entered correctly. See (7) above , correct, if needed.
TIN and Tax year entered correctly	Check the application attachments for a copy of page one of the Parent company's Form 1120 and the 851 schedule for the subsidiary.
The Parent company's Form 1120 and the 851 schedule for the subsidiary are attached	Research for the posting of the return, TC 150 on IDRS.
The return is posted	Issue certification in the name of the subsidiary using one of the corporate paragraphs: COR.1120.XX.
No return posted	Suspend certification application with letter 3444.
Status 509	Verify, using Form 8802, that the correct TIN and tax year were entered, correct, if needed. Issue certification when return located using one of the corporate paragraphs: COR.1120.XX.

If	Then
Correct TIN and tax year entered	Check IDRS for different tax year ending, correct, if needed.
Tax period ending corrected and return located	Override status 509, issue certification.
Status 514	Check IDRS and/or the application attachments for the subsidiary's parent information.
Parent Name and TIN are located	Research for the posting of the return, TC 150 on IDRS.
The return is posted	Issue certification in the name of the subsidiary.
No return posted	Suspend certification application with letter 3444.

- (10) When all the required information has been received and entered, and the system has verified that the common parent corporation has filed its required return, validate (099) status. Otherwise, manually verify the filing of the parent return and issue the certification. Issue certification using one of the corporate paragraphs:

- COR.1120
- COR.1120.SP
- COR.1120.GR
- COR.1120.RS

- (11) When the common parent corporation failed to file its required return, issue letter 3444.

- a. When the response to letter 3444 indicates that the corporation is a newly established entity and the Corporate Charter is provided, issue Certification Form 6166.
- b. When the applicant fails to provide the required information within 30 days (60 days overseas), close the application as a no reply.

Note: All correspondence is auto closed 60 days after the letter issue date or status date, whichever is later.

- (12) Any subsidiary corporation that has had its application declined, but believes it is entitled to U.S. Residency Certification, must submit a copy of its completed Form 8802, attach a detailed explanation and/or regulation or Code section, including documentary evidence, as to why it believes it is entitled to certification.

1. Place the case in status 702.
2. Notate in Remarks Section that the case is being forwarded to Planning and Analysis.
3. Forward all applications and attachments to Planning and Analysis.

- (13) Any subsidiary corporation that has had its application declined or certification rejected, but believes it is entitled to treaty benefits under a specific treaty article, must follow Rev. Proc. 2015-40 to request Competent Authority help.

21.8.4.4.12.5
(09-09-2019)
**S Corporation
Applicants**

- (1) Pursuant to IRC 1362(a) and IRC 1362(b) , an eligible corporation may elect to be a S corporation by the filing and acceptance of Form 2553, Election by a Small Business Corporation. S corporations must file a Form 1120S, U.S. Income Tax Return for an S Corporation. The filing requirements on 1120S filers' entity modules are shown as 1120-02 on CC INOLE or ENMOD.
- (2) The maximum number of shareholders in a S corporation depends on the tax year in question.

Note: Individuals that are married and filing jointly are counted as one shareholder, although issued individual K-1s. The shareholders are limited to:

- Individuals
- Estates
- Certain exempt organizations
- Trusts

Note: There cannot be any nonresident alien shareholders or other foreign person as a shareholder. After December 31, 2017, an electing small business trust (ESBT) that is a shareholder of an S corporation may have potential current beneficiaries (PCBs) that are nonresident alien individuals without terminating the corporation's status as an S corporation or the trust's status as an S corporation or the trust's status as a permitted shareholder. If so, no income of the S corporation is allocated to any NRA PCBs.

- (3) In tax years beginning after 2004, S Corporations that have more than 100 shareholders (counting married shareholders as a single shareholder for this purpose) may be in violation of their S election.

If	Then
S corp. application indicates more than 100 shareholders	Verify that the overflow is not due to shareholders that are married.
Count all shareholders that are married as one and there are still have more than 100 shareholders	Forward a copy of the case, Certification Application and shareholders list to Examination Classification indicating taxpayer may be in violation of S election (more than 100 shareholders).

- (4) An S corporation, although incorporated in the U.S., is not taxable by the U.S. at the entity (corporate) level (S corp. level) on its worldwide income.
 - S corporations are not considered residents within the meaning of the residence article of U.S. income tax treaties.
 - The corporate income, whether or not distributed, is taxed to the shareholders under a pass-through approach based largely on the partnership model.
 - Shareholders within the S corporation are taxed on their respective shares of the income of the S Corp.
- (5) Based upon the facts listed in paragraph (4) above, the certification issued to an S corporation is not similar to certifications issued to a C corporation (1120 filer).

- Certifications of residency are issued at the shareholders' level.
- Shareholders are certified based upon the shareholders having filed the tax forms for which they are liable.

(6) A requestor (this includes shareholders within the S corporation) of a S corporation certification must have written authorization from each shareholder to receive the requested certification information. Approved authorizations include:

- Form 8802, Line 3b
- Form 8821, Tax Information Authorization, or like statement
- Form 2848, Power of Attorney and Declaration of Representative

Note: The authorizations must authorize the 3rd party requestor to receive their individual tax information.

Note: A Form 8821 is not required for a sole shareholder that provides a valid Penalties of Perjury statement on Form 8802, Line 10, a third-party named on Form 8802, Line 3b, and the Form 8802 is signed by the sole shareholder.

(7) A requestor, if other than a shareholder of the S corporation during the tax year for which certification is requested, must have written authorization to receive the S corporation's tax information from a corporate officer with legal authority to bind the S corporation.

Note: An ESBT S corporation shareholder may have nonresident alien potential current beneficiaries. Such beneficiaries should not receive residency certifications.

(8) The S corporation's Form 8802 application must include:

- Application Information (Name of S corporation)
- Applicant's TIN
- Mailing Address (if other than applicant's address)
- TIA (when applicable)
- Permanent Residence Address (when applicable)
- Entity Type
- Tax Form Filed
- Requested certification year (the year the applicant wants printed on the Form 6166)
- Tax period
- Certification Type
- Country and number of certifications requested
- A declaration statement or penalties of perjury statement (when applicable)
- A signature of corporate officer or the Corporation's POA and date
- A list of the shareholders to be certified and authorization from each shareholder to release the certification information to the requestor (F2848 or F8821)

Note: This field is not required for VAT certifications.

- Authorization from a corporate officer or the corporation's POA to release the corporate tax information, when the certification is being released to someone other than a corporate officer, POA or shareholder in the S corporation.
- (9) S corporations that need current year certification must include:
- Application Information (Name of S corporation for which certification is being requested)
 - Applicant's TIN
 - Mailing Address (if other than the applicant's address)
 - TIA (when applicable)
 - Permanent Residence Address (when applicable)
 - Entity Type must be Corporate
 - Tax form filed
 - Requested certification year (the year the applicant wants printed on the Form 6166)
 - Tax period
 - Certification Type
 - Country and number of certifications requested
 - Penalties of perjury statement or a declaration statement (when applicable)
 - A signature on Form 8802 of a corporate officer with legal authority to bind the corporation or the corporation's POA and a date
 - Written authorization from each shareholder to release the certification information to the requestor Form 2848 or Form 8821)
 - A penalties of perjury statement from **each individual shareholder or the shareholder's authorized representative (POA)** stating that the shareholder is a U.S. Resident and will remain so throughout the current tax year, and
 - A statement under penalties of perjury from the corporate officer
- Note:** The declaration statement sample is provided in (11) below.
- Authorization from a corporate officer or the Corporation's POA to release the corporate tax information, when the certification is being released to someone other than a corporate officer, POA or shareholder in the S corporation
- (10) Current year Corporate applications must include a statement from an officer with legal authority to bind the corporation stating under penalties of perjury:
- "XXX corporation, EIN is an S corporation, its entity classification has not changed since it filed its return, and it is a United States Corporation and will remain so through the current tax year."
- Note:** When the prior year return has not been filed and isn't yet required, the declaration must address the Applicant's residency status in the prior year as well as in the current year.
- (11) If the requestor failed to provide the required information, suspend the case and contact the requestor for the missing information using the letter 3441, or by telephone.
- a. When the applicant responds with requested information, continue processing the application.

- b. If the applicant was contacted by phone, allow 5 days for response. If no reply, issue letter 3441.
 - c. If the applicant fails to provide the required information within 30 days (60 days overseas), close the certification case as a no reply.
- (12) Certification of a S corporation requires:
- a. The filing of a Form 1120-S
 - b. Tax disclosure authorization for the requestor from each shareholder
 - c. Tax disclosure authorization from an officer with legal authority to bind the corporation
 - d. A shareholders list attached to the certification application in which each shareholder listed must have filed their required U.S. income tax return/extension as a resident of the U.S.
 - e. A penalties of perjury statement from each shareholder listed on the shareholders list attached to the certification, as well as a penalties of perjury statement from an officer with legal authority to bind the corporation.
- (13) In addition to using the procedures in this section for working S corp. status codes, use the chart below for a quick reference to working status codes 515, 520 and 522.

If	Then
Status Code 515	Check for input errors. Verify, using Form 8802, the type of certification application.
Application is for VAT, not Income Tax and the required return is filed	Check the VAT indicator and override 515; issue certification using the paragraph: SCO,1120S.VAT.
No input errors	Follow procedures for securing Shareholder List.
Status Code 520	Check for input errors. Verify Shareholder's Name and TIN using Shareholders list, correct, if needed.
If no input errors or corrections made, but one or more shareholder failed to file their tax return	Override 520, issue certification with list of shareholders that filed the required returns. Certification will be issued using one of the paragraphs in the SCO.1120S series.
Status Code 522	Check for input errors. Verify shareholder's Name and TIN using Shareholders list, correct, if needed.
No input errors and one or more shareholders file a Form 1040-NR	DO NOT ISSUE certification. Follow instruction in IRM 21.8.2, BMF International Adjustments, for notifying Examination of a possible violation of Form 2553 election.

- (14) Issue the standard 1120S certification, when the S corporation and all its shareholders have:
- a. Filed their required returns
 - b. Provided tax disclosure authorization for the requestors

- c. Provided penalties of perjury statements for current year applications

Note: Verify penalties of perjury and check the POP indicator box for each shareholder that submitted the required statement.

- (15) If one or more of the shareholders failed to file their required return, issue the 1120S Certification with a list indicating which shareholders have filed.
- (16) When all the shareholders on the S corporation failed to file their required individual tax return or extension, reject the S corporation application. Issue letter 4060.
- (17) If any one of the shareholders on the S corporation failed to file or filed an individual tax return claiming a foreign tax home (Form 2555 exclusion), that shareholder must be excluded from the certification list (see exception). Issue certification with a list of the shareholders that filed as U.S. residents.

Exception: The certification country is Bangladesh, Bulgaria, Cyprus, Hungary, Iceland, India, Kazakhstan, Malta, New Zealand, Russia, South Africa, Sri Lanka, or Ukraine, and the foreign tax home country is one of the above-named countries, but not the same country.

- (18) If none of the shareholders filed, there are more than 100 shareholders, or any one of the shareholders filed their individual tax returns as a non-resident:
1. Reject the 1120S certification application; issue letter 3442.
 2. Attach to the copy of the application a current transcript (TXMODA, or BMFOLT) for the tax year and TIN of all modules involved. Be sure to notate that the attached 1120S filer is in violation of their 2553 election.
 3. Forward the case to Examination for Classification.
- (19) Any S corporation that has had its application declined, but believes it is entitled to U.S. Residency Certification, must submit a copy of the completed Form 8802, attach a detailed explanation and/or regulation or code section, including documentary evidence, as to why it believes it is entitled to certification.
1. Place the case in status 702.
 2. Forward all applications and attachments to Planning and Analysis.
- (20) Any S corporation that has had its application declined or certification rejected, but believes it is entitled to treaty benefits under a specific treaty article, must follow *Rev. Proc. 2015-40* to request Competent Authority help.

21.8.4.4.12.6
(10-01-2016)

**Qualified Subchapter S
Subsidiary Applicants**

- (1) A Qualified Subchapter S Subsidiary (Q-Sub) is a domestic corporation whose stock is 100% owned by its parent S corporation.
- (2) IRC 1361 permits S Corporations to elect to own a qualified Subchapter S subsidiary. Form 8869, Qualified Subchapter S Subsidiary Election, is used to make this election.
- (3) When the IRS accepts a Q-Sub election, the Qualified Subchapter S Subsidiary is deemed liquidated into the parent S Corporation. If the Q-Sub was a separate corporation, it is no longer treated as such. The Q-Sub is a disre-

garded entity upon acceptance of the election and is not treated as a subsidiary of a corporation. That is to say, it is not recognized as a separate entity.

- (4) Approved Form 8869, Qualified Subchapter S Subsidiary Election, will have a transaction code 082 on the entity module.
- (5) Q-Sub Form 8802, Application for United States Residency Certification must include:
- Application Information (the Q-Sub information)
 - Applicant's TIN, EIN of the Q-Sub (if applicable)
 - Mailing Address (if other than applicant's address)
 - TIA (if applicable)
 - Permanent Residence Address (when applicable)
 - Parent S Corporation, Entity information must be entered in Applicant Entity field.
 - Parent S Corporation's EIN (Enter this EIN in the Primary TIN field when entering Form 8802 in the United States Residency Certification (USRC) Database.)
 - Entity Type
 - Tax Form filed by parent organization
 - Requested certification year (the year the applicant wants printed on the Form 6166)
 - Tax period
 - Certification Type
 - Country and number of certifications requested
 - TIA (when applicable)
 - Penalties of Perjury statements (when applicable)
 - A signature and date
 - Acceptable proof of an approved 8869 election
 - A list of the shareholders within the Parent S Corporation for which certification is requested and written authorization (Form 2848 or Form 8821) from each individual shareholder authorizing the release of their individual tax information
 - Authorization from a corporate officer or the corporation's POA to release the corporate tax information, when the certification is being released to someone other than a corporate officer, POA, or shareholder in the S Corporation
- (6) When the Q-Sub application is complete and includes acceptable proof of its Q-Sub status:
1. Enter the Parent S Corporation's TIN in the primary TIN field.
 2. Enter the Q-Sub TIN in the Secondary TIN field.
 3. Enter the Q-Sub's entity information in the Applicant Information field.
 4. Enter the Q-Sub's parent's name control in the Name Control field.
 5. Enter all other required information.

Reminder: Be sure to check the QSSS verified box, once you have acceptable proof of the Q-Sub status.

- (7) Acceptable proof of an approved Form 8869:

- A transaction 082 on the module of the parent S Corp and/or a TC590-13 or 14 on the Q-Sub's module
- A Form 8869 with an approved or accepted stamp
- An IRS letter stating that Form 8869 has been accepted

Note: IRS will notify the corporation, usually within 60 days after the Form 8869 is filed, that the Q-Sub election is accepted and when it will take effect, or if it is not accepted.

- (8) When an applicant submits an approved 8869 but a TC 082 is not posted on the Q-Sub's parent's account:
 1. Process the certification application as if a TC 082 were located.
 2. Once the certification process is complete, using the Form 4442, forward the approved 8869 to Entity application to have the TC 082 placed on the parent's module.
- (9) When an applicant submits a Form 966, Corporate Dissolution or Liquidation, filed in 2001 or prior, and claims that the previous corporation is now a subsidiary of an S Corporation (a Q-Sub), but a TC 082 cannot be located:
 1. Forward a copy of the Form 966 to Entity for determination, using the Form 4442.
 2. Request that Entity review the case and determine if the applicant would be considered a Q-Sub.
- (10) Once Entity has reviewed the case and made the determination, process your case correctly.

If	Then
TC082 is placed on the parent's module	Process as a Q-Sub.
The determination is not favorable	Reject the application.
If Form 8869 is requested	Suspend application.

- (11) Requestors that fail to provide the required information in (5) above must be corresponded with using letter 3441, or letter 3536, or by telephone.
 - a. When the applicant responds with requested information, continue with (6) above.
 - b. If the applicant was contacted by phone, allow 5 days for response. If no reply, issue 3441.
 - c. If the applicant fails to provide the required information within 30 days (60 days overseas), close the certification case as a no reply.
- (12) Certification of a Qualified Subchapter S Subsidiary requires the following verification:
 1. Proof that the Form 8869 election was accepted and approved by the IRS
 2. Filing of an S corporation return by the Parent S corporation

3. Verification that all shareholders on the Parent S corporation have provided written authorization that the requestor can receive their tax information
 4. Verification that every shareholder listed on the S corporation's certification filed their required U.S. income tax return/extension as a resident of the U.S.
- (13) When all shareholders in the parent S corporation have filed their required returns, issue the standard Q-Sub certification paragraph.
 - (14) When one or more of the shareholders in the parent S corporation failed to file the required return, or failed to provide a tax information disclosure authorization, issue the Q-Sub paragraph with the parent S corporation list indicating which shareholders have filed.
 - (15) When all of the shareholders on the Parent S corp. failed to file the required individual tax return or extension, reject the Q-Sub application using letter 4060.
 - (16) If any one of the shareholders on the Parent S corp. failed to file, or filed the individual tax returns claiming a foreign tax home (Form 2555 exclusion), issue certification with a list of the shareholders that filed Form 1040 as a U.S. resident.

Exception: The certification country exceptions are Bangladesh, Bulgaria, Cyprus, Hungary, Iceland, India, Kazakhstan, Malta, New Zealand, Russia, South Africa, Sri Lanka, or Ukraine. This exception only applies if the certification country is one of the countries listed above and the country of residence is not the same country.

- (17) If any one of the shareholders on the Parent S corp. filed an individual tax return as a non-resident (Form 1040-NR):
 1. Reject the Q-Sub certification application.
 2. Attach to the copy of the application a current transcript (TXMODA, IMFOLT or BMFOLT) for the tax year and TIN of all modules involved. Annotate that the attached 1120S filer appears to be in violation of its 2553 election.
 3. Forward the case to Examination for Classification.
- (18) Working status codes for Q-Sub Applicants:

If	Then
Status Code 103	Check for input errors, verify that application information was entered according to (6) above. Correct, if needed.
Compare the Form 8802 to the input screen and IDRS and corrections can be made, the parent S Corp. filed, and all shareholders valid	Make all corrections and issue certification.

If	Then
Compare the Form 8802 to the input screen and IDRS and No errors can be found; no correction can be made	The Q-Sub cannot be certified.
Status Code 515	Verify that the application isn't for VAT.
VAT Application	Check VAT indicator and process VAT Certification.
Application is not for VAT	Reject the Q-Sub application using the instructions. See IRM 21.8.4.4.12.5, S Corporation Applicants.
Status Code 522	Verify that the shareholder TIN is correct and that a 1040NR was truly filed.
Shareholder(s) filed a Form 1040-NR	Reject the Q-Sub application using instructions. See IRM 21.8.4.4.12.5, S Corporation Applicants.

- (19) Any Q-Sub Applicant that has had its application declined, but believes it is entitled to U.S. Residency Certification, must submit a copy of its completed Form 8802, attach a detailed explanation and/or regulation or Code section, including documentary evidence, as to why it believes it is entitled to certification.

1. Place the case in status 702, and
2. Forward all applications and attachments to Planning and Analysis.

- (20) Any Q-Sub that has had its application declined or certification rejected, but believes it is entitled to treaty benefits under a specific treaty article, must follow *Rev. Proc. 2015-40* to request Competent Authority help.

21.8.4.4.12.7
(10-01-2017)

Partnership Applicants

- (1) Partnerships are not considered U.S. residents within the meaning of the residence article of U.S. income tax treaties. Treaty benefits are only available to partners within a partnership, not the partnership.
- (2) U.S. Partnerships are generally required to file a Form 1065, U.S. Return of Partnership Income. Certification of partnerships generally require:
 - a. The filing of a Form 1065
 - b. Tax disclosure authorization from the tax matters partner for the partnership when the requestor is not a partner within the partnership for the tax year for which certification is requested
 - c. Tax disclosure authorization for the requestor from each partner
 - d. Each partner or entity listed as an attachment to the partnership certification application must have filed a U.S. Individual Tax Return or an extension as a resident of the U.S.

Caution: When a flow-through entity is listed as a partner within the partnership listing, secure a listing and the tax disclosure authorizations of the individuals or entities within that flow-through entity and add them to the Tier II listing of the partnership record.

- e. A penalties of perjury statement from the partnership and each partner listed on the partnership list or return must be verified and the penalties of perjury indicator checked for each partner, when a current year application is requested.

Caution: When a flow-through entity is listed as a partner within the partnership listing, secure a list of the individuals/entities within that flow-through entity and secure penalties of perjury statements from them.

(3) Partnership Certification Application requires completion of:

- Application Information (Name of partnership for which application is being requested)
- Applicant's TIN
- Mailing Address (if other than applicant's address)
- Permanent Residence Address (when applicable)
- TIA (when applicable)
- Entity Type and of partners in the partnership, and
- Tax form filed

Exception: Partnerships that are not required to file Form 1065 under IRC 761 or Treasury Regulation 1.6031(a)-1(b) will not enter a Form 1065 but should indicate not required under IRC 761 or Treasury Regulation 1.6031(a)-1(b).

- Requested certification year (the year the applicant wants printed on the Form 6166)
- Tax period
- Certification Type
- Country and number of certifications requested
- A declaration statement or penalties of perjury statements (when applicable)
- Form 8802 must have a signature of tax matters partner or the Partnership's POA and a date, when it is a third-party application
- A Partners list identifying the name, TIN, and form filed
- Written authorization from each partner to release the certification information to the requestor (Form 2848 or Form 8821)
- A penalties of perjury statement from the partnership and each individual partner listed on the partnership certification application for current year certifications

Note: Nominee Partnerships are not required to check the partnership box, file a Form 1065, or provide the Nominee partnership list, but they must check the nominee box and provide a list of the individuals or entities for which the nominee is an agent/representative.

- (4) When none of the partners filed the required tax return or extension, reject the partnership application.
- (5) If any one of the partners in the partnership failed to file, failed to provide tax disclosure authorization, filed as a non-resident, or filed an individual tax return claiming a foreign tax home (Form 2555 filed, see exception), issue certification with a list of the partners that filed as a U.S. resident.

Exception: The Form 2555 certification exception countries are Bangladesh, Bulgaria, Cyprus, Hungary, Iceland, India, Kazakhstan, Malta, New Zealand, Russia, South Africa, Sri Lanka, and Ukraine and the foreign tax home country is not the same country for which certification is requested; Form 2555 was not filed by the requestor (it belongs to the spouse) or is a part of a dual status return.

(6) *Current Year Partnership Applications*, in addition to the requirements listed in paragraph (2) above, must include:

- a. A statement from the tax matters partner that the partnership entity's classification has not changed since it filed its required return for the previous year
- b. A list of the current partners, identifying all new partners

Note: When entering the partnership list, *DO NOT* check the POP indicator box *UNTIL* you have verified receipt of a POP statement.

- c. A penalties of perjury statement from each partner or partner's authorized representative (POA) requesting certification indicating that the partner is a resident of the United States of America for purposes of U.S. taxation and will remain so throughout the current calendar year

(7) A requestor (this includes partners within the partnership) of a partnership certification must have written authorization from each partner to receive the partner's tax information for certification. Requestors that are not a partner in the partnership must also secure authorization from the tax matters partner to receive the Partnership's certification information.

Note: When a flow-through entity is listed as a partner within a partnership listing, secure written authorization from the individuals/entities listed within the second Tier, third Tier, etc. When second or third tier entities do not provide the required list or authorizations, the entity (second or third tier) *must not* be listed as a partner on the certification.

(8) The forms used to secure tax disclosure authorization are:

- a. Form 8821, Tax Information Authorization, or
- b. Form 2848, Power of Attorney and Declaration of Representative, from each partner before an application can be certified. (See IRM 21.3.7.7., Processing Third-Party Authorizations onto the Centralized Authorization File (CAF), International Processing, for more instructions.)

(9) Use the chart below to work status codes 091, 520 and 522/322:

If	Then
Status Code 091	Check for input errors. Verify the type of certification application using Form 8802.
Application is for VAT, not Income Tax, and the partnership filed its required return	Check the VAT indicator and issue certification.
No input errors	Follow procedures for securing Partnership list.

If	Then
Status Code 520	Check for input errors. Verify partner's name and TIN using Partnership list, correct, if needed.
No input errors or corrections made, but one or more partners failed to file their return and the partnership filed its required return or was not required to file	Issue certification with list of partners that filed their required returns.
No input errors or corrections made, but one or more partners still invalid and the partnership filed its required return or was not required to file	Issue certification with list of partners that filed their required returns.
Status Code 522/322	Check for input errors. Verify partner's name and TIN, using the partners list, correct, if needed.
The partnership filed its required return or was not required to file, there are no input errors, but one or more partners filed a Form 1040-NR	Issue certification with list of partners that filed as U.S. residents.

- (10) When the Partnership applicant has met all requirements, issue Form 6166.
- (11) When the applicant doesn't provide the required information, request the information using letter 3429 or letter 3536.
 - a. If applicant responds with the required information, and all requirements have been met, see paragraphs 1–3; issue certification Form 6166.
 - b. If applicant fails to provide the required information within 30 days (60 days overseas), close the application as a No Reply.
- (12) Advise any Partnership Applicant that has had its application declined, but believes it is entitled to treaty benefits under a specific treaty article, to follow *Rev. Proc. 2015-40* to request Competent Authority help.

21.8.4.4.12.7.1
(10-01-2017)
IRC 761 Partnerships

- (1) IRC 761 Partnerships include syndicates, groups, pools, joint ventures, or other unincorporated organizations through which business, financial operations, or ventures are carried out.
- (2) Certain partnerships under IRC 761 (with the agreement of all their members) may elect to opt out of filing Form 1065, if the income of the members of the organization can adequately be determined without the computation of the partnership taxable income.
- (3) IRS' Examination Division will approve the partner's election to be excluded from filing a Form 1065, provided the member's/partner's shares of income can adequately be determined without the computation of a partnership return.
- (4) An election is generally requested with the filing of the Partnership's initial return. However, an election via the initial return is not required when all partners agreed (via partnership agreement) to the IRC 761 election and the income of the partners can adequately be determined without the computation of a partnership return.

- (5) Partnership applicants that **are not** required to file Form 1065 under IRC 761 must provide:
- A list (name, TIN and type of form filed) identifying those partners from the IRC 761 election statement that are requesting U.S. Residency certification
 - The name, TIN and type of form filed of any partner, not identified on the original election but currently included in the partnership and requesting a U.S. residency certification, submitted under penalties of perjury
 - Form 8821 or like statements from all partners authorizing the applicant or third-party to receive their individual tax information
 - Written authorization from the tax matters partner to receive the Partnership's certification information when the requestor is other than a partner within the partnership during the year for which certification is requested
 - A current year POP from all current partners, if current year application
 - A copy of the IRC 761 election or penalties of perjury statement. See (6) below.

Note: When a Partnership is listed as a partner within a partnership listing, secure written authorization from the partners listed within the Tier 2 partnership, Tier 3, etc.

- (6) The copy of the election or a statement under penalties of perjury from the tax matters partner must state:

"The partnership XXXXXX, EIN has made an election pursuant to IRC 761. As a result, it is not required to file Form 1065, U.S. Return of Partnership Income, on an annual basis and all its members report their respective shares of income, deductions, and credits on their tax returns as required."

- (7) IRC 761 electing partnerships, in addition to meeting the requirements in this section, must meet all the requirements of a partnership applicant with the exception of having to file Form 1065.
- (8) When the partnership has met all the application requirements for an IRC 761 case, complete the following:
- Enter all standard information.
 - Check the IRC 761 checkbox.
 - Leave the Tax Form box blank.
 - Check the "Not Required" checkbox.
 - Enter the partners list.
- (9) Once all the steps in (8) are complete, the case must be saved. The partnership generates a 091 status and the individual partners generate a 600 status.
- (10) The partnership **will not** go through the automated IDRS system.
- (11) When one or more of the partners are U.S. residents:
- Override the status 091 to status 099.
 - Issue the certification with the list identifying the U.S. partners.
 - Use one of the paragraphs in the PTR.IRC761 series.
- (12) When none of the partners are U.S. residents, reject the application using letter 3443.

21.8.4.4.12.7.2
(10-01-2017)
Foreign Partnerships

- (1) Foreign Partnerships, including LLCs that are considered foreign partnerships, generally **are not** required to file Form 1065 if they do not derive effectively connected income or U.S. sourced fixed determinable, annual or periodical (FDAP) income. See Treasury Regulation 1.6031(a)-1(b) for further information.
- (2) Foreign Partnership applicants **are not** required to file Form 1065.
- (3) Foreign Partnerships that have U.S. partners/members are entitled to U.S. Residency certification, provided the partnership meets all the U.S. Residency certification requirements for such applicant.
- (4) Foreign Partnerships must provide:
 - a. Under penalties of perjury, a list identifying the name, TIN and type of form filed of any partner for whom U.S. Residency certification is requested
 - b. Form 8821 or like statements from all partners authorizing the requestor to receive their individual tax information
 - c. Tax disclosure authorization from the partnership when the requestor is not a partner of the partnership during the tax year for which certification is requested
 - d. If current year, current year POP from all current partners and a current year POP from a general partner that the foreign partnership is not required to file a Form 1065 and the entity classification has not changed since the filing of the partners' returns.
- (5) When a Partnership or pass-through entity is listed as a partner within the partnership listing, you must also secure:
 - a. A list of those partners, shareholders, participants, etc.
 - b. Written authorization from the individuals listed within the Tier 2 partnership, Tier 3, etc.
- (6) **When second or third tier entities do not provide the required list or authorizations, the entity (second or third tier) must not be listed as a partner on the certification.**
- (7) Foreign Partnerships, in addition to meeting the requirements in this section, must meet all the requirements of a partnership applicant.

Exception: Foreign partnerships that do not have to file Form 1065.

- (8) When all requirements for foreign partnerships have been met, issue certification using one of the interim paragraphs in the PTR.FGNPTR. series.

21.8.4.4.12.8
(09-09-2019)
Trust Applicants

- (1) A Trust is an arrangement created either by a will or by an inter vivos declaration by which trustees take title to property for the purpose of protecting or conserving it for the beneficiaries. The beneficiary is:
 - a. An heir
 - b. A legatee
 - c. A devisee

- (2) A trust is a legal entity created under state law and taxed under federal law. There are two different types of trusts that can be certified:
- Domestic Trust
 - Non Exempt Charitable Trust
- (3) A trust is a domestic trust if a court within the U.S. is able to exercise primary supervision over the administration of the trust, and one or more U.S. persons have authority to control all substantial decisions of the trust.

21.8.4.4.12.8.1
(02-20-2008)

Definitions

- (1) The following are some definitions that are helpful in understanding trust entities:
- **Fiduciary** - a trustee of a trust or executor, executrix, administrator, administratrix, personal representative, or person in possession of property of a decedent's estate.
 - **Beneficiary**- a person designated as the recipient of funds or other property under a trust or an estate.
 - **Corpus** - The principal sum or capital of a trust or an estate, as distinguished from interest or income.
 - **Maker, Grantor**, etc. - The person/organization that originated the trust or which has control over the trust.

21.8.4.4.12.8.2
(02-20-2008)

Types of Trusts

- (1) The following is a list of basic types of Trusts:
- **Inter vivos Trust**--Established by a grantor during their lifetime.
 - **Testamentary Trust**--In a will or a formal declaration of a person's wishes as to the disposition of their property after their death. A paper, instrument, document, gift, appointment, etc., is said to be "testamentary" when it is written or made so as not to take effect until after the death of the person making it, and to be revocable and retain the property under their control during their life, although they may have believed that it would operate as an instrument of a different character. A "trust under the will" is the same as a testamentary trust.
 - **Revocable Trust**--The grantor has control of the trust (power to repeal, annul) and will pay the taxes of the trust on their Form 1040 return. The grantor will file the Form 1041 return for "Information Only" purposes.
 - **Irrevocable Trust**-- The trust cannot be repealed or annulled. The grantor may have certain powers over the trust and be taxable on the Trust income.
 - **Pooled Income Fund**--A split interest trust with a remainder interest for a public charity and a life income interest retained by a donor or for another person.

21.8.4.4.12.8.3
(10-01-2017)

Domestic Complex Trusts

- (1) A Domestic Complex Trust is any domestic trust that does not qualify as a simple trust. See IRM 21.8.4.4.12.8.8, Simple Trust, for more information. A complex trust is allowed to take a distribution deduction if it distributes income currently; however, we do not treat the entity as a pass-through entity with respect to the distributed income. Certify the trust at the trust level.
- (2) A non-grantor trust is any trust to the extent that the assets of the trust are not treated as owned by a person other than the trust.

- a. Certify non-grantor trust applicants at the trust level, provided they are eligible for U.S. residency certification.
- b. Non-grantor Trust Applicants - as a general rule, only domestic non-grantor trusts that file Form 1041 are granted U.S. Residency Certification.

(3) If the trust is not required to file Form 1041, it must:

- Check the Non-filing Entity box
- Provide an explanation with the application

Note: Explanations provided separate from the application must be submitted under penalties of perjury.

21.8.4.4.12.8.4
(08-31-2022)

Group Trusts-Revenue Ruling 81-100 - Including Modifications from Revenue Rulings 2011-1, 2004-67, 2014-24 & Announcement 2021-11

- (1) Group Trusts, described in Revenue Ruling 81-100, that have received a determination letter recognizing its exempt status under section 501(a) must attach a copy of that letter to their Form 8802.
- (2) Group Trusts, described in Revenue Ruling 81-100, certification applications submitted for Switzerland, with respect to dividends paid by a Swiss Corporation, must also provide a statement that, "The trust is operated exclusively or almost exclusively to earn income for the benefit of pension funds that are themselves entitled to benefits under the Switzerland Income Tax Treaty as a resident of the United States."

21.8.4.4.12.8.5
(10-01-2017)

Current Year Applications

- (1) *Common Trust Fund, Simple Trust and Grantor Trust for Current Year Applicants*, in addition to the requirements listed above, must include:
 - a. A penalties of perjury statement (POP) from the trustee indicating that the trust is a U.S. trust and will continue to be throughout the current tax year, and
 - b. A penalties of perjury statement from every participant/owner/beneficiary or authorized representative (POA) requesting certification, that they are a resident of the United States of America for purposes of U.S. taxation and will remain so throughout the current tax year.

Note: When entering the participants/owner/beneficiary list, DO NOT check the POP indicator box UNTIL you have verified receipt of a POP statement.

21.8.4.4.12.8.6
(10-01-2017)

Incomplete Trust Applications

- (1) When the Form 8802, line 4c, isn't checked on the application, process as a complex trust without contacting the applicant.
- (2) When all required information has been verified, the Form 6166 can be issued using one of the TRU.81-100 paragraphs.
- (3) When the applicant doesn't provide the required information, request the information using the proper letter.
 - a. If applicant responds with the required information, and all requirements have been met, issue certification Form 6166.
 - b. If applicant fails to provide the required information within 30 days (60 days overseas), close the application as a No Reply.

- (4) A Form 1041 must be filed by the fiduciary, trustee of the trust, or one of the joint fiduciaries for a domestic trust that is taxable under IRC 641.

Note: The fiduciary in this instance is a trustee of the trust.

- (5) A Form 5227 must be filed for:

- Charitable remainder trusts as described in IRC 664
- Pooled income funds as described in IRC 642(c)(5)
- Charitable lead trusts

- (6) In addition to a Form 1041, Form 1065, Form 1120, or Form 5227 return having been filed or an extension, the authorized requestor of a trust must provide with the Form 8802, the following information:

- Application Information (Trust Information):
- Applicant's TIN
- The Name and identification number as it must appear on the certification (when applicable)
- Mailing Address (if other than applicant's address)
- Permanent Residence Address (when applicable)
- TIA (when applicable)
- Entity Type and the type of Trust for which certification is requested
- Tax Form filed
- Requested certification year (the year the applicant wants printed on the Form 6166)
- Tax period
- Certification Type
- Country and number of certifications requested
- The Applicant's parent organization information (when applicable)
- Penalties of Perjury statements (when applicable)
- Form 8802 must be signed by the trustee or the POA

- (7) Trust Applicants must specify on the Form 8802 the type of trust for which certification is requested.

- (8) When the required information has been provided and the appropriate return is filed, issue Form 6166 using one of the TRU.1041 paragraphs.

- (9) If no return has been filed, you must verify the trust filing requirements:

- 1041-1 (Form required)
- 1041-0 (Form not required)
- 5227-1 (Form required)
- 5227-2 (Form required)
- 5227-0 (Form not required)

- (10) If a return is not required to be filed, issue Certification Form 6166 using one of the trust paragraphs:

- a. TRU.1041
- b. TRU.1041.SP
- c. TRU.1041.GR
- d. TRU.1041.RS
- e. etc.

- (11) If a return is required, correspond via phone or using letter 3444.

- a. When the response indicates that the trust is a newly established trust and the Trust Agreement is provided, issue Certification Form 6166.
 - b. When the applicant fails to provide the required information within 30 days (60 days overseas), close the application as a no reply.
- (12) Any trust applicant that has had its application declined, but believes it is entitled to U.S. Residency Certification, must submit a copy of its completed Form 8802, attach a detailed explanation, including documentary evidence, and/or regulation or Code section, as to why it believes it is entitled to certification.
1. Place the case in status 702, and
 2. Forward all applications and attachments to Planning and Analysis.

21.8.4.4.12.8.7
(10-01-2017)
Grantor Trust

- (1) A grantor trust may be set up by a living person or by an organization or created by a will. All, or a portion of the income from the trust, is taxable income of the grantor. The Grantor's share of trust income, deductions, and credits are not reported on Form 1041 return, but are shown on a separate statement that is attached to Form 1040 return. The assets of the trust are treated as owned by the grantor.
- (2) A grantor trust is a trust under applicable state law that is not recognized as a separate taxable entity for income tax purposes.

Note: A living trust or grantor trust is not an official trust, unless the trust has an official EIN. Taxes on this type of trust are passed through to the grantor of the trust. Grantors of living trusts that do not secure an EIN for the trust must be certified as an individual, when the individual requirements are met.

- (3) A grantor includes any person/organization:
- a. Who creates a trust, directly or indirectly by making a gratuitous transfer of cash or other property to a trust
 - b. *Treated as the owner* of any part of a trust
- (4) A grantor trust is identified on Line 4c of Form 8802.
- (5) Grantor trusts must be certified at the owner's level. The trust itself files a Form 1041 (informational) but is ignored for tax purposes and all income, deductions, etc. are treated as belonging to the owner. Therefore, applicants must identify:
- The name and TIN of the trust
 - The name and TIN of the owner/owners, and depending on whether the owner is an individual or other type entity, the relevant information necessary for certification of that type of person
 - Authorizations (Form 8821 or like form) from each beneficial owner for which certification is requested. The authorizations must authorize the 3rd party requestor to receive their tax information, and
 - Authorization from the trustee, when the requestor is other than a trustee in the trust

- (6) When one or more of the trust grantors are verified as U.S. Residents and the Form 1041 was filed for the trust when required, issue the certification with a list identifying the grantors that are U.S. residents using one of the TRU.GT paragraphs.
- (7) Grantor trusts that are foreign can be certified as a U.S. resident, provided the owner of the trust is a U.S. resident and filed a Form 3520-A, Annual Return of Foreign Trust With a U.S. Owner, and have met all the other trust certification requirements in (5) above, when applicable. Issue certification using one of the interim TRU.3520A.FGNGT paragraphs.
- (8) Grantor trust applicants that are foreign trusts that **have not** filed Form 3520-A, Annual Return of Foreign Trust With a U.S. Owner, identifying the U.S. owner (Form 3520-A Page 3) cannot be certified. Foreign grantor trusts cannot be certified unless the trust owner is identified and the owner is a U.S. resident. Verification includes submission of:
 - a. The signed Form 3520-A
 - b. A copy of the trust agreement
- (9) Use the chart below to work status codes 650, 520, and 522/322 for grantor trust Applicants.

If	Then
Status Code 650	Check for input errors. Use Form 8802 to verify the type of certification application.
The application is for VAT, not Income Tax, and required return has been filed	Check the VAT indicator and issue VAT certification using TRU.GT.VAT.
No input errors	Follow procedures for securing owners list.
Status Code 520	Check for input errors. Verify owners' Names and TINs using owners list, correct, if needed.
No input errors or corrections made and the required return has been filed, but one or more owners failed to file their return	Issue certification with list of owners that filed their required returns using TRU.GT.
No input errors or corrections made, return filed if required and one or more of the owners are still invalid	Issue certification with list of owners that filed their required returns using TRU.GT.
Status Code 522/322	Check for input errors. Verify owners' names and TIN(s) using owners list, correct, if needed.
No input errors and one or more of the owners filed a Form 1040-NR	Issue certification, with list of owners that filed as U.S. residents. If none filed as residents, issue letter 3425.

- (10) Certification of a grantor trust, in addition to meeting all the general trust certification requirements, must meet the requirements of a pass-through entity.
 - a. The trust must file a return when required.
 - b. At least one owner must be a resident of the U.S. for tax purposes.

- (11) When none of the owners filed their required tax return, extension, or have a determination letter, reject the grantor trust application.
- (12) Do not list owners in the grantor trust that failed to file, failed to provide authorization, filed as a non-resident, or filed a tax return claiming a foreign tax home (Form 2555 filed, see exception), on the Grantor trust certification.

Exception: If the country for which the treaty benefit is claimed was Bangladesh, Bulgaria, Cyprus, Hungary, Iceland, India, Kazakhstan, Malta, New Zealand, Russia, South Africa, Sri Lanka, or Ukraine and the country on the Form 2555 is not the same country for which certification is requested, Form 2555 was not filed by the requestor (it belongs to the spouse), the Form 2555 was for a partial year, or the requestor filed a dual status return.

21.8.4.4.12.8.8
(10-01-2011)
Simple Trust

- (1) A simple trust is:
 - a. An instrument that requires all income be distributed currently
 - b. An instrument that does not provide that any amounts be paid, permanently set aside, or used for charitable purposes; and
 - c. An instrument that does not distribute amounts allocated to the corpus of the trust
- (2) The trust is a simple trust only for a year in which it distributes income and makes no other distributions to beneficiaries. For a year when the trust does not meet these requirements, it is a "complex trust."
- (3) A simple trust applicant:
 - Is identified on Line 4c of Form 8802
 - Must file a Form 1041
 - Distributes its income to the beneficiaries
- (4) A simple trust must be certified at the beneficiary level. A beneficiary includes any person that could possibly benefit (directly or indirectly) from the trust whether the person:
 - a. Is named in the trust as a beneficiary, or
 - b. Can receive a distribution from the trust in the current year
- (5) As a simple trust itself is ignored for tax purposes and all income, deductions, etc. are treated as belonging to the beneficiary/beneficiaries, these trust applicants must provide:
 - The name and TIN of the trust
 - The name and TIN of the beneficiary/beneficiaries, and, depending on the whether the beneficiary is an individual or entity, the relevant information necessary for certification of that type of person
 - Authorizations (Form 8821 or like form) from each beneficiary for which certification is requested. The authorizations must authorize the 3rd party requestor to receive their tax information, and
 - Authorization from the Trustee, when the requestor is other than a trustee in the trust

- (6) Certification of a simple trust, in addition to meeting all the general trust certification requirements, must meet the requirements of a pass-through entity.
 - a. The trust must file its Form 1041 return.
 - b. At least one of the beneficiaries must be a resident of the U.S. for tax purposes.
- (7) When none of the beneficiaries filed their required tax return, extension, or have a determination letter, reject the Simple Trust application.
- (8) Do not list beneficiaries in the trust that failed to file, failed to provide tax disclosure authorization, filed as a non-resident, or filed a tax return claiming a foreign tax home (Form 2555 filed, see exception), with the list of participants/owners that are certified as U.S. residents on the U.S. Residency certification.

Exception: If the country, for which the treaty benefit is claimed, was Bangladesh, Bulgaria, Cyprus, Hungary, Iceland, India, Kazakhstan, Malta, New Zealand, Russia, South Africa, Sri Lanka, or Ukraine and the country on the Form 2555 is not the same country for which certification is requested, Form 2555 was not filed by the requestor (it belongs to the spouse), the Form 2555 was for a partial year, or the requestor filed a dual status return.

- (9) If the simple trust meets all the certification requirements, issue Form 6166 certification.
- (10) When one or more of the beneficiaries are verified as a U.S. Resident and the Form 1041 was filed for the trust, issue the certification with a list identifying the beneficiaries that are U.S. residents using one of the TRU.1041.ST paragraphs.

21.8.4.4.12.8.9
(08-31-2022)

Common Trust Funds

- (1) Common trust funds, as defined in IRC 584, must not file Form 1041 and must be certified at the participants level; therefore, they must identify on Form 8802 the participants in the trust as well as the number for which certification is requested.
- (2) Common trust funds (CTF), as defined in IRC 584 , must file a U.S. Income Tax Return, generally Form 1065.
- (3) Certification of a common trust fund, as defined in IRC 584 , requires:

- The name and TIN of the CTF.
- The name and TIN of each participant, and, depending on whether the participant is a tax exempt or other type of person, the relevant information necessary for certification of that type of person.

Caution: When a flow-through entity is listed as a participant within the participants list, secure a listing of the persons within that flow-through entity that the applicant is requesting certification and verify their filing requirement.

- Authorizations (Form 8821 or like form) from each participant for which certification is requested. The authorizations must authorize the 3rd party requestor to receive their tax information.
- An authorization from the trust, when the requestor is other than a trustee in the trust.
- The filing of the CTF's required return.

- The filing of the required tax return of each CTF participant for which certification is requested.
 - A determination letter or proof that the participant is not required to file, when applicable.
 - An IRS Determination Letter or Revenue Ruling letter used as proof of exemption from taxation and filing, and a penalties of perjury statement, specifically stating that the organization was organized in the U.S. and carries out its exempt function primarily in the U.S.
- (4) Common trust funds, as defined in IRC 584, that apply for certifications for Switzerland with respect to dividends paid by a Swiss Corporation **must also have the following attached** to their Form 8802:
- A list of each participant that is a trust forming part of a plan described in IRC 401(a), IRC 403(b), or IRC 457(b) or is a trust that is described in IRC 401(a), or IRC 403(b), for which certification is requested.
 - A statement that each participant listed on the attached list is a trust forming part of a plan that is described in IRC 401(a), IRC 403(b), or IRC 457(b), or is a trust forming part of a plan described in IRC 401(a), or IRC 403(b).
- (5) When none of the participants filed their required tax return, extension, or have a determination letter, reject the CTF application.
- (6) If any of the participants in the CTF failed to file, failed to provide authorization, filed as a non-resident, or filed a tax return claiming a foreign tax home (Form 2555 filed, see exception), issue the certification with a list of the participants/owners that are considered U.S. residents.
- Exception:** If the country for which the treaty benefit is claimed was Bangladesh, Bulgaria, Cyprus, Hungary, Iceland, India, Kazakhstan, Malta, New Zealand, Russia, South Africa, Sri Lanka, or Ukraine and the country on the Form 2555 is not the same country, Form 2555 was not filed by the requestor (it belongs to the spouse), the Form 2555 was for a partial year, or the requestor filed a dual status return.
- (7) Common trust funds are issued certification using one of the TRU.1041.CTF paragraphs and a list of their participants that filed as U.S. residents.
- (8) Use the chart below to work status codes 650, 520, and 522/322 for common trust funds as defined in IRC 584:

If	Then
Status Code 650	Check for input errors. Use Form 8802 to verify the type of certification application.
Application is for VAT, not Income Tax, and return was filed (when required)	Check the VAT indicator and issue VAT certification.
No input errors	Follow procedures for securing participants list.
Status Code 520	Check for input errors. Verify owner's Name and TIN using participants list, correct, if needed.

If	Then
If no input errors or corrections made, the return was filed (when required), but one or more participants failed to file their return	Issue certification with list of participants that filed their required returns.
If no input errors or corrections made, the return was filed (if required), but one or more of the participants are still invalid	Issue certification with list of participants that filed their required returns.
Status Code 522/322	Check for input errors. Verify participants' names and TINs using participants list, correct, if needed.
No input errors, the return was filed (if required), and one or more of the participants filed a Form 1040-NR	Issue certification, with list of participants that filed as U.S. residents.

21.8.4.4.12.8.10
(10-01-2013)

**Foreign Assets
Securitization
Investment Trusts
(FASITs/IRC 860H)**

- (1) IRC 860H - A FASIT, is a financial asset securitization investment trust, a qualified arrangement that meets the requirements of IRC 860L(a)(1).

Note: Effective January 1, 2005, the special rules for FASITs were repealed. However, the special rules still apply to any FASIT in existence on October 22, 2004, to the extent that regular interests issued by the FASIT before that date continue to remain outstanding following the original issuance.

- a. FASITs are used to securitize debt obligations such as credit card receivables, home equity loans, and auto loans.
- (2) A qualified arrangement becomes a FASIT when an eligible corporation, as defined in IRC 860L(a)(2), submits a timely filed election as required under IRC 860L(a)(1)(A).
- (3) A timely filed FASIT election is a statement submitted with a timely filed original federal income tax return (including extension) for an eligible C corporation. The statement must be filed in the taxable year in which the FASIT's startup day occurs.

Note: Elections cannot be made on an amended return.

- (4) FASIT elections must have:
 - a. The name, address, and the applicant's tax identification number (if issued prior to making an election) of the arrangement
 - b. The startup day of the FASIT
 - c. The name and title of all persons signing the election statement
- (5) A FASIT is a pass-through entity. When the corporate owner makes an election to have the qualified arrangement treated as a FASIT, the corporation becomes liable for reporting all the FASIT's income, gain, deductions, losses, and credits on its Form 1120, U.S. Corporate Income Tax Return.
- (6) A Form 8802 submitted on behalf of a FASIT requires:
 - The requirements of a corporation
 - A copy of the FASIT election

- A statement from the Corporate owner. See paragraph (7) below.

(7) The statement that must be submitted on behalf of a FASIT applicant must have the following information:

“ XXX Corporation, EIN is the corporate owner of (FASIT name, TIN), which is treated as a FASIT under IRC 860H; as such, the (corporation name) reports all (FASIT name’s) income, gains, deductions, losses and credits on our Form 1120, U.S. Corporate Income Tax Return.”

Reminder: This statement must be submitted under penalties of perjury, if not submitted with the application.

(8) When the FASIT application is complete and includes the required Corporate owner statement:

1. Enter the Parent Corporation’s TIN in the primary TIN field.
2. Enter the FASIT’s TIN in the Secondary TIN field.
3. Enter the FASIT’s entity information in the Applicant Information field.
4. Enter the FASIT’s parent’s name control in the Name Control field.
5. Enter all other required information.

Reminder: Be sure to check the FASIT verified box if you have the Corporate owner’s statement.

(9) Issuance of a U.S. Residency Certification to a FASIT requires that:

- a. The corporate owner meet all the certification requirements of a corporation
- b. A copy of the corporate owner’s FASIT election be provided
- c. A declaration statement made under Penalties of Perjury must be submitted with the U.S. Residency certification application

(10) When the corporate owner of the FASIT has been verified as a U.S. corporation, issue certification using one of the TRU.1120.FASIT paragraphs.

21.8.4.4.12.8.11 (08-12-2021) Individual Retirement Account (IRA)

(1) An Individual Retirement Arrangement within the meaning of IRC 408(a) and Roth IRAs within the meaning of IRC 408A (collectively referred to as IRAs), including modifications from Rev. Rul. 2011-1, Rev. Rul. 2004-67, Rev. Rul. 2014-24, and Announcement 2021-11, may be certified as residents (without regard to the residence of the IRA holder).

Note: Either an IRA holder or the trustee of the IRA may apply for certification on behalf of the IRA.

(2) Form 8802, on behalf of an IRA that is a recipient of income, must include:

- Application Information (Name/Number of the IRA being certified)
- IRA holder’s TIN, the SSN/Account Number used to report the income
- Permanent Residence Address (when applicable)
- Mailing Address (if other than applicant’s address)
- TIA (when applicable)
- Entity Type is a Trust-IRA
- Line 5, Tax Form filed

- Requested certification year (the year the applicant wants printed on the Form 6166)
 - Tax period
 - Certification Type
 - Country and number of certifications requested
 - Penalties of Perjury statements (when applicable)
 - Form 8802 must have a signature and date,
 - A copy of Form 8606, Nondeductible IRAs, or Form 5498, IRA Contribution Information
- (3) A bank or financial institution acting as the trustee for IRA(s) may apply for certification for multiple IRA(s) grouped by year and by country for which certification is requested. The bank or financial institution must include the following with the Form 8802 they must prepare:
- A list of IRA account names (i.e., the IRA holder's name) and numbers for which certification is requested
 - A statement that each IRA account name and number listed is an IRA within the meaning of IRC 408(a) or IRC 408A
 - A statement that the bank or financial institution is a trustee of the IRA
- (4) Certification of an IRA requires that you verify that an IRA is established within the U.S.
- (5) Verification that an IRA exists requires that the IRA owner or Trustee provide a copy of Form 5498, IRA Contribution Information, or a signed copy of Form 8606, Nondeductible IRAs, when Form 5498 is not available.
- (6) Issue certification after you have verified that the IRA exists within the meaning of IRC 408(a) or IRC 408A.
- (7) Issue certification using one of the interim TRU.1040.IRA paragraphs.
- (8) The Certification must state: "I certify to the best of our knowledge, that the above-named Individual Retirement Plan is a resident of the United States of America for purposes of U.S. taxation."

21.8.4.4.12.9
(10-01-2007)

Estate Applicants

- (1) An estate is a legal entity that is created because of a person's death or bankruptcy. The estate consists of the real and/or personal property of the deceased person. The estate pays any debts owed by the decedent and then distributes the balance of the estate's assets to the beneficiaries of the estate.
- (2) The following is a list of definitions for different types of estates:
- **Ancillary and Domiciliary Estate** - an ancillary estate (real and/or personal property of the deceased person) is an estate which exists in a "foreign" state because the applicant was domiciled (resided) in another state at the time of death.
 - **Probate Estate** - is the same as an estate entity. Probating an estate in court is done to establish that the will is authentic or valid.
 - **Bankruptcy Estate** - a bankruptcy estate is a separate and distinct taxable entity from the individual debtor, when an individual debtor files for bankruptcy under Chapter 7 or 11. When a case is created under any chapter of the bankruptcy code, a separate estate is created consisting of property held by the debtor as of the commencement of the

case and under certain circumstances, property acquired by the debtor and the estate after commencement of the case.

- **Decedent Estate** - estate of a deceased person that is a taxable entity separate from the decedent. It exists until the final distribution of the assets is made to the heirs and other beneficiaries.

(3) The type of estates that most often request U.S. Residency certifications is decedent estates.

(4) A decedent estate figures its gross income much like an individual:

- Deductions and credits allowed for an individual are allowed to the estate.
- The major difference between how an individual figures income and how an estate does, is that an estate is allowed an income distribution deduction for distributions to its beneficiaries.

(5) Income distributions to beneficiaries are taxable to the beneficiary; however, estates are treated as residents and U.S. residency certifications are issued at the estate level, regardless of whether it distributes its income.

(6) Certification of an estate applicant requires that the applicant complete all the Form 8802 required fields, that a Penalties of Perjury statement be provided when necessary, e.g., the request is for the current year and the estate has not filed its required Form 1041.

(7) When an estate has met all certification requirements, issue certification using one of the EST.1041 paragraphs.

21.8.4.4.12.10
(05-31-2023)

Limited Liability Company Applicants

(1) A Limited Liability Company (LLC) is an entity formed under state law by filing articles of organization as an LLC.

(2) A Limited Liability Company may elect to be classified for federal tax purposes either as:

- A partnership (more than one owner)
- An association taxable as a corporation, or
- A disregarded entity, separate from its owner (single owner)

(3) Pursuant to Treasury Regulation 301.7701-3(a), **a single-member LLC** can only elect to be classified for federal income tax purposes as:

- An association taxable as a corporation
- A single-member LLC that fails to make an election is automatically disregarded as an entity separate from its owner

Note: A single-member LLC cannot elect to be classified as a partnership.

(4) A limited liability company uses Form 8832, Entity Classification Election, to elect their entity classification.

(5) When the Form 8832 election is processed, transaction code 076 appears in the entity module if the election was accepted. Transaction code 078 appears if the election was rejected.

- (6) A LLC that fails to file Form 8832 electing its classification will DEFAULT:
- A LLC with at least **two members**, that does not file a Form 8832 to classify itself as a corporation, is classified by default as a partnership for federal tax purposes.
 - A single-member LLC that fails to make an election is disregarded as an entity separate from its owner.
- (7) In the year 2001 and prior, a LLC electing to be classified for federal income tax purposes as disregarded as an entity separate from its owner filed Form 966, Corporate Dissolution or Liquidation.
- (8) When an applicant submits a Form 966 (filed in 2001 or prior) and claims that the LLC is classified for federal income tax purposes as a disregarded entity (DRE), but a TC 076 cannot be located, you must:
1. Process the applicant as a LLC-DRE using the procedures below, provided the required POP was submitted.
 2. Forward a copy of the Form 966 with the POP to Entity requesting input of TC 076, using Form 4442.
- (9) When certifying a LLC that is classified as a partnership entity for federal tax purposes, click the LLC box. See IRM 21.8.4.4.12.7, Partnership Applicants, for procedures.
- (10) When certifying a LLC that has elected to be classified as a corporate entity for federal tax purposes, see IRM 21.8.4.4.12.3, Corporate Applicants, for procedures.
- (11) Form 8802 of a single-member LLC requires:
- Applicant's Information (the name of single-member LLC)
 - Applicant's TIN, EIN of the single-member LLC
 - Permanent Residence Address (when applicable)
 - Mailing Address (if other than applicant's address)
 - TIA (when applicable)
 - Entity information single-member LLC owner (must be entered in applicant Entity field)
 - Primary TIN field (a single-member LLC applicant's owner's EIN must be entered in this field)
 - Entity
 - Tax Form filed
 - Requested certification year (the year the applicant wants printed on the Form 6166)
 - Tax Period
 - Certification Type
 - Country and number of certifications requested
 - Penalties of Perjury statements (when certification is for a disregarded single-member LLC that is newly formed or certification is for the current year)
 - A signature and date
 - Any other information required by the procedures for the certification for the single member LLC owner's type entity
- (12) Single-member owners will be one of the following type entities:

- Individual (1040 LLC) - in addition to the requirements above, see IRM 21.8.4.4.12.2, Individual Applicants, for more information.
- Corporation (1120 LLC) - in addition to the requirements above, see IRM 21.8.4.4.12.3, Corporate Applicants, for more information.
- S Corporation (1120-S LLC) - in addition to the requirements above, see IRM 21.8.4.4.12.5, S Corporation Applicants, for more information.
- Partnership (1065 LLC) - in addition to the requirements above, see IRM 21.8.4.4.12.7, Partnership Applicants, for more information.
- Trust (1041 LLC-T) - in addition to the requirements above, see IRM 21.8.4.4.12.8, Trust Applicants, for more information.
- Estate (1041 LLC-E) - in addition to the requirements above, see IRM 21.8.4.4.12.9, Estate Applicants, for more information.

- (13) When required, the Single-Member LLC Penalties of Perjury Statement paragraph must state:

“Under penalties of perjury, I declare that: (i) [insert name, TIN, of the owner of the disregarded entity], is the single owner of [insert trading name of the disregarded entity], a [insert Limited Liability Company, Limited Partnership, Limited Liability Partnership, or other, as appropriate] that is classified as a disregarded entity for United States income tax purposes; (ii) the single owner is a [insert federal tax classification of the owner, i.e., corporation, partnership, individual, etc.]; (iii) as such, [insert name of the single owner of the disregarded entity] is required to take into account all the income, gain, losses, deductions, and credits against tax of the disregarded entity on its/his/her U.S. federal income tax or information return; and (iv) the single owner of the disregarded entity is a U.S. resident and will continue to be throughout the current tax year. I further declare under penalties of perjury that I am an officer, manager, or member of the disregarded entity with the authority to legally bind the entity and, to the best of my knowledge and belief, the statements herein made are true, correct, and complete.”

- (14) A Single Member LLC classified as a disregarded entity of a foreign person is not eligible for U.S. Residency Certification.
- (15) A single member LLC organized outside of the U.S., but the owner is a U.S. Corporation and the corporation has identified the LLC in the Schedule N attached to its Form 1120, can be issued certification for tax years ending prior to January 1, 2004.
- (16) For tax years beginning on or after January 1, 2004, an applicant that is a disregarded entity organized outside of the United States whose owner is a U.S. person or entity, must attach a copy of the Form 8858, Information Return of U.S. Persons With Respect to Foreign Disregarded Entities (FDEs) and Foreign Branches (FBs), filed with the owner's return.
- a. Applicants whose owners fail to identify the foreign disregarded entity on a Form 8858 must not be certified.
 - b. If the certification application is for a tax year prior to January 1, 2004, the applicant must provide proof, such as a Schedule N, that the foreign disregarded entity is owned by a U.S. resident.
- (17) Applicants that were rejected but believe they are entitled to U.S. Residency Certification, must submit a copy of their completed Form 8802, and attach a

detailed explanation or regulation or Code section, including documentary evidence, as to why they believe they are entitled to certification. Once you receive the application:

1. Place the case in status 702.
2. Note in the Remarks Section "forwarded to Planning and Analysis."
3. Forward to Planning and Analysis.

(18) If you have all the LLC applicant's required information, in addition to inputting the other required fields, you must:

1. Enter the TIN of the LLC owner in the primary TIN field.
2. Enter the TIN of the LLC in the secondary TIN field.
3. Enter the form that the single member's owner files in the Form field.
4. Enter the LLC owner's name in the applicant Entity field.
5. Enter the LLC owner's Name Control in the Name Control field.
6. Enter the LLC's name in the Certified Name Line field.
7. Check the penalties of perjury box indicating you have verified receipt of the LLC Penalties of Perjury Statement (when applicable).

If	Then
The LLC application generates a Status Code 103	Verify that the application information was entered according to (13) above.
The LLC application information was incorrectly entered	Correct, if needed and continue processing.
The information was correctly entered	Check CC INOLE and/or ENMOD for discrepancy, correct when able or contact taxpayer for more information.
All the required information is received, entered and validated (status code 099)	Issue certification.
The LLC owner failed to file the required return	Issue letter 3426 or letter 3444.
The response to your correspondence indicates that the LLC is newly established, created using Form 966, or established by default	Verify that the required POP statement has been submitted and a TC 076 is posted or Form 8832 was approved.
The required POP statement has been submitted and a TC 076 is posted or the approved Form 8832 was submitted and all other LLC-DRE certification requirements have been met	Issue certification. Check the "not required" file field, then check the U.S. DRE LLC box which will ensure the correct paragraph is used for a DRE LLC.
The applicant fails to respond to letter 3426 or 3444 with the required information within 30 days (60 days overseas)	Close the application as a No Reply, using status code 199.

(19) Any single member LLC applicant that has had its application declined, but believes it is entitled to U.S. Residency Certification, must submit a copy of its completed Form 8802, and attach a detailed explanation, regulation or Code section, including documentary evidence, as to why it believes it is entitled to certification. Once the application is received:

1. Place the case in status 702.

2. Notate in the Remarks section “forwarding the application to Planning and Analysis.”
3. Forward the application to Planning and Analysis.

21.8.4.4.12.11
(10-01-2017)
**Partnerships with a
Single Owner**

- (1) The following instructions apply when an organized under state law partnership (including a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership) becomes a single-owner entity for federal tax purposes and requests a U.S. residency certification.
- (2) Treasury Regulation 301.7701-3(f)(2) provides that an entity classified as a partnership becomes disregarded as an entity separate from its owner when the entity’s membership is reduced to one member. No election is required to be filed.
- (3) The partnership files a final partnership return, which serves as the notice of the termination of the partnership.
- (4) The owner reports all items of income, gain, loss, deductions, and credits from the disregarded entity in its required tax return. However, there are no specific lines on any of the required forms in which to report items from the disregarded entity.
- (5) Single-member owners that may receive a U.S. residency certification will be one of the following:
 - Individual (1040) - in addition to the requirements above, see IRM 21.8.4.4.12.2, Individual Applicants, for more procedures.
 - Corporation (1120) - in addition to the requirements above, see IRM 21.8.4.4.12.3, Corporate Applicants, for more procedures.
 - S Corporation (1120-S) - in addition to the requirements above, see IRM 21.8.4.4.12.5, S Corporation Applicants, for more procedures.
 - Partnership (1065) - in addition to the requirements above, see IRM 21.8.4.4.12.7, Partnership Applicants, for more procedures.
 - Trust (1041) - in addition to the requirements above, see IRM 21.8.4.4.12.8, Trust Applicants, for more procedures.
 - Estate (1041) - in addition to the requirements above, see IRM 21.8.4.4.12.9, Estate Applicants, for more procedures.
- (6) If a partnership with two partners, one of which is wholly owned by the other partner and is disregarded for federal tax purposes, requests a U.S. residency certification, it must provide:
 - a. Organizational documents (Partnership Agreement, Trust Agreement, etc.) to verify that the entity was formed as a partnership under state law, not as an LLC, and
 - b. A Penalties of Perjury statement from its owner attesting to the reporting of all income, gain, loss, deductions, and credits of the entity on its tax return.

Example: “This certifies that (i) (partnership), TIN XX-XXXXXXX, is a state law (general partnership / limited partnership / limited liability partnership / limited liability limited partnership) that is treated as a disregarded entity for United States federal tax purposes, (ii) that (owner) is treated as the single owner of the (general partnership / limited partnership / limited liability partnership / limited liability limited partnership) for United States

tax purposes and, (iii) as such, (owner) is required to take into account all of the income, gain, loss, deductions, and credits against tax of the (general partnership / limited partnership / limited liability partnership / limited liability limited partnership) on its federal income tax return. This certification is given under penalties of perjury and to the best of my knowledge and belief, the statements are true correct and complete.”

- (7) When documentary evidence proves that the entity has met all its application requirements, complete the following:
1. Enter the TIN of the LLP’s owner in the primary TIN field.
 2. Enter the TIN of the LLP in the secondary TIN field.
 3. Enter Form 1120 in the Form field.
 4. Enter the LLP owner’s name in the applicant Entity field.
 5. Enter the LLP owner’s Name Control in the Name Control field.
 6. Enter the LLP’s name in the Certified Name Line field.
 7. Check off the penalties of perjury box when you have verified receipt of the LLP Penalties of Perjury Statement.
- (8) When the owner has filed its required return as a U.S. resident, issue certification.

21.8.4.4.12.12
(08-12-2021)

**Exempt Organization
Applicants**

- (1) In this section, “Exempt Organization” (EO) refers to an entity described in one of the following categories:
- Organizations exempt from federal income tax under IRC 501(a) which are described in IRC 501(c), including but not limited to charitable, religious, or educational organizations described in IRC 501(c)(3), and corporations organized under Act of Congress which are instrumentalities of the United States described in IRC 501(c)(1);
 - Organizations exempt from federal income tax under IRC 521 and IRC 529;
 - The United States (federal government), states and their political subdivisions and integral parts, which are generally not subject to federal income tax under an implied statutory immunity;
 - Indian tribal governments and their political subdivisions, which are generally not subject to federal income tax under IRC 7871; and
 - An instrumentality affiliated with but a separate entity from a state or local government, which is not exempt from federal income tax under IRC 501(a) and described in IRC 501(c), but which has income excluded from gross income under IRC 115(1) because the entity’s income is derived from a public utility or the exercise of an essential governmental function, and accrues to a state, a political subdivision of a state, or the District of Columbia.

Generally, organizations exempt from federal income tax under IRC 501(a) which are described in IRC 501(c)(3) must apply to the IRS for a determination letter to have the IRS recognize their tax-exempt status. Most other organizations exempt from federal income tax under IRC 501(a) which are described in other paragraphs of IRC 501(c), such as organizations operated for social and recreational purposes under IRC 501(c)(7), may but are not required to apply to the IRS for a determination letter to be treated as tax-exempt if they meet the requirements for income tax exemption under the statute.

- (2) When an organization is recognized by the IRS as exempt, or when an organization that has not established its exemption with the IRS files an information return or Form 990-T, the organization's data is added to master file via the Exempt Plan — Exempt Organization Application Control System (EACS) system. For more information on exempt organizations, see IRM 21.3.8.12, Exempt Organizations (EO).
- (3) States and their political subdivisions, integral parts thereof, and instrumentalities, are not required to apply for a determination letter or request a private letter ruling regarding their status, although some instrumentalities request private letter rulings that their income is excludable from gross income under IRC 115(1).
- (4) An Exempt Organization applicant must include a copy of the organization's determination letter, private letter ruling, revenue ruling, etc., when applicable and the Form 8802 requires completion of:
 - Applicant's Information
 - Applicant's TIN
 - Permanent Residence Address (when applicable)
 - Mailing Address (if other than applicant's address)
 - Entity Type
 - TIA (when applicable)
 - Tax Form filed
 - Requested certification year (the year the organization wants printed on the Form 6166)
 - Tax period
 - Certification Type and specify whether organized in the U.S.
 - Country and number of certifications requested
 - Penalties of Perjury statements (when applicable)
 - Form 8802 signed by a corporate officer or the corporation's POA and date.
- (5) Exempt organizations described in IRC 501(c)(1) are corporations organized under an Act of Congress that are:
 - Instrumentalities of the United States, and
 - Exempt from federal income tax
- (6) Exempt organizations described in IRC 501(c) (other than an organization described in IRC 501(c)(1)) and state colleges and universities must file Form 990-T if they have unrelated business taxable income of \$1,000 or more in a taxable year. Most exempt organizations described in IRC 501(c) must file an annual information return (Form 990 or Form 990-EZ). However, some exempt organizations whose annual gross receipts are normally \$50,000 or less can satisfy their annual reporting requirement by submitting instead, a notice (Form 990-N, or "e-Postcard"). Exempt organizations not required to file a Form 990, 990-EZ, or Form 990-N are listed in paragraph (11) below.
- (7) Exempt organizations described in IRC 501(c)(3) generally are nonprofit corporations, associations, or trusts, organized and operated exclusively for one or more of the following purposes:
 - Religious
 - Charitable

- Scientific
- Testing for public safety
- Literary
- Educational
- Fostering national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment)
- Prevention of cruelty to children or animals

Note: Organizations described in IRC 501(e), IRC 501(f), IRC 501(k) and IRC 501(n) are treated as organized and operated exclusively for charitable purposes, and thus as described in IRC 501(c)(3).

- (8) In addition, for an exempt organization described in IRC 501(c)(3), no part of its net earnings can inure to the benefit of any private shareholder or individual, no substantial part of the activities can be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h)), and it cannot participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.
- (9) Exempt organizations that were NOT organized in the United States generally will not be issued a U.S. residency certification. However, those organizations that can prove entitlement to U.S. treaty benefits must complete Form 8802, submit it and all documentary proof of entitlement to treaty benefits.
 1. Proof of entitlement to a treaty benefit consists of a treaty article, private letter ruling, a regulation or Code Section, etc.
 2. Once received, the Certification Unit places the application in 702 status and forwards the entire case to the Planning and Analysis Analyst.
- (10) An important factor in determining certification eligibility for an exempt organization that has not filed a Form 990 series information return is **verification** of the organization's annual information return (Form 990 series) filing requirement.
- (11) The following exempt organizations are not required to file an annual information return or notice:
 - A church, an interchurch organization of local units of a church, a convention or association of churches, or integrated auxiliary of a church
 - A school below college level that is described in 170(b)(1)(A)(ii), that has a program of a general academic nature, and that is affiliated with a church or operated by a religious order
 - A mission society (other than an organization described in 509(a)(3)) sponsored by, or affiliated with one or more churches or church denominations, more than one-half of the activities of which society are conducted in, or directed at persons in foreign countries
 - An exclusively religious activity of any religious order
 - A state institution, the income of which is excluded from gross income under IRC 115(1)
 - An organization described in IRC 501(c)(1)
 - An exempt organization whose annual gross receipts are normally \$50,000 or less

Note: States and their political subdivisions, integral parts thereof, and instrumentalities that do not have determination letters recognizing them as described in IRC 501(c), are not required to file annual information returns. Such organizations that do have IRC 501(c) determination letters are often exempted from having to file annual information returns (e.g., filing requirement code 990-14).

Note: An exempt organization whose annual gross receipts are normally \$50,000 or less may, in lieu of filing Form 990 or Form 990-EZ, submit the Form 990-N known as the e-Postcard. This is not a return, but it results in a transaction code 150 on MFT 67. Failure to submit the required Form 990 series information return or Form 990-N for three consecutive years will result in automatic revocation of the tax-exempt status. See IRM 21.3.8.12.24, Annual Electronic Notice Filing Requirement, Form 990-N.

(12) Exempt organizations that claim they are not required to file and have not secured a determination letter from the IRS, generally will not be issued a U.S. Residency Certification unless we can verify their exempt status and their filing requirement. However, those organizations that have other means of proving entitlement to U.S. treaty benefits must complete Form 8802, submit it and all documentary proof of entitlement to treaty benefits. Forward these types of applications to the Planning and Analysis Analyst.

(13) An organization exempt from taxation may or may not be required to file a Form 990 series information return.

- a. Organizations not required to file a return will have a Filing Requirement Code (FRC) 0.
- b. Organizations required to file a return will have a Filing Requirement Code (FRC) 1.

Example: CC INOLE or ENMOD will indicate 990-01.

- c. Organizations with a FRC 1 must have filed the proper return or extension in addition to having a valid exemption status to be certified as a resident of the United States.
- d. Organizations that have a Filing Requirement Code (FRC) 8 are inactive and will need to contact the EO/EP Office at 877-829-5500 to have the filing status updated.

(14) The following Employment Codes indicate if an applicant is a state, political subdivision of a state, integral part thereof, instrumentality, or IRC 501(c)(3) organization:

- **F-** Federal Employer
- **G-** State or Local Government Agency
- **I-** Indian Tribal Governmental entity or one of its subdivisions, instrumentality, or a wholly owned subsidiary
- **T-** State or local agency that has entered into a 218 agreement with SSA
- **W-** Organization exempt under IRC 501(c)(3), IRC 501(e), IRC 501(f), IRC 501(k), or IRC 501(n) not subject to FUTA

(15) Federal, State or local government agencies requesting U.S. Residency certification that **have** received a determination letter, private letter ruling, or revenue

ruling regarding their governmental entity status, or that have entered into a 218 agreement with SSA (i.e., have Employment Code T), can be granted U.S. Residency Certification.

For a **State or local government agency**, issue the Form 6166 with a paragraph containing the following language:

I certify that, based on IRS records, the above-named entity is a State, or political subdivision of a State, or an agency or instrumentality of a State or political subdivision, which is generally exempt from U.S. income tax under the Internal Revenue Code, and for purposes of U.S. taxation is a resident of the United States of America.

For a **federal government agency**, issue the Form 6166 with a paragraph containing the following language:

I certify that, based on IRS records, the above-named entity is a federal government agency or instrumentality of the United States, which is generally exempt from U.S. income tax under the Internal Revenue Code, and for purposes of U.S. taxation is a resident of the United States of America.

Examples of an acceptable private letter ruling or determination letter include:

- a. A private letter ruling issued by CC:EEE:EOET that an organization's income is excludable from gross income under 115(1)
- b. A determination issued by TE/GE that an organization is exempt from having to file an annual information return (Form 990) because it is a governmental unit or affiliate of a governmental unit described in Rev. Proc. 95-48

Note: For purposes of determining whether an organization has a determination letter or private letter ruling, it is sufficient if the organization has a 990 filing requirements code of 990FR-14.

Caution: Letter 4076 is **not** a letter ruling or a determination letter. The IRS issues this generic information to any authorized caller who requests a letter explaining the tax-exempt status of a Federal, State and Local Governments (FSLG) entity without an EO submodule, regardless of its employment code.

- (16) Federal, State or local government agencies (with Employment Codes F or G) requesting U.S. Residency certification that **have not** obtained a determination letter, private letter ruling, or revenue ruling regarding their governmental entity status can submit in writing, on official government letterhead, a letter under penalties of perjury from a government official that the organization is a U.S. government agency. The signature of the government official generally will be that of the Director of Taxation, Director of Personnel or the like.

Note: Requests received after October 1, 2020, must include a statement acknowledging that a governmental residency certification letter issued by the IRS is not a ruling or determination letter regarding the organization's governmental

or tax-exempt status for federal tax purposes generally or regarding deductibility of contributions to or for the use of the organization under section 170, and may not be relied on as such.

Note: This letter may be used as evidence of an organization's government status and entitlement to U.S. Residency certification.

- (17) The income of an approved Indian Tribal Governmental entity is not taxed, but it is not accurate to refer to such an entity as tax-exempt.

When issuing U.S. Residency Certification to an Indian Tribal Government entity with a ruling, determination letter, or revenue ruling, and which has Employment Code I, issue Form 6166 with a paragraph containing the following language:

I certify that, based on IRS records, the above-named entity is an Indian tribal government, or subdivision of an Indian tribal government, or an agency or instrumentality of an Indian tribal government, or subdivision, which is generally exempt from U.S. income tax under the Internal Revenue Code, and for purposes of U.S. taxation is a resident of the United States of America.

- (18) An Indian tribal government agency requesting U.S. Residency certification that has not obtained a determination letter, private ruling, or revenue ruling regarding its governmental entity or tax-exempt status can submit in writing, on official government letterhead, a letter under penalties of perjury from a government official that the organization is a U.S. government agency. The signature of the government official generally will be that of the Director of Taxation, Director of Personnel or the like.

Note: Requests received after October 1, 2020, must include a statement acknowledging that a governmental residency certification letter issued by the IRS is not a ruling or determination letter regarding the organization's governmental or tax-exempt status for federal tax purposes generally or regarding deductibility of contributions to or for the use of the organization under section 170, and may not be relied on as such.

- (19) An organization exempt from federal income tax under IRC 501(a) which is described in IRC 501(c) requesting U.S. Residency certification must have an entity record containing an acceptable exemption status code when the organization does not provide a determination letter, private letter ruling, or revenue ruling that the organization is exempt from taxation and from filing.
- Verify the organization's exempt status.
 - See IRM 21.3.8.9.8, Tax-Exempt/Government Entities (TE/GE) Customer Account Services (CAS) Telephone Operations, Status Codes - EO, for more information on exemption status codes.
- (20) When the organization's entity record has a missing or incorrect Employment Code, process as follows:
- Prepare a Form 4442. Include the name of the organization, EIN, and remarks indicating what is needed on the Form 4442 as well as IDRS screen prints.

2. Fax the Form 4442 to the EO Clerical Unit using EEFax 855-214-7520.

(21) Use the following EO Entity Active Status Codes (STS-CD) in determining the type of exempt organization you are verifying and its filing requirements.

- Status 01 or 02 - these indicate that the IRS has recognized an organization's exemption from income tax. Check the subsection code to determine the type of exemption granted.
- Status 06 - this is used for an account that is a state operated university or college filing Form 990-T. Such colleges and universities generally qualify as state governmental entities generally exempt from tax. Certification would require the filing of Form 990-T.
- Status 07 - this is used for an account that is a church filing a Form 990-T. Exempt as a church but must file Form 990-T.
- Status 11- this is used for a church-controlled school. Check the subsection code to determine if the church exemption was granted.
- Status 12- this is used when a return is filed under IRC 4947(a)(1) or IRC 4947(a)(2) or Taxable Farmers' Cooperatives. Verify Code section using line 4h of Form 8802. However, such entities are not exempt organizations and should not receive certification as an exempt organization. Such an organization may receive certification as a U.S. resident. See paragraphs 27 and 28 below for more information.
- Status 30 - this is used for a Church voluntarily filing Form 990 though not required to file returns or apply for exemption (beginning January 1, 2001).
- Status 31 - this is used for a small organization (other than churches and private foundations) with annual gross receipts less than \$5,000 and which voluntarily file Form 990 though not required to file returns or apply for exemption (beginning January 1, 2001).
- Status 34 - this is used for IRC 527 Political Organizations. However, a political organization is not exempt from federal income tax on most types of income and should not receive certification as an exempt organization. Such an organization may receive certification as a U.S. resident. See paragraphs 27 and 28 below for more information.
- Status 36 - this is used for Form 990 filers with a Subsection other than IRC 501(c)(3), (9), (17), or (29) or IRC 501(c)(4) unless the organization notified the IRS under IRC 506 or met an exception to the notification requirement. See IRM 21.3.8.12.29, Notification Requirements for Social Welfare Organizations Described in IRC 501(c)(4), for more information.

Note: In addition to having a Valid Entity Status Code, applicants that have a FRC 1 must have filed the proper return or extension. See paragraphs 27 and 28 below for more information.

(22) The following status codes indicate the organization is **not** an active or valid exempt organization, and thus should not receive an exempt organization certification.

- Status 20 — indicates a voluntary termination
- Status 22 — indicates a revocation
- Status 26 — indicates a termination merger
- Status 28 — indicates the organization is no longer a member of a group ruling
- Status 29 — indicates the group ruling has been dissolved

- Status 40 — indicates an IRC 501(c)(3), (4), (9), (17), or (29) organization that has not been ruled to be exempt or, if claiming exemption under IRC 501(c)(4), that has not notified the IRS of that per IRC 506 at the time the Form 990 series return is filed
 - Status 41 — indicates the organization failed to respond to Solicitation for Application after EO entity asks the organization for a copy of its determination letter and advises the organization that it must apply for formal recognition of its exemption if it does not already have a determination letter.
 - Status 70 — indicates the application was denied
 - Status 71 — indicates the exemption was not established
 - Status 97 — indicates the exemption was revoked because the organization did not file a required return for three consecutive years
 - Status 98 — indicates terrorist organizations.
 - Status 99 — indicates 990 Filer without exemption.
- (23) The Subsection Code (Subsec-CD) is a code designating the type of exemption granted an organization. Use the following EO Subsection Codes, along with the EO status codes, in determining the proper certification paragraphs to issue.
- Subsec CD 01,02, 04-29 - IRC 501(c)
 - Subsec CD 03 - IRC 501(c)(3)
- Note:** Only organizations with this subsection can receive the 501(c)(3) paragraph.
- Subsec-CD 50 - IRC 501(e) - Cooperative hospital service organization
 - Subsec-CD 60 - IRC 501(f) - Cooperative service organization of operating education organization
 - Subsec-CD 70 - IRC 501(k) - Child Care Center
 - Subsec-CD 71 - IRC 501(n) - Charitable Risk Pool
 - Subsec-CD 80 - IRC 521 - Farmers' Cooperative
 - Subsec-CD 81 - IRC 529 - Qualified state-sponsored tuition Program
- Note:** Organizations with the following status codes are **not** exempt organizations and thus should not receive an exempt organization certification:
- Subsec-CD 40- IRC 501(d) - Apostolic and religious organization. An apostolic and religious organization's net income is taxable to its members.
 - Subsec-CD 90 - IRC 4947(a)(2) - Split Interest Trust
 - Subsec-CD 91 - IRC 4947(a)(1) - Public Charity
 - Subsec-CD 92 - IRC 4947(a)(1) - Private Foundation
 - Subsec-CD 93 - IRC 1381(a)(2)-Taxable Farmers' Cooperative
- Note:** The above organizations may receive certification as a U.S. resident. See paragraph 28 below.
- (24) Issue one of the 501(c) paragraphs, EOR.990.501C, to an organization with an EO Subsection Code 01,02, 04-29 IRC 501(c), and which has a determination letter or a Status Code of 01 or 02. An exempt organization (other than an organization claiming exempt status under IRC 501(c)(3), (9), (17), or (29)) requesting U.S. Residency certification that has not obtained a determination letter and does not have a Status Code of 01 or 02, but which has met its Form 990 series filing requirements for its claimed exempt status can submit in

writing a letter stating under penalties of perjury from an authorized official that the organization is exempt from federal income tax and specifying the exemption provision under 501(c) of the Internal Revenue Code. The signature of the authorized official generally will be that of any organization officer, such as, president, vice-president, treasurer, chief accounting officer, etc., duly authorized by the organization to bind the organization following applicable state law.

Note: Requests received after October 1, 2020, must include a statement acknowledging that a residency certification letter issued by the IRS is not a ruling or determination letter regarding the organization's tax-exempt status for federal tax purposes generally or regarding deductibility of contributions to or for the use of the organization under section 170, and may not be relied on as such.

Note: An IRC 501(c)(4) organization with a filing code of FRC-14 is not required to file a Form 990, Form 990-EZ, Form 990-N.

- (25) Issue one of the 501(c)(3) paragraphs, EOR.990.501C3, to an organization with an EO Subsection Code 03 - IRC 501(c)(3), and which has a determination letter or a Status Code of 01 or 02. An IRC 501(c)(3) organization requesting U.S. Residency certification that has not obtained a determination letter and does not have a Status Code of 01 or 02, but which has met its Form 990 series filing requirements for its claimed exempt status can submit in writing a letter stating under penalties of perjury from an authorized official that the organization is exempt from federal income tax under 501(c)(3) of the Internal Revenue Code. The signature of the authorized official generally will be that of any organization officer, such as, president, vice-president, treasurer, chief accounting officer, etc., duly authorized by the organization to bind the organization following applicable state law.

Note: Requests received after October 1, 2020, must include a statement acknowledging that a residency certification letter issued by the IRS is not a ruling or determination letter regarding the organization's tax-exempt status for federal tax purposes generally or regarding deductibility of contributions to or for the use of the organization under section 170, and may not be relied on as such.

Note: An IRC 501(c)(3) organization with a filing code of FRC-06, FRC-13, or FRC-14 is not required to file a Form 990, Form 990-EZ, Form 990-N.

- (26) Issue the standard exempt organization paragraph, EOR.990.EXEMPT to an organization with an EO Subsection Code **other than** 01-27 - IRC 501(c), but with a valid EO status code.
- (27) Except as provided above, exempt organizations, including government entities, that are not required to file a return, that do not have valid EO status codes or Employment Code T, and have not received a determination letter or private letter ruling from the IRS regarding their tax-exempt or governmental entity status, generally will not be certified as an exempt organization or governmental entity. However, such an organization that has other ways of proving that it is a resident for tax purposes, may request that its application be forwarded to Headquarters via P&A.
- a. Proof of residency and entitlement to treaty benefits must include a copy of the organization's corporate charters, trust agreements, bylaws, etc.

- b. The applicant identified above must complete Form 8802 and attach or include a statement identifying the regulation or Code section that confirms it is not required to file.
- (28) Issue a certification to exempt organizations, including government entities that do not have valid EO status codes and have not received a determination letter or private letter ruling from the IRS (or provided a letter signed under penalties of perjury with required acknowledgements) and have not met their Form 990 series filing requirements but have provided documentary evidence that they are U.S. residents and have had their applications approved by Headquarters. Use the following language:

I certify that, to the best of our knowledge, the above-named applicant is a resident of the United States of America.

- (29) When an organization exempt from taxation requests certification declaring that it is a church, but has not received a determination or ruling letter (generally in status code 01 with foundation code 10), you must notify the applicant that it must contact the EO/EP office at 877-829-5500.
- (30) When an organization exempt from taxation requests certification declaring that it is a church, exempt from taxation and reporting information or filing a return, the following is required:
 1. Verify (via IDRS, a letter ruling or a determination letter) that the organization is exempt from taxation.
 2. Verify (via IDRS, a letter ruling or a determination letter) that the organization is exempt from filing or reporting.
 3. If the information cannot be verified, issue letter 3430.
 4. If the organization indicates that it is a subordinate in a group exemption, see paragraphs (32) - (34).

Note: A copy of the **church directory alone** is not proof of exemption from taxation or filing. It must be accompanied by a determination letter.

- (31) The following chart should be helpful when manually verifying an Exempt Organization's exempt status and determining its eligibility for certification.

If	Then
The applicant has an employment code F - indicating FEDERAL EMPLOYER and meets the requirements in paragraph 15 or 16	Issue the 990 FEDERAL or 5500 paragraph. Not required to file information returns.
The applicant has an employment code G - indicating STATE GOVERNMENT and meets the requirements in paragraph 15 or 16	Issue the 990 STATE or 5500 paragraph. Not required to file.
The applicant has an employment code I - indicating INDIAN TRIBE and meets the requirements in paragraph 17 or 18	Issue the 990 INDIAN TRIBE or 5500 paragraph. Not required to file.

If	Then
The applicant has an employment code T- indicating STATE OR LOCAL agency that has entered into a 218 agreement with SSA.	Issue the 990 STATE. See paragraph (15) above. Not required to file.
The applicant has an employment code W- indicating 501(c)(3) and meets the requirements in paragraph 19 - 23 and 25	Issue the 501(c)(3) paragraph. May be required to file Form 990; may file Form 990-T.
The Applicant has a 990-06 filing requirement - indicating a church and meets the requirements in paragraphs 19 - 23 and 25	Issue 501(c)(3) paragraph. Not required to file Form 990; may file Form 990-T.
The Applicant has a 990T-2 filing requirement - indicating an IRC 401(a) Pension Trust	Issue 5500 paragraph. Not required to file.
The Applicant has a 990-13 filing requirement - indicating a religious organization and meets the requirements in paragraphs 19 - 23 and 25	Issue the 501(c)(3) paragraph. Not required to file Form 990; may file Form 990-T.
The Applicant has a 990-14 filing requirement - indicating an affiliate of a government unit and meets the requirements in paragraphs 19 - 25	Issue the IRC 501(c)(3) paragraph (or IRC 501(c) paragraph, if applicable).
The following are valid status codes 1, 2, 6, 7, 11, 30, and 31 WITH subsection codes 1, 2, 4-29; if applicant meets the requirements in paragraphs 19 - 25	Check for the posting of a TC 150. When return posted, issue certification using the applicable IRC 501(c) paragraph, otherwise correspond using letter 3444.
Status codes 1 or 2, WITH subsection code 3, 50, 60, 70, or 71	Check for the posting of a TC 150. When return posted, issue certification using the IRC 501(c)(3) paragraph, otherwise correspond using letter 3444.
The applicant files a 990–PF	The MFT is 44.
The applicant files a 990, 990-EZ, 990-N	The MFT is 67.
The applicant files a 990–T	The MFT is 34.

(32) An organization whose entity record does not have one of the valid exemption status codes, but states that it is exempt under a Group Exemption Number (GEN), must be validated as an exempt organization. The entity record of subordinate organizations in a group exemption must have the same GEN as the central/parent organization and you must be able to validate that the central is an exempt organization using the EO procedures identified above. Central organizations should have Status Code 01 because they must receive recognition of exemption from the IRS.

- a. When the central organization has a valid group exemption status, has filed the proper return when required and both the central and organization have the same GEN, *you can issue certification to the organization.*
- b. When the central organization has a valid group exemption status, has filed the proper return when required, but the organization applying for certification does not have a GEN or its GEN isn't the same as the validated central, you must deny certification.

- (33) Advise an organization claiming to be a subordinate of an exempt organization that does not have a GEN, that we cannot certify it unless the central organization has it added as a subordinate to its group exemption or can prove it is a recognized subordinate of the central organization.

Example: A subordinate church group can provide a determination letter of the central organization along with a copy of the page of the parent's official church directory identifying the subordinate group by circling its name.

- (34) A central organization may add a subordinate to its group exemption at any time by sending the required information to the EO Entity in Ogden. Those wishing to add a subordinate to their group exemption may call 877-829-5500 for details of the process.
- (35) An organization whose entity does not have one of the valid exemption status codes, or is not confirmed as an exempt organization by a letter ruling, or a determination letter, is not considered an exempt organization according to IRS records and, therefore, cannot have its application certified as an exempt organization, even when there is a posted return.
1. Notify the applicant that the Service is unable to certify the application because you cannot verify (via IDRS, a letter ruling or a determination letter) that the organization is exempt from taxation.
 2. Issue letter 3430.
- (36) An organization whose entity has one of the valid exemption status codes, or is confirmed as an exempt organization by a letter ruling or a determination letter, is considered an exempt organization. However, the Service cannot certify that the applicant as an exempt organization if IRS records show the applicant must file a return but did not.
1. Notify the applicant that you cannot certify its application because the Service can not verify that the organization filed its required return.
 2. Issue letter 3444.
- (37) An exempt organization that is denied certification and would like a reconsideration of its application for certification must contact the Tax Exempt/Government Entity Division on 877-829-5500 to apply for exemption status, if denial was due to invalid EO status or if the account needs to be updated due to invalid filing requirements.

Note: The Competent Authority (CA) may approve certification of the exempt organization applicant using general residency certification language, if application is forwarded to CA for reconsideration.

- (38) Any exempt organization applicant that has had its application declined but believes it is entitled to U.S. Residency Certification, must submit a copy of the completed Form 8802, and attach a detailed explanation, including documentary evidence, as to why it believes it is entitled to certification.
1. Reconsideration cases that have all items identified above are placed in status 702.
 2. Forward the entire case to P&A.

21.8.4.4.12.13
(08-12-2021)
**Employee Plans
Applicants**

- (1) An employee plan sponsor or administrator must provide the following information on the Form 8802:
 - Application Information (the name and address of the trust is entered)
 - Applicant's TIN
 - Certified Name line (this is the name of the Benefit plan)
 - Mailing Address (if other than applicant's address)
 - Permanent Residence Address (when applicable)
 - TIA (when applicable)
 - Entity type
 - Tax form filed
 - Requested certification year (the year the organization wants printed on the Form 6166)
 - Tax period
 - Certification type
 - Country and number of certifications requested
 - Penalties of Perjury statements (when applicable), and
 - A signature of plan officer or the Pension Plan's POA and date, if a third-party application
- (2) Employee benefit plans/trusts must identify the type of retirement benefit plan and specify the plan number when applicable. Use plan number 001 for the following type plans:
 - Governmental plan
 - Church plans not electing coverage under IRC 410(d)
 - Indian tribe plans
- (3) An employee plan sponsor/employer is liable for filing a return in all instances **except**:
 - Church plans not electing coverage under IRC 410(d)
 - A governmental plan
 - An unfunded excess benefit plan
 - A simplified employee pension (SEP) or a salary reduction SEP described in IRC 408(k)
 - An annuity or custodial account arrangement under IRC 403(b)(1) or (7) not established or maintained by an employer as described in 29 CFR 2510.3-2(f)
 - SIMPLE IRA under IRC 408(p)
 - An unfunded dues financed pension benefit plan that meets the alternative method of compliance provided by 29 CFR 2520.104-27
- (4) The term plan sponsor means:
 - The employer, for an employee benefit plan that is established and maintained by a single employer
 - The employee organization, in the case of a plan for an employee organization
 - The association, committee, joint board of trustees, or similar group of representatives of the parties who established an employee benefit plan, when the plan is established by more than one employer.

Note: In the case of a multiple employer plan, the Form 8802 must be in the name of the lead employer/controller member of the multiple employer plan.

- (5) The term plan administrator means:
- The person or group of persons specified as the administrator by the instrument under which the plan operates
 - The plan sponsor or employer, if an administrator hasn't been designated
 - Any other person prescribed by regulation when an administrator is not designated and a plan sponsor cannot be identified
- (6) The following are certifiable employment codes. Use these codes in determining a federal, state, or local agency that is exempt or an Indian tribe that is not taxed under IRC 501(c). Organizations with the following employment codes are considered governmental plans (see (3) above) and can be certified.
- G - State or Local Government Agency
 - F - Federal Employer
 - T - State or local agency that has entered into a 218 agreement with SSA
 - I - Indian Tribal Governmental entity or one of its subdivisions, instrumentality, or a wholly owned subsidiary
 - W - Organization exempt under IRC 501(c)(3), IRC 501(e), IRC 501(f), IRC 501(k), or IRC 501(n) not subject to Federal Unemployment Tax Act (FUTA)
- (7) When the applicant's account has a missing or incorrect Employment Code, process as follows:
1. Prepare a Form 4442. Include the name of the organization, EIN and remarks indicating what is needed on the Form 4442, as well as IDRS screen prints.
 2. Fax the Form 4442 to the EO Clerical Unit using EEFax 855-214-7520.
 3. You must also advise the applicant to contact Employee Plans Office on 877-829-5500 to have the exemption status updated or corrected.
- (8) The Form 5500 is used to report information concerning employee benefit plans, direct filing entities (DFEs), master trust investment accounts (MTIA) and fringe benefit plans.
- (9) The Form 5500 must be filed every year for every:
- Pension plan
 - Welfare benefit plan
 - Fringe benefit plan
 - Direct filing entity (DFE)
- Note:** This information is covered in IRC 6058, IRC 6039D and Employee Retirement Income Security Act (ERISA) sections 104 and 4065.
- Master Trust Investment Accounts (MTIA)
- (10) A DFE includes plans that participate in certain trust accounts, and other investment arrangements. Some DFEs must file Form 5500.
- a. Master Trusts that are DFE(s) must file Form 5500.
 - b. Master Trusts that are MTIA must file Form 5500.

- c. Common/Collective Trust (CCT), Pooled Separate Accounts (PSA), 103-12 Investment Entities, and group insurance arrangements are not required to file a Form 5500, however may decide to file a Form 5500 as a DFE.

(11) In certifying the U.S. residency of an employee plan, it is necessary to verify that the administrator or sponsor of an employee benefit plan subject to ERISA (Employee Retirement Income Security Act of 1974) has filed an extension or one of the following returns:

- Form 5500, Annual Return/Report of Employee Benefit Plan
- Form 5500-EZ, Annual Return of A One-Participant (Owners/Partners and Their Spouses) Retirement Plan or A Foreign Plan
- Form 5500-SF, Annual Return/Report of Employee Benefit Plan-Short Form

Note: When the certification application is for a common trust fund or pooled account, verify that each participant is a resident of the United States. Refer to trust procedures. See IRM 21.8.4.4.12.8.9, Common Trust Funds, for more information

(12) When researching a fact of filing for certification of an employee plan, please note:

- All plans and Group Insurance Arrangements forms must be filed by the last day of the month 7 months after the end of the tax year.
- Direct Filing Entities (DFEs) forms must be filed no later than 91/2 months after the end of the tax year.

Example: Employee Plan tax year that ends December 31, 2018 is due July 31, 2019; for a DFE it is due October 15, 2019.

(13) U.S. Certifications will not be issued to a trust that is part of an employee benefit plan during the employee benefit plan's first year of existence unless it is administered by a qualified custodian bank, as defined in 17 CFR 275.206(4)-2(d)(6)(i). These cases are identified on the Form 8802 in the following ways:

Note: If a trust agreement is not attached and/or there is a question whether the administrator of the employee plan is a qualified custodian bank elevate application/questions to P&A.

If the applicant checked Form 8802, line (4)(g) Employee benefit plan/trust Section 401(a) and	Then
Checked Form 8802, line (5) next to Form 5500, and a Form 5500 has not been filed	<p>Check the newly formed button on the 6166 screen, and input remark "Employee Plan First Year."</p> <ul style="list-style-type: none"> • If the employee plan is administered by a qualified custodian bank follow procedures in (15) below to process. • If the employee plan is not administered by a qualified custodian bank reject the application and issue a letter 3436.
Checked Form 8802 line (5) next to "Other" and included a statement similar to "this is plan's first year"	<p>Check the newly formed button on the 6166 screen, and input remark "Employee Plan First Year."</p> <ul style="list-style-type: none"> • If the employee plan is administered by a qualified custodian bank follow procedures in (15) below to process. • If the employee plan is not administered by a qualified custodian bank reject the application and issue a letter 3436.
The applicant included a statement similar to "this is plan's first year" anywhere on the application	<p>Check the newly formed button on the 6166 screen, and input remark "Employee Plan First Year."</p> <ul style="list-style-type: none"> • If the employee plan is administered by a qualified custodian bank follow procedures in (15) below to process. • If the employee plan is not administered by a qualified custodian bank reject the application and issue a letter 3436.

- (14) Any employee benefit plans rejected in their first year are eligible to apply for a U.S. Certification in their second year for the current and previous year. When processing these applications (in the second year), ensure all requirements

identified in IRM 21.8.4.4.12.13 (16), Employee Plans Applicants, are met to issue certificate.

- (15) In certifying employee plans, group insurance arrangements, and DFEs that must or have chosen to file a return, verify that the name and TIN of the entity that is requesting certification is included in the Form 5500 that was filed.

If	Then
Form 5500 application shows a valid TIN but doesn't identify the Plan number	Check TIN using CC INOLE(S) for a plan number and then check to see if it's a valid plan using CC INOLE(P).
Unable to locate a record of a valid plan number	Request a signed and dated copy of the original Form 5500 identifying the plan using letter 3431. Note: The purpose of this request is to secure the TIN and Plan number.
A copy of the original Form 5500 is received identifying the plan	Verify that the plan listed matches the plan requesting certification.
The plan listed on the Form 5500 matches the plan listed on the application	Verify that the plan has filed or is not required to file using EMFOL(L).
The plan filed the required Form 5500 Note: U.S. Certifications will only be issued to a trust that is part of an employee benefit plan during the employee benefit plan's first year of existence if the plan is administered by a qualified custodian bank.	Issue certification.
The plan was not required to file Form 5500 Note: Employment Codes G, T, F or 990T-2 from INOLES, and Filing requirement of T on EMFOLL are exempt from filing Note: U.S. Certifications will only be issued to a trust that is part of an employee benefit plan during the employee benefit plan's first year of existence if the plan is administered by a qualified custodian bank.	Issue certification.
The plan name listed on the Form 5500 doesn't match the plan name listed on the application	Correspond for name change documentation; issue letter 4064.
The requestor responds with the correct documentation for the plan name change	Copy the name change documentation. Follow local procedures for forwarding the original name change documentation to Entity, keep a copy with the certification application. Then check using CC EMFOL(L) to see if the TIN and plan has filed or is not required to file.

If	Then
The plan filed the required Form 5500 or was not required to file	Issue certification, using the new name in the certificate name line field. Enter in the remarks field "Name change documentation forwarded to Entity."
IDRS indicates the plan must file but the requestor disagrees Note: Employment Codes G, T, F and Form 990T-2 from INOLES, and Filing requirement of T on EMFOLL filers are exempt from filing Form 5500.	Refer the applicant to Customer Service Account Inquiry at 800-829-4933 or the TE/GE product line at 877-829-5500.

- (16) In certifying Common/Collective Trust (CCT) and Pooled Separate Accounts (PSA) not required to file a Form 5500, verify that:

- a. The trust or account listed on the certification application has a valid IRS Determination Letter, such as the 1520 (81-100)

Note: Group trust and Common Trust fund procedures are described in this IRM. See IRM 21.8.4.4.12.8, Trust Applicants, for more information.

- b. Each participant in the group or pool is a resident of the United States. When these two items have been verified, issue certification.

- (17) Certification applications must specify each Employee Benefit Plan number requesting certification, in addition to the standard requirements for Certification applications.

Note: Ensure all requirements identified in IRM 21.8.4.4.12.13, Employee Plans Applicants, are met.

- (18) When an applicant claims it is not liable to file but requests certification, the applicant must provide:

- An IRS determination letter or revenue ruling letter as proof the plan exists and is exempt from taxation and filing and
- A penalties of perjury statement, specifically stating that the organization was organized in the United States and carries out its exempt function primarily in the U.S.

Exception: If an employee plan, not administered by a qualified custodian bank, provides an IRS Determination letter reject the application and issue letter 3436 as outlined in (14) above.

- (19) IRS Determination Letter or Revenue Ruling letter used as proof of exemption from taxation and filing, must specifically state that the organization is exempt from taxation and filing.

If	Then
The requestor submits a determination letter or Revenue Ruling letter that states the organization is exempt from taxation and from filing	Issue certification.
The requestor submits a determination letter, that simply states the organization is exempt from taxation	Check IDRS to determine filing status.
IDRS indicates applicant is exempt from filing	Issue certification.
IDRS indicates the applicant is liable for the Form 5500 and a return was not filed	Suspend the case; issue letter 3444.
The plan cannot be verified	It cannot be certified.

- (20) When all requirements are met and verification that the organization is a valid employee plan, certify the applicant as an organization exempt from U.S. taxation under the appropriate IRC section.
- (21) When all requirements are not met, correspond with the applicant using letter 3431.
- (22) An employee plan sponsor/employer is not required in all instances to apply for an Approval or Determination letter ruling.
 - a. This type of requestor must file a return even though it is not required.
 - b. If the sponsor/employer does not apply for an Approval or Determination letter ruling or file a tax return, the plan will not be found on any of our data bases.
 - c. If the plan cannot be verified, it cannot be certified.
 - d. Issue the letter 3431 to the Employee Benefit Plan Sponsor/Employer.
- (23) Any employee plan applicant that has had its application declined because it is newly formed and has not filed a Form 5500 (see (16) above), but believes it is entitled to treaty benefits under a specific treaty article, must follow *Rev. Proc. 2015-40* to request Competent Authority help.
- (24) Employee plan applications declined for reason other than (14) above that believe they are entitled to U.S. Residency Certification, must submit a copy of the completed Form 8802, attach a detailed explanation, including documentary evidence, as to why it believes it is entitled to certification. Once you receive the application, place the case in status 702 and forward to P&A.

21.8.4.4.13
(09-14-2015)
**Specific U.S. Residency
Certification Language
for Specific Treaty
Countries**

- (1) This section identifies specific treaty countries with which our U.S. Competent Authority has agreed to provide specific U.S. Residency Certification language on the Form 6166 for income certifications and not Value Added Tax (VAT) certifications.

21.8.4.4.13.1
(10-01-2017)
**Certification
Applications for the
Commonwealth of
Independent States**

- (1) For the purposes of applying the income tax treaties, the Commonwealth of Independent States includes:
- Armenia
 - Azerbaijan
 - Belarus
 - Kyrgyzstan
 - Moldova
 - Tajikistan
 - Turkmenistan
 - Uzbekistan
- (2) The Commonwealth of Independent States does not accept the usual wording on the Form 6166, Certification Program Letterhead.
- (3) The U.S. Competent Authority has agreed to special language for the Commonwealth of Independent States certification. When certifying, use the paragraphs specifically established for Commonwealth of Independent States. For example, a corporation's certification for Azerbaijan would read "I certify that the above named corporation is a U.S. corporation, and a resident of the United States of America in the sense of the Income Tax Treaty between the U.S.S.R. and U.S.A. currently applied to the Republic of Azerbaijan, a member of the Commonwealth of Independent States."
- (4) Georgia is no longer a member of the Commonwealth of Independent States; therefore, its certification must not make any reference to it. For example, a corporation's certification for Georgia must read "I certify that the above named corporation is a U.S. corporation, and a resident of the United States of America in the sense of the Income Tax Treaty between the U.S.S.R. and U.S.A. currently applied to Georgia."
- (5) When all certification requirements have been met, issue certification.

21.8.4.4.13.2
(10-01-2007)
**Certification
Applications for Greece**

- (1) Greece does not accept the usual wording on the Form 6166, Certification of U.S. Residency, as valid proof of U.S. residence.
- (2) The U.S. Competent Authority has agreed to special language for the Greek certification. When certifying, use the paragraphs specifically established for Greece. All U.S. Residency Certifications for Greece must state that the applicant is: "A resident of the United States of America for purposes of the Greece - U.S.A. Double Taxation Convention."
- (3) When the certification is complete, mail Form 6166 to the applicant and the authorized representative.

21.8.4.4.13.3
(10-01-2007)

Certification Applications for Russia

- (1) Russia requires specific wording on the Form 6166, Certification of U.S. Residency, as valid proof of U.S. residence.
- (2) The U.S. Competent Authority has agreed to Russia's specific language. Russian certification requires the use of the paragraphs specifically established for Russia. The U.S. Residency Certification for Russia must state that the applicant is: "A resident of the United States of America in the sense of the Double Tax Treaty between the Russian Federation and the United States of America."
- (3) When all the certification requirements have been met, issue certification.

Note: The United States-Russia income tax treaty is suspended for all taxes withheld at source and in respect of other taxes as of August 16, 2024. If an applicant is requesting a Form 6166 for a tax period ending before August 16, 2024, a Form 6166 can be issued for Russia indicating the proper tax period(s).

21.8.4.4.13.4
(10-01-2016)

Certification for Spain and Portugal

- (1) Spain and Portugal require specific wording on the Form 6166, Certification of U.S. Residency, as valid proof of U.S. residence.
- (2) The U.S. Competent Authority has agreed to Spain's and Portugal's specific language. The certification from either Spain or Portugal requires the use of the paragraphs specifically established for Spain or Portugal. The U.S. Residency Certification for Spain must state: "I certify that, to the best of our knowledge, the above-named taxpayer is a resident of the United States within the meaning of the United States - Spain Income Tax convention". The U.S. Residency Certification for Portugal must state: "I certify to the best of our knowledge, the above-named taxpayer is a resident of the United States within the meaning of the United States - Portugal Income Tax convention".
- (3) When all the certification requirements have been met, issue certification.

21.8.4.4.13.5
(08-12-2021)

Certification Issues With a Foreign Country

- (1) A foreign country's rejection of a Form 6166 Residency Certificate resulting from foreign legislative changes or other new requirements, including requirements for language not in a standard Form 6166 must be referred to the U.S.

#

Example: A taxpayer requests U.S. Residency Certification for a country other than one in IRM 21.8.4.4.13, Specific U.S. Residency Certification Language for Specific Treaty Countries, and indicates that additional specified language is required for the certification to be accepted by the tax authority in that country.

Example: A single member LLC wholly owned by a U.S. resident is treated as fiscally transparent in the U.S. but is treated as fiscally nontransparent in Country X, where it earns income subject to tax by Country X. The recipient of the entity's Form 6166 in Country X questions the substance of the form issued, including whether the proper party is named on the certification, and makes an inquiry about the U.S. certification process.

- (2) If a foreign withholding agent refuses to accept a Form 6166 Residency Certification provided by a U.S. taxpayer, the Treaty Assistance and Interpretation Team (TAIT) within the U.S. Competent Authority office must be contacted if the refusal is based on regulations or legislation issued by the foreign country from which treaty benefits are claimed. Prior to contacting TAIT, it must be determined if the rejection is based on:

- A foreign government's refusal to accept Form 6166
- The need to supplement the certification with additional disclosures
- The need to specifically modify Form 6166 following the laws of the foreign jurisdiction

Note: See IRM 21.8.4.4.5, Certifications Rejected by Treaty Countries

, for more information.

21.8.4.4.14
(10-01-2017)
**Foreign Claim Forms
and/or Procedures**

- (1) This section identifies some of the Foreign Claim Forms and/or procedures included in processing Form 8802.
- (2) **All U.S. Residency Certification applications MUST include a Form 8802.**
- (3) The foreign claim box must be checked if a foreign claim form is included with Form 8802. When a foreign form is attached, it must stay with the application until it can be associated with:
- Form 6166, or
 - The rejection letter

Note: When processing foreign claim forms, check the foreign claim form box on the data input screen to assure the certification is printed locally.

- (4) The IRS has agreed to include the following countries' claim forms in the U.S. residency certification process:
- Belgium
 - Denmark
 - France
 - Kazakhstan
 - Portugal
 - The United Kingdom
- (5) Foreign Claim Forms and/or procedures not mentioned in this section or any other section within the certification procedures, are returned to the applicant. **Do not alter the form in any way. This includes date stamping. Do NOT date stamp these forms.**

Note: When returning Foreign Claim Forms to the applicant, include Notice 1435, U.S. Certification Foreign Forms

Caution: Extreme care must be taken to ensure that only the material relative to the taxpayer(s) to whom the correspondence is addressed is enclosed in the envelope. See IRM 21.3.3.4.24, Breaches of Personally Identifiable Information (PII) Caused by Manual Stuffing Errors.

1. When an applicant is persistent about processing a form that is not listed, notify the Planning and Analysis analyst.
2. The management analyst will forward the issue to the Headquarters analyst.

Note: The IRS has an agreement to certify forms from Canada, although their forms are not listed.

21.8.4.4.14.1
(02-01-2022)
**Certification
Applications for the
United Kingdom (U.K.)**

- (1) The U.K. income tax treaty that entered into force on March 31, 2003 changed our certification process. The U.S. Residency Certification process does not require the submission of the United Kingdom forms to receive U.S. Residency Certification. The requestor must ascertain what they are required to provide the U.K. to obtain treaty benefits.
- (2) Copies of the latest U.K. forms can be obtained using the following web address:
UK International Tax Forms
- (3) Applicants requesting certification under the U.K. income tax treaty can obtain the correct forms using the following web addresses:
UK-USA Double Taxation Convention Form US-Company
UK-USA Form US-Individual 2002
Double Taxation: Form UK-REIT DT-Individual
UK-USA Double Taxation Convention Form US-Company UK-REIT
- (4) More guidance can be found at:
HM Revenue & Customs - GOV.UK
- (5) Requestors not certain as to their needs, or have questions on the new forms or process, can phone the U.K. during office hours. If calling from the United States, call 011-44-135- 535-9022. If calling from the U.K., call 0300-200-3300. Inquiries can be submitted online using the following web address: *Non-UK residents: Income Tax and Capital Gains*
Those preferring to write to HM Revenue and Customs must address their letters to the following address:
HM Revenue and Customs
Pay As You Earn and Self Assessment
BX9 1AS
United Kingdom
- (6) The following are some examples of the certification forms for the United Kingdom.
 - Form U.S./Company - a claim form for use by a United States domestic company, Mutual Fund, Pension Scheme, Charitable Organization, or Trust, receiving interest and royalties arising in the United Kingdom.
 - Form U.S./Individual 2002- a claim form for use by an individual who is a resident of the United States receiving pensions, incapacity benefit, purchased annuities, interest or royalties arising in the United Kingdom after May 1, 2003.
- (7) When processing certification applications for the U.K., the processing procedures depend upon whether the requestor submits a U.K. claim form.

If an application for certification for the United Kingdom (U.K.) is received and	Then
Form was submitted, application is eligible	All U.S. income tax certification applications accompanied by a U.K. form must be forwarded directly to the U.K.
A U.K. form was not submitted	Issue Form 6166 if all other certification requirements are met
Form was submitted, application is eligible, the applicant wrote “see Attachment” or “see Appendix 1” on any line items and there is an attachment	<ol style="list-style-type: none">1. Place a checkmark in the box labeled “Form 6166 attached”2. Date stamp the form with the date of the Form 6166 certificate3. Input the following note on USRC Database “Attachment to U.K. Form included and mailed to U.K.”4. Forward Form 6166 Certificate, U.K. Form and attachments directly to the U.K.

If an application for certification for the United Kingdom (U.K.) is received and	Then
<p>Form was submitted, the applicant wrote “see Attachment” or “see Appendix 1” on any line items and the attachments aren’t stapled to the U.K. Form or clearly identified as an attachment to the U.K. Form</p>	<ol style="list-style-type: none"> 1. The applicant must be contacted to request the missing attachments. First attempt to reach the applicant via telephone. Note: Input the following note on USRC system “Attachment to U.K. Form not included (spoke/corresponded) with applicant on MM/DD/YYYY.” 2. If you cannot reach the applicant on the telephone, place the record in 702 status and suspend the case for 30 days (60 days International). 3. Send the applicant a letter 4064 with the following open paragraphs: Open Paragraph 3: The U.K. Foreign Form attached to your application includes a notation “see Attachment” or “see Appendix 1.” There weren’t any attachments stapled to the U.K. Form or clearly identified as an attachment included in your application. Please submit the attachments to us to process the U.S. Certification for U.K. Floating Paragraph *: If you have requested U.S. Certifications for other countries and the application is eligible, we will send all other residency certifications in about 10 to 12 business days through normal printing and processing methods. Note: Input the following note on USRC system “Attachment to U.K. Form not included (spoke/corresponded) with applicant on MM/DD/YYYY.” 4. If the applicant requested other countries, and the applicant is eligible, issue the certificates for those countries. 5. If the taxpayer doesn’t reply after 30 days (60 days International) close the case following procedures in IRM 21.8.4.3.4, Working Status Reports.
<p>It is in response to the IRS requesting attachments</p>	<p>Associate the U.K. Forms to the original application and process</p>

Note: If a Form 8802 requests a U.K. certification, and certification for other countries, a separate record must be established for the U.K. certification. The U.K. cover letter must be checked on the input screen to print the U.K. cover letter locally.

- (8) The IRS will send confirmation of certified U.K. claim forms only to requestors that submit three copies of their claim form, along with a self-addressed stamped envelope.
- (9) U.K. ACT Claim forms are generally filed in duplicate with the Philadelphia campus when the first claim is filed for the certification period. All subsequent claims for the same certification period can be sent directly to the Inland Revenue International Centre for Non-Residents, Fitz Roy House, P.O. Box 46, Nottingham, England, NG2 1BD.
- (10) U.K. claims forms filed in duplicate at the Philadelphia campus are retained by the U.S. residency unit for six months.

If	Then
Only one form is submitted by the applicant	Check the United States Residency Certification (USRC) Database for a prior certification.
A prior certification is located for the certification period	Forward the form to the Director of Foreign Dividends without certification.
A prior certification is not located for the certification period	Certify, if eligible, and forward to the U.K.

- (11) Multiple tax years may be received on one form filed by an applicant. Certify each tax year requested.

21.8.4.4.14.2
(10-01-2017)

Certification of French Forms

- (1) The French tax authorities require that their forms be handled following the instructions on their forms.
- (2) All original copies submitted by the U.S. applicant are completed correctly by the campus. Return the original forms to the U.S. person.

Note: A photocopy of the completed form is retained for six months.

- (3) The French Form 5000–EN is used with the Form 6166 to certify U.S. residency for tax purposes. The Form 5000–EN will generally be accompanied by either a Form 5001–EN, 5002–EN, or 5003–EN depending on the type of income.
- (4) Verify the applicant's residency (the applicant has filed the required U.S. tax return):
 - 1. Stamp the Field Director's signature and seal the French Form 5000–EN in part IV, and
 - 2. **Generate and attach the Form 6166** to the French form.
- (5) If a current year application, and the applicant meets all current year requirements, you can issue certification:
 - 1. Stamp the Field Director's signature and seal the French Form 5000–EN in part IV, and
 - 2. **Generate and attach the Form 6166** to the French form.
- (6) A separate Form 5000–EN is required for each category of income:

- Form 5001 — dividend income
- Form 5002 — interest income
- Form 5003 — royalty income

Note: A Form 5000–EN can be certified without other forms.

- (7) Return the signed and sealed copy of the Form 5000–EN with the Form 6166 to the applicant. Extreme care must be taken to ensure that only the material relative to the taxpayer(s) to whom the correspondence is addressed is enclosed in the envelope. See IRM 21.3.3.4.24, Breaches of Personally Identifiable Information (PII) Caused by Manual Stuffing Errors. Attach the Form 6166 to the Form 5000–EN. The Form 6166 provides the applicant's name and tax identification number requested in part IV of the Form 5000–EN. The signature stamp and seal are the only entries necessary in part IV of Form 5000–EN.

Note: Part IV of Form 5000–EN indicates the beneficiary of the income is subject to taxation. The Service has a separate agreement with France that clarifies this language. The Service is only certifying the applicant is a resident of the U.S. for tax purposes. The Service not making a determination that the applicant is the beneficial owner of the income.

21.8.4.4.14.3
(08-31-2022)
**Certification
Applications for
Portugal**

- (1) Starting on September 1, 2020, the U.S. Residency Certification group no longer stamps or seals Portugal Forms MOD.21-RFI, MOD.22-RFI, MOD.23-RFI, or MOD.24-RFI.

21.8.4.4.14.4
(10-01-2017)
**Additional Foreign
Country Claim Forms**

- (1) This section identifies the Foreign Claim Forms and countries not mentioned in the previous instructions.
- (2) These are additional countries for which the IRS has a formal agreement for certification.
- (3) The following forms are not required to be signed or sealed by an IRS official. Issuing the Form 6166 is all that is required of the IRS.
 - a. **Denmark (U33)**, Claim to Relief from Danish Dividend Tax. This form requires self-statement by U.S. resident.
 - b. **Germany DBA/U.S.A. 5000** - Applicant for refund states he had residence in the United States.
 - c. **Netherlands** - Applicant self-certifies as to U.S. residency.
 - d. **Switzerland 82 series forms** - Claim of refund of Swiss tax withheld at source on dividends and interest derived from sources within Switzerland. Requires notarized signature of claimant.
 - e. **Ireland** - All claim forms specifically state that all that is required for each year claimed is a Form 6166 from the Internal Revenue Service.
 - f. **Finland** - Form 6113a – Declaration Concerning Relief From Finland Tax at Source, no longer requires certification; the Form 6166 may be used to follow the new requirements.
- (4) Sign (stamp) and seal all foreign tax forms when requested (form specifies) by the foreign country and the Competent Authority has agreed to certify the form.

- (5) The following charts indicate additional foreign countries and their specific tax forms:

Belgium
These forms require that you stamp the date, the Director's signature, and the IRS seal. Exception: Forms for the current year must only be date stamped, and the Form 6166 must be issued.
Form 276 Int - Request for Reduction of the personal-property prepayment on interest, pursuant to the Convention between Belgium and the United States.
Form 276R - Request for Exemption of the personal-property prepayment on royalties, pursuant to the Convention between Belgium and the United States.

Note: Belgium has various forms in the 276 series that we can certify.

Kazakhstan
Certificate of permanent residence.

Luxembourg
LUX 1 - Claim for Refund of 50 percent of Luxembourg Capital Yields Tax on Dividends and of Full Luxembourg Capital Yields Tax on Interest (Articles IX (1)(a) and VIII of the Double Taxation Convention with the United States)
LUX 2 - Claim for Refund of 66 percent of Luxembourg Capital Yields Tax on Dividends under the Double Taxation Convention with the United States (Article IX(1)(b) of the Convention)
LUX 3 - Claim for Exemption of Luxembourg Tax on Royalties for the Use of Industrial Licenses and Copyrights under the Double Taxation Convention with the United States of America (Article VII of the Convention)
LUX 4 - Claim for Refund of Luxembourg Tax on Royalties for the Use of Industrial Licenses and Copyrights under the Double Taxation Convention with the United States of America (Article VII of the Convention)

21.8.4.5
(10-01-2007)
Certification
Applications for Refund
or Exemption from Value
Added Tax (VAT)

- (1) The following section has information pertaining to the processing of Value Added Tax (VAT) Certification.

21.8.4.5.1
(10-01-2007)
**An Overview of VAT
Certification**

- (1) These procedures are for cases when we are asked to furnish evidence that a citizen, resident, or entity of the United States has filed a U.S. income tax return and that the return lists a business activity or that the entity represents that it is involved in a certain business activity. The purpose of such evidence is to assist foreign countries that have a VAT system in determining an applicant's right to a VAT refund or an exemption from VAT.

21.8.4.5.2
(10-01-2007)
**VAT - General
information**

- (1) Value Added Tax is assessed on goods and services in many foreign countries. However, foreign tax laws often provide that this tax applies only to residents of the foreign country, not to individuals or companies residing outside of the foreign country. Therefore, U.S. citizens or residents who do not reside in the foreign country can apply for a refund of the VAT. VAT certification certifies the type of North American Industry Classification System (NAICS) code the applicant listed on the return it filed, or identifies the NAICS code for the business as represented by the applicant.
- (2) Countries that have VAT may require that IRS furnish evidence that a citizen, resident, or entity of the U.S. has filed a U.S. income tax return. They may also require that the person who filed is involved in a business activity.

21.8.4.5.3
(10-01-2007)
**VAT Certification
Applications**

- (1) When VAT certification applications are received, the Service validates the applicant's:
 - Name
 - Address
 - Identification number
 - Filing of a U.S. tax return
 - Business activity code and business activity
- (2) When processing a VAT certification application:

If	Then
The provided NAICS code is invalid	Correspond for a valid NAICS code; issue letter 3437.
The applicant responds with a valid NAICS code	Process the application.
The NAICS code matches the code posted on the applicant's tax return (status code 099)	Issue the proper VAT certification paragraph.
The applicant responds, or submits with the original application, a NAICS code that differs from the one posted on the return (system returns Status Code 360), but you can validate the NAICS using the help screen	Override the Status Code 360 to 000, removing the case from the United States Residency Certification (USRC) Database and issuing certification using the applicant representation paragraphs on Excel.

21.8.4.5.4
(10-01-2007)

**Processing VAT
Certification
Applications**

- (1) Follow the procedures used for processing U.S. Residence Certifications. See IRM 21.8.4.3, The Certification Process, for more information.

21.8.4.5.5
(10-01-2007)

**Researching for Tax
Authorization**

- (1) Follow the Tax Information Authorization procedures for U.S. Residence Certification. See IRM 21.8.4.2.1.4, Tax Information Authorizations (TIAs), for more information.

21.8.4.5.6
(01-03-2020)

**Researching and
Certifying the Fact of
Filing and Business
Activity for Value Added
Tax (VAT) Certificates**

- (1) The procedures for researching and certifying the fact of filing for VAT certifications are the same as those for Income Tax Certification in IRM 21.8.4.4.12, Applicant Requirements, Return and U.S. Residency Certification Information, except for the following:

- a. Claim forms from foreign countries cannot be used for VAT certification.

Exception: UK Form VAT66A can be stamped.

- b. Use the Form 6166 with the additional VAT language for all VAT certification applications.

- (2) Forms, documents, or claims for refund from foreign countries may be submitted for VAT certification by the applicant, but a Form 8802 **must** accompany it.

- a. Do not stamp or seal claim forms from foreign countries during the VAT certification process.

Exception: UK Form VAT66A can be stamped.

- b. In all cases, when the applicant meets the VAT requirements, the Form 6166 will be generated and attached to the front of the foreign country's form.
 - c. VAT certification applications must have a business activity; if none submitted, deny the application.

Note: Any applicant requesting a VAT certification, but not having a business activity, may request and receive a residency certification when all requirements have been met.

- (3) In addition to the procedures discussed above, VAT certifications also require validation of the applicant's NAICS code. See United States Residency Certification (USRC) Database help screen. See IRM 21.8.4.5.3, VAT Certification Applications, for more information.

- (4) For individuals, this is verified by the Schedule C or F indicator and the NAICS Code.

- a. The Schedule C or F indicator establishes that the applicant has a business activity, and
 - b. The NAICS code describes the activity.

- (5) Certify all applicants by using the U.S. Residency certification procedures and requirements found in IRM 21.8.4.4.12, Applicant Requirements, Return and U.S. Residency Certification Information.

Exception: Individual Applicants, IRM 21.8.4.5.7.

- (6) When the required information requested in IRM 21.8.4.3.8, Filing and Retrieving Documents above is received and validated, and the tax module indicates that a return was filed, a certification can be issued.
- (7) Send completed VAT certification to the applicant or the authorized representative requesting the certification.

21.8.4.5.7
(09-14-2015)
Individual Applicants

- (1) The Service researches its records for evidence of the applicant filing Form 1040 for the year certification is based. The tax module must indicate the presence of Schedule C and/or F indicator.

If	Then
No record of a filing, the tax module does not indicate the presence of Schedule C and/or F indicator	There is no record of a business activity code. Issue letter 3437 or letter 3426, whichever is applicable.
The applicant indicates that a return was filed	The applicant must provide a copy of the latest return with a written statement made under penalties of perjury stating the applicant's business activity.

- (2) When the copy of the applicant's return is received, check the return to see if it was filed under a different TIN. If a different TIN is found, then enter the application using the account information on the copy of the return.

Exception: Third-party applications require a new authorization identifying the new account as an account from which the third-party can receive information.

- a. If the tax module indicates that a return was filed, but it does not show a Schedule C or F indicator, a certification as to the business activity cannot be issued.
- b. If the applicant's copy has a Schedule C or F, notify the applicant to amend their filing. The business activity cannot be certified until the filing is amended but a U.S. Residency certification can be issued if requested by the applicant.
- (3) Once all the required information has been gathered, process VAT application.

21.8.4.5.8
(10-01-2016)
Denial of an Application

- (1) Nonresident aliens and foreign corporations do not qualify for a VAT certification.
- (2) United States citizens who are bona fide residents of foreign countries generally do not qualify for a VAT certification.
- (3) When denying these applications, send a letter to the applicant stating that, "According to our records, you are a nonresident alien or a bona fide resident of a foreign country. Therefore, we cannot provide you with a VAT certification."

- (4) Applicants requesting VAT certification do not qualify, unless they have a business activity. When denying these applications, send a letter to the applicant stating that:

“VAT certification procedures require that you have a business activity and our records do not show a business activity. Therefore, we cannot provide you with a VAT certification.”

21.8.4.5.9
(10-01-2007)
**Value Added Tax
Certification**

- (1) The campus is only certifying that the person in question has filed the U.S. return that is statutorily required from a U.S. citizen or resident alien and/or that the return listed or the applicant represents a business activity, product or service.
- (2) Upon receipt of an acceptable certification application, the Campus Director certifies that:
 - a. The applicant has produced a copy of the most recent income tax return, or
 - b. Other acceptable information in those cases in which research does not indicate a record of filing; and to
 - c. The presence or absence of a business activity, product or service on the applicant's return.

21.8.4.6
(06-05-2024)
Introduction to EFS

- (1) The Enterprise File Storage (EFS) application for the US Residency Certification program is known as Pega. EFS was implemented beginning November 1st, 2023. The EFS application has been designed and built to replace the current paper processes to optimize efficiency and provide greater accessibility. EFS enables faxed receipts to automatically be received within the system.
- (2) Receiving a Form 8802, Form 2848 or Form 8821 within the EFS system does not change the IRM procedures. The same procedures for paper cases are to be followed when controlling a case or determining the approval of a Form 8802 and issuing a Form 6166. Most processing question about how to use EFS can be answered by researching the US Certs Application Guide located on the *US Residency Certification Resource Page*. If after researching the guide you still need assistance, please see your lead or manager.
- (3) Cases should continue to be worked in received date order (first in, first out) regardless of being received as a paper case or received within EFS.
- (4) Ensure the correct OFP code is used to record all time spent on EFS cases. See IRM 21.8.4.2, Certification Overview for the correct function and program code to use.
- (5) Authorizations received in EFS should be viewed online and not printed.
- (6) General Functionality
 - a. Login: Users will access the EFS system by first entering a request in BEARS then a user will need to have the appropriate access permission(s) with a configured profile. Once the bears request has been approved, you can access EFS by clicking the link: *PROD – SSO*.

Note: Users will be disabled after 30 days of inactivity. After 90-days, permissions will be removed in the system. If a user is inactive for over a year, the account will be deleted, and user must request access via BEARS.

- b. Home Page: Upon login, users will be directed to the home page. The home page is the landing page for users in the US Certs application. At any time, a user can return to the home page by clicking the “Home” icon in the main menu.
- c. Worklist: A summary list of all work assigned to the user. Users can begin or continue work by selecting the Case ID of a work item.
- d. Work Queue: On the application home page, users will see a list of all work queues, with a count of unassigned work items available for processing. Users can select a work queue to view work within the selected queue.
- e. Get Next Work: Pulls the highest Priority case from the available work queue.
- f. Following Work Item: Optional feature that allows a user to follow a case and easily access the case throughout the lifecycle of the case.

(7) Dashboard

- a. Configuring the Dashboard: Allows the user the ability to customize the dashboard.
- b. My Work: Allows users to access work that is assigned to them.
- c. Case Search: Allows a user to search for a case by TIN, EIN, name or USRC number.

(8) Case Menu

- a. Remarks: Users can view, add or delete remarks on a case.
Note: Remarks can be viewed by anyone, however users cannot delete the remarks of another user.
- b. Details: Users can review the detail section at any time to review the applicant name, address USRC number, etc.
- c. Outcomes: Provides a read-only view of the certification records created as part of the application.
- d. History: Provides users with the history of a case.
- e. Utility Panel: Users can view, download or upload files or documents on a case.

21.8.4.6.1 (06-05-2024) **Workflow Overview**

(1) Primary Workflow Stages

- a. Create Case: Generate a case for a fax received from the EEFax system and attach the fax to the case for processing. This stage is automatic and does not require user interaction.
- b. Review and Input (Pending-Initial Processing; Pending-Payment Update): Clerk reviews the fax, inputs taxpayer, and payment details for the case.
- c. Payment Suspense (Pending-Payment Suspense): Case suspended for 14-calendar days from the date of the payment. This ensures the payment has adequate time to process and clear before a clerk can validate the payment.

- d. Track Payment Process (Pending-Validation): Clerk indicates if a payment processed successfully.
- e. Initial Input to USRC (Pending-USRC Input): Clerk inputs an overview of the case details and allows a clerk to indicate the case has been input to the USRC database.
- f. Suspense (Pending-Applicant Response): Allows a case to be suspended by a Tax Examiner when requesting additional information or payment from the applicant.
- g. Resolution Activities (Pending-Resolution; Pending-Suspense): Tax Examiner provides the outcome(s) of the certifications requested by the applicant.
- h. Close (Pending-Post Processing; Resolved-Completed): Tax Examiner indicates the post-processing actions have been completed and the case is ready for retention.

(2) Alternative Workflow Stages

- a. Manage Misdirected (Pending-Misdirected / Resolved-Misdirected): Clerk removes a case from processing that was incorrectly sent to the US Certs fax number.
- b. Split Case (Pending-Split / Resolved-Split): Clerk splits a case that was received with more than 1 Form 8802. This allows the separate processing for each form sent to the US Certs fax number.
- c. Manager Review (Pending-Manager Review): A Lead Tax Examiner or Manager answers questions on a case from a Tax Examiner.
- d. Reopen: Tax Examiner adjusts a previously closed case to add/adjust records as needed.

21.8.4.6.2
(06-05-2024)
EFS User Roles

- (1) See IRM 21.8.4.6.2.1, User Role: Clerk for more information.
- (2) See IRM 21.8.4.6.2.2, User Role: Clerk Manager for more information.
- (3) See IRM 21.8.4.6.2.3, User Role: Tax Examiner for more information.
- (4) See IRM 21.8.4.6.2.4, User Role: Tax Examiner Lead and Manager for more information.

21.8.4.6.2.1
(06-05-2024)
User Role: Clerk

- (1) **Initial Input:** User inputs taxpayer information from Form 8802 into EFS.
- (2) **Misdirected Applications:** User can reroute misdirected faxes manually using the maildex.
- (3) **Split Case:** User can split a single fax into individual Form 8802 cases.
- (4) **Multipay Processing:** User can split a fax into individual cases for processing while retaining the payment information from a single payment.
- (5) **Input Payment Information:** User inputs form and payment details.
- (6) **Process Payment Update (Supplemental Payment):** User enters supplemental payment information made after the initial processing of an application.
- (7) **Payment Suspension:** Payment is optionally suspended to allow 14 calendar days from date of the payment.

Note: Cases without a payment or a payment date made over 14 calendar days will bypass the suspense period and progress to payment validation.

- (8) **Payment Validation:** After payment suspension, user must validate that submitted payment(s) are successful.
- (9) **Quick Closure:** User can indicate that a case can be processed as a quick closure.
- (10) **Initial Input into the USRC Database:** User inputs application details using Form 8802 into the USRC database.

21.8.4.6.2.2
(06-05-2024)
**User Role: Clerk
Manager**

- (1) **Create Case:** Manually create a new case.
- (2) **Duplicate Check:** Review possible duplicate work queue and confirm if the case should be processed or closed as a duplicate.
- (3) **Reassign/Unassign Case:** Can reassign a case from one user to another direct report or unassign a case back to the appropriate work queue.
- (4) **Available Reports:**
 - a. Work Queue Inventory: User can view the number of cases in each work queue.
 - b. Throughput Report (less than 30 days): User can view cases that have been resolved within the last 30 days.
 - c. Throughput Report (31+ days): User can view cases that have been resolved greater than the last 30 days.
 - d. Inventory by Status: User can view the number of cases in each status.
 - e. Team Inventory Report: User can view all non-resolved cases assigned to their direct reports.
 - f. Rejected Certifications Report: User can view all rejected records within the last 30 days.
 - g. Inventory Aging Report: User can view all non-resolved cases based on the date they were received in a specific age range.
 - h. Suspended Inventory Report: User can view the non-resolved cases that are in suspense based on the date they were suspended.

21.8.4.6.2.3
(06-05-2024)
User Role: Tax Examiner

- (1) **Resolution Activities:** Case is routed to the TE work queue for resolution.
- (2) **Case Suspension:**
 - a. Beginning Suspense Period: TE has the option to suspend a case for additional information or payment.
 - b. Ending Suspense Period: Suspense period (30 or 60 calendar days) has expired or a response has been received. TE should continue working the case.
- (3) **Resolution Outcomes:** TE records the outcome (approved, rejected or suspended) for each requested record.
- (4) **Request Payment Update:** TE has the option to request an update to payment details (partial, rejected or no payment).

- (5) **Route to Manager:** TE may require clarification on a case and can suspend the case to the manager for assistance.
- (6) **Update Case Details:** TE can update case details if an error is located.
- (7) **Case Closeout:** TE completed approval or rejection of each record in USRC and EFS.
- (8) **Reopen:** After closing a case, TE needs to make an update to the closed case.
 - a. Adjustment of Rejected Records: TE can adjust the number of rejected records.
 - b. Add New Record: TE can add additional records to a previously closed case.
 - c. Taxpayer Information Update: TE can update taxpayer information such as name or address.

21.8.4.6.2.4
(06-05-2024)

User Role: TE Lead and Manager

- (1) **Create Case:** Manually create a new case.
- (2) **Manager Review:** Review a case and provide information needed for processing to continue.
- (3) **Duplicate Check:** Review possible duplicate work queue and confirm if the case should be processed or closed as a duplicate.
- (4) **Reassign/Unassign Case:** Can reassign a case from one user to another direct report or unassign a case back to the appropriate work queue.
- (5) **Available Reports:**
 - a. Work Queue Inventory: User can view the number of cases in each work queue.
 - b. Throughput Report (less than 30 days): User can view cases that have been resolved within the last 30 days.
 - c. Throughput Report (31+ days): User can view cases that have been resolved greater than the last 30 days.
 - d. Inventory by Status: User can view the number of cases in each status.
 - e. Team Inventory Report: User can view all non-resolved cases assigned to their direct reports.
 - f. Rejected Certifications Report: User can view all rejected records within the last 30 days.
 - g. Inventory Aging Report: User can view all non-resolved cases based on the date they were received in a specific age range.
 - h. Suspended Inventory Report: User can view the non-resolved cases that are in suspense based on the date they were suspended.
 - i. Team Suspended Inventory Report: User can view their direct reports and suspended inventory.
 - j. Reopened Case Summary Report: User can view cases that have been reopened in the last 90 days.

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Exhibit 21.8.4-1 (01-30-2017)

U.S. Certification Letter Types and Suspense Codes

1. Use the following chart to determine the letter type and status codes to use when corresponding with taxpayers. The letters listed in the below table are issued utilizing the IAT Tool.

Letter Number	Title / Description	Type Of Letter	IMF	BMF	Both	Status Code
Letter 3425	Taxpayer is a Bona Fide Resident of a Foreign Country or Possession	Reject	X			000
Letter 3426	No U.S. Tax Return On File For The Requested Year (Individual/ Possible Minor Child)	Suspense	X			702
Letter 3427	Third-Party Request/Requestor Not Authorized	Reject			X	000
Letter 3429	Partnership - Required F8802 Application Information Needed For Partnership	Suspense			X	702
Letter 3430	Exempt Organization - Required F8802 Applicant Information Needed For An Exempt Organization	Suspense		X		702
Letter 3431	Employee Plans (EPMF) - Required F8802 Application Information Needed For An Employee Benefit Plan	Suspense		X		702
Letter 3432	Abandonment Letter	Closed			X	199 / 000
Letter 3436	Requested not Eligible for U.S. Residency Certification	Reject			X	000
Letter 3437	Principal Business Activity Discrepancy - Value Added Tax (VAT)	Suspense		X		702
Letter 3440	U.S. Residency Interim Letter- System generated	Interim			X	
Letter 3441	S Corp – Required F8802 Application Information Needed for an S Corporation	Suspense		X		702
Letter 3442	S Corp – None of the Shareholders Filed, or One Filed F1040NR	Reject		X		000
Letter 3443	Partnership Filing Discrepancy	Suspense		X		702
Letter 3444	No U.S. Tax Return On file For The Certification Year Requested - BMF	Suspense		X		702

Exhibit 21.8.4-1 (Cont. 1) (01-30-2017)**U.S. Certification Letter Types and Suspense Codes**

Letter Number	Title / Description	Type Of Letter	IMF	BMF	Both	Status Code
Letter 3445	No Return Filed – T/P Deceased	Reject	X			000
Letter 3446	Resident Alien VISA Holders - Request for 1040 Filing Explanation	Suspense	X			702
Letter 3536	Required F8802 Current Year Application Information Needed For A Pass-through Entity	Suspense		X		702
Letter 3633	Required F8802 Current Year Application Information Needed For A Single Member LLC	Suspense		X		702
Letter 3634	Required F8802 Current Year Application Information Needed	Suspense			X	702
Letter 3635	Required F8802 Application Statement Needed For A Newly Formed Single Member LLC	Suspense		X		702
Letter 3636	Certification Country Required F8802 Application	Suspense			X	702
Letter 3637	Required F8802 Application Information Needed For A Second Tier Pass-through Entity	Suspense		X		702
Letter 3644	F8802 Application Requires Country of Incorporation For A Dual Residence/ Dual Incorporated Corporation	Suspense		X		702
Letter 4056	Required F8802 Application Information Needed For Form 1116 Filer	Suspense	X			702
Letter 4057	U.S. Residency Certification Declined – Possible Foreign Corporation	Reject		X		000
Letter 4058	Required F8802 Application Information Needed For Additional Request	Suspense			X	702
Letter 4059	Required F8802 Application Information Needed For First Year Resident	Suspense	X			702
Letter 4060	U.S. Residency Certification – No S Corporation Shareholders Filed	Suspense		X		702
Letter 4061	U.S. Residency Certification - Sole Proprietor No Schedule C Filed	Suspense	X			702
Letter 4062	Required F8802 Application Information Needed For A Nominee	Suspense		X		702

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Exhibit 21.8.4-1 (Cont. 2) (01-30-2017)

U.S. Certification Letter Types and Suspense Codes

Letter Number	Title / Description	Type Of Letter	IMF	BMF	Both	Status Code
Letter 4063	U.S. Certification Declined - Possible Foreign Residence	Reject	X			000
Letter 4064	Incomplete F8802 Application	Suspense			X	702

Note: More information on Letters and Status codes is located in IRM 21.8.4.4.9, IRS Initiated Correspondence - Guidelines, and IRM 21.8.4.3.4, Working Status Reports.

