

## **HIGHLIGHTS OF THIS ISSUE**

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

### **SPECIAL ANNOUNCEMENT**

#### **Notice 2009-62, page 260.**

This notice addresses technical issues relating to certain filers of Form TD F 90-22.1 (Report of Foreign Bank and Financial Accounts (FBAR)) and provides temporary relief to those filers while formal guidance is developed. Specifically, the notice extends the due date for filing an FBAR for one year until June 30, 2010, for U.S. persons having signature authority over, but no financial interest in, a foreign financial account and for U.S. persons with a financial interest in, or signature authority over, foreign commingled funds. The notice also requests comments on the FBAR filing requirements by October 6, 2009.

### **INCOME TAX**

#### **Notice 2009-69, page 261.**

This notice clarifies the meaning of “disconnected youth” in Notice 2009-28, 2009-24 I.R.B. 1082. Notice 2009-28 clarified.

### **EMPLOYEE PLANS**

#### **Notice 2009-71, page 262.**

**Special rules governing eligible combined plans.** The Treasury Department and the Service plan to issue guidance relating to eligible combined plans under section 414(x) of the Code. Section 414(x) was added by section 903(a) of the Pension Protection Act of 2006 (PPA '06) effective for plan years beginning after December 31, 2009, and amended by section 109(c) of the Worker, Retiree, and Employer Recovery Act of

2008 (WRERA). An eligible combined plan provides a vehicle through which an employer can maintain both a defined contribution plan and a defined benefit plan on a combined basis, thus reducing the administrative burdens and costs of maintaining separate plans. This notice also requests comments on issues presented by section 414(x) with respect to eligible combined plans by October 15, 2009.

#### **Rev. Proc. 2009-36, page 304.**

**Modification of Revenue Procedure 2007-44.** This procedure modifies Rev. Proc. 2007-44, 2007-2 C.B. 54, to provide that a remedial amendment cycle with respect to a governmental plan within the meaning of section 414(d) of the Code (“governmental plan”) will not end before the expiration of the 91st day after the close of the first legislative session beginning more than 120 days after a determination letter is issued for the plan, provided the application for the determination letter was timely submitted to the Service. This procedure also modifies Rev. Proc. 2007-44 to provide that the sponsor of an individually designed governmental plan elect Cycle E (instead of Cycle C) as the initial (EGTRRA) remedial amendment cycle for the plan. Rev. Proc. 2007-44 modified.

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## **ADMINISTRATIVE**

### **Notice 2009–62, page 260.**

This notice addresses technical issues relating to certain filers of Form TD F 90–22.1 (Report of Foreign Bank and Financial Accounts (FBAR)) and provides temporary relief to those filers while formal guidance is developed. Specifically, the notice extends the due date for filing an FBAR for one year until June 30, 2010, for U.S. persons having signature authority over, but no financial interest in, a foreign financial account and for U.S. persons with a financial interest in, or signature authority over, foreign commingled funds. The notice also requests comments on the FBAR filing requirements by October 6, 2009.

### **Rev. Proc. 2009–35, page 265.**

This procedure provides specifications for filing Form 1042–S, *Foreign Person's U.S. Source Income Subject to Withholding*, electronically. The procedure will be reproduced as the current revision of Publication 1187. Rev. Proc. 2008–44 superseded.

# The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying

the tax law with integrity and fairness to all.

## Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are compiled semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations,

court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

### **Part I.—1986 Code.**

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

### **Part II.—Treaties and Tax Legislation.**

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

### **Part III.—Administrative, Procedural, and Miscellaneous.**

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

### **Part IV.—Items of General Interest.**

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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# Part III. Administrative, Procedural, and Miscellaneous

## **FBAR Filing Requirements — Extended Filing Date for U.S. Persons Having Signature Authority Over, But No Financial Interest In, a Foreign Financial Account, and for U.S. Persons with Financial Interest In, or Signature Authority Over, Foreign Commingled Funds: Request for Public Comments on FBAR Filing Requirements**

### **Notice 2009-62**

#### *I. Background and Purpose*

The Report of Foreign Bank and Financial Accounts, Form TD F 90-22.1 (hereinafter referred to as “FBAR”), provides necessary information for certain governmental agencies. Information on the FBAR may be used in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism. This governmental need for information is balanced with the administrative concerns presented by the filing of the information by U.S. persons.

In October 2008, the IRS revised the FBAR and the accompanying instructions. On June 5, 2009, the IRS issued Announcement 2009-51, 2009-25 I.R.B. 1105, which stated that the IRS is temporarily suspending the filing requirement of the FBAR for those persons who are not U.S. citizens, residents, or domestic entities. On May 6, 2009 and June 24, 2009, the IRS posted questions and answers (Q&As-9 and -43, respectively) on its public website ([www.irs.gov](http://www.irs.gov)) that provide relief to certain persons who only recently learned of their obligation to file an FBAR by setting forth conditions and procedures for filing Form TD F 90-22.1 by September 23, 2009. More information concerning this relief is available at <http://www.irs.gov/newsroom/article/0,,id=210027,00.html>. This notice provides additional administrative relief for (i) persons with no financial interest

in a foreign financial account but with signature or other authority over the foreign financial account (hereinafter referred to as “signature authority”), and (ii) persons with a financial interest in, or signature authority over, a foreign financial account in which the assets are held in a commingled fund (hereinafter referred to as “foreign commingled funds”). The Department of the Treasury intends to issue regulations clarifying the FBAR filing requirements pertaining to those persons with respect to these foreign financial accounts, and solicits comments related to these FBAR filing requirements in this notice.

#### *II. Extended Filing Date for Specified Persons*

##### *A. Current FBAR Instructions*

The current instructions to the FBAR provide, with certain exceptions, that U.S. persons that have signature authority over, but no financial interest in, a foreign financial account are required to file an FBAR. These persons must report the account on an FBAR even if the foreign financial account is reported on an FBAR filed by the owner of the account (or other person that has a financial interest in the account).

The current instructions to the FBAR also provide that a foreign financial account that must be reported on an FBAR includes any bank, securities, securities derivatives, or other financial instruments account. The FBAR instructions further provide that those accounts “generally also encompass any accounts in which the assets are held in a commingled fund and the account owner holds an equity interest in the fund (including mutual funds).”

The current instructions to the FBAR also provide that Form TD F 90-22.1 with respect to a given calendar year must be filed with the Department of the Treasury on or before June 30 of the succeeding year. Thus, except as provided in the prior relief granted by the IRS on its public website and the relief granted in this notice, FBARs with respect to the 2008 calendar year should have been filed on or before June 30, 2009.

##### *B. Extended Date for Filing an FBAR*

In light of the additional time needed for the Department of the Treasury to address issues pertaining to FBAR filing requirements and the need to provide administrative relief for (i) persons with signature authority over, but no financial interest in, a foreign financial account, and (ii) persons with a financial interest in, or signature authority over, a foreign commingled fund, this notice provides that those persons have until June 30, 2010, to file an FBAR for the 2008 and earlier calendar years with respect to these foreign financial accounts. Thus, eligible persons that avail themselves of the administrative relief provided in this notice may need to file FBARs for the 2008, 2009 and earlier calendar years on or before June 30, 2010, to the extent provided in future guidance.

The FBAR filing extension provided by this notice applies to FBARs with respect to 2008 and earlier calendar years. For (i) persons with signature authority over, but no financial interest in, a foreign financial account, and (ii) persons with a financial interest in, or signature authority over, a foreign commingled fund, the FBAR filing extension provided in this notice supplements the filing extension to September 23, 2009, previously provided by the IRS on its public website.

#### *III. Request for Public Comments*

The Department of the Treasury is interested in receiving comments on the following issues affecting a person’s FBAR filing obligation.

The Department of the Treasury requests comments regarding when a person with signature authority over, but no financial interest in, a foreign financial account should be relieved of filing an FBAR for the account. For example, comments are requested regarding whether relief from filing would be appropriate if a person with a financial interest in the account has filed an FBAR.

The Department of the Treasury requests comments discussing in what circumstances the exception from FBAR filing currently available for officers and employees of banks and certain publicly-traded domestic companies might be

expanded to apply to all officers and employees with only signature authority over, and no financial interest in, an employer's foreign financial account, including circumstances in which an individual has been advised that an FBAR has been filed with respect to a foreign financial account for which that person has signature authority. The Department of the Treasury also requests comments discussing how the bank and publicly-traded company exception (including the requirement of notification that an FBAR was filed by a U.S. person with a financial interest in the account) might apply to officers and employees with only signature authority over accounts owned by clients of their employer.

The Department of the Treasury requests comments concerning when an interest in a foreign entity (*e.g.*, a corporation, partnership, trust, or estate) should be subject to FBAR reporting. For example, comments are requested regarding the possibility of applying the principles of sections 1297 and 1298(b) of the Internal Revenue Code to determine when an interest in a foreign entity should be subject to FBAR reporting. Comments are also requested regarding whether the passive asset and passive income thresholds of 50 percent and 75 percent, respectively, are appropriate and whether the tests should apply conjunctively.

The Department of the Treasury also requests comments on whether a U.S. person should be relieved from an FBAR filing requirement with respect to a foreign commingled fund in other circumstances, such as when filing would be duplicative of other reporting.

Interested persons should submit comments and suggestions with respect to the guidance on FBAR reporting in this notice by October 6, 2009, to:

Internal Revenue Service  
Attn: CC:PA:LPD:PR  
(Notice 2009-62)  
Room 5203  
P.O. Box 7604  
Ben Franklin Station  
Washington, D.C. 20044

or hand deliver comments Monday through Friday between the hours of 8 a.m. and 4 p.m. to:

Courier's Desk  
Internal Revenue Service  
Attn: CC:PA:LPD:PR  
(Notice 2009-62)  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

A copy of those comments should also be sent to:

Financial Crimes Enforcement  
Network  
Department of the Treasury  
P.O. Box 39  
Vienna, VA 22183

Alternatively, the public may submit comments electronically via e-mail to the following address: *Notice.Comments@irs.counsel.treas.gov* with a copy to *regcomments@fincen.gov*. Respondents should include "Notice 2009-62" in the subject line of any comment submitted.

All comments submitted by the public will be made available for public inspection and copying in their entirety.

#### IV. *Effective Date*

This notice applies to FBARs (Form TD F 90-22.1) with respect to calendar year 2008 and prior calendar years.

#### V. *Contact Information*

For further information regarding the relief relating to signature authority, contact Terra-Lynn Zentara at (202) 283-7659 (not a toll-free call). For further information regarding foreign commingled funds, contact Joseph Henderson at (202) 622-3446 (not a toll-free call).

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## Section 51 — Work Opportunity Tax Credit

### Notice 2009-69

#### PURPOSE

This notice clarifies Notice 2009-28, 2009-24 I.R.B. 1082, published on June 15, 2009. As explained in Notice 2009-28, § 51 of the Internal Revenue Code (the Code) provides for a Work Opportunity

Tax Credit (WOTC) for employers who hire individuals who are members of targeted groups. Section 1221 of the American Recovery and Reinvestment Tax Act of 2009 (ARRTA), enacted February 17, 2009, Div. B, Tit. I of Pub. L. No. 111-5, amended § 51 to add two new targeted groups for purposes of the WOTC. New § 51(d)(14) provides that unemployed veterans and disconnected youth who begin work for an employer during 2009 or 2010 shall be treated as members of a targeted group for purposes of the WOTC.

Notice 2009-28 sets forth the statutory definitions of "unemployed veteran" and "disconnected youth," and provides guidance on the definition of "disconnected youth." With respect to "disconnected youth," Notice 2009-28 is being revised to clarify § 51(d)(14)(B)(ii)(IV), the definition of "not readily employable by reason of lacking a sufficient number of basic skills."

Section D of Notice 2009-28 is therefore revised to read as follows:

For purposes of § 51(d)(14)(B)(ii)(IV), an individual is not readily employable by reason of lacking a sufficient number of basic skills if the individual states in writing that he or she does not have a certificate of graduation from a secondary school or a GED Certificate. For purposes of § 51(d)(14)(B)(ii)(IV), an individual also is not readily employable by reason of lacking a sufficient number of basic skills if the individual states in writing that he or she has a certificate of graduation from a secondary school or a GED Certificate that was awarded no less than 6 months preceding his or her hiring date and has not held a job (other than occasionally) or been admitted to a technical school or post-secondary school since receiving the certificate.

This clarifies that an individual who received a high school diploma or GED certificate at least six months prior to the hiring date and who otherwise satisfies the requirements for a disconnected youth will not fail to qualify as a disconnected youth merely because the individual has been employed at times since graduation, as long as that employment was no more than occasional.

## TRANSITION RELIEF

Section 51(d)(13) provides that an individual shall not be treated as a member of a targeted group unless the employer obtains certification from a designated local agency on or before the day the individual begins work that the individual is a member of a targeted group or completes a pre-screening notice (IRS Form 8850) on or before the day the individual is offered employment and submits such notice to the designated local agency to request certification not later than 28 days after the individual begins work. Notice 2009–28 provides that any employer who hires an unemployed veteran or a disconnected youth (as defined in § 51(d)(14)) after December 31, 2008, and before July 17, 2009, will be considered to satisfy the deadline in § 51(d)(13)(A)(ii)(II) if the employer submits the pre-screening notice to the designated local agency to request certification not later than August 17, 2009. This notice extends the transition relief in Notice 2009–28. Specifically, under this notice, any employer who hires an unemployed veteran or disconnected youth (as defined in § 51(d)(14)) after December 31, 2008, and before September 17, 2009, will be considered to satisfy the deadline in § 51(d)(13)(A)(ii)(II) if the employer submits the pre-screening notice to the designated local agency to request certification not later than October 17, 2009.

## EFFECT ON OTHER DOCUMENTS

Notice 2009–28, 2009–24 I.R.B. 1082, is clarified.

## DRAFTING INFORMATION

The principal author of this notice is Robin Ehrenberg of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other individuals participated in its development. For further information regarding this notice, contact Ms. Ehrenberg at (202) 622–6080 (not a toll-free call).

# Special Rules Governing Eligible Combined Plans

## Notice 2009–71

### I. PURPOSE

The Treasury Department and the Internal Revenue Service plan to issue guidance relating to eligible combined plans under § 414(x) of the Internal Revenue Code (Code). Section 414(x) was added by section 903(a) of the Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780 (PPA '06), effective for plan years beginning after December 31, 2009, and amended by section 109(c) of the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110–458, 122 Stat. 5092 (WRERA). An eligible combined plan provides a vehicle through which an employer can maintain both a defined contribution plan and a defined benefit plan on a combined basis, thus reducing the administrative burdens and costs of maintaining separate plans. This notice requests comments on issues presented by § 414(x) of the Code with respect to eligible combined plans.

### II. BACKGROUND

#### *In general*

Qualified retirement plans are subject to various requirements under the Code. Whether a particular requirement applies, or how a particular requirement applies, may depend on whether the plan is a defined contribution plan or a defined benefit plan. These requirements include nondiscrimination with respect to contributions or benefits under § 401(a)(4), vesting under §§ 401(a)(7) and 411, survivor annuity requirements under § 401(a)(11), limits on contributions and benefits under §§ 401(a)(16) and 415, and minimum funding standards under § 412.

Under § 414(i), a “defined contribution plan” is a plan that provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant’s account, and any income, expenses, gains and losses, and any forfeitures allocated to the participant’s account. Under § 414(j), a “defined benefit plan” is any plan that is not a defined contribution plan. Under § 414(k), a

defined benefit plan that provides a benefit derived from employer contributions based partly on the balance of a participant’s separate account is treated as a defined contribution plan for certain purposes and as a defined benefit plan for other purposes.

Certain defined contribution plans may include a qualified cash or deferred arrangement under § 401(k). A qualified cash or deferred arrangement is an arrangement: (1) under which an eligible employee may elect to have the employer make payments as contributions to the plan on behalf of the employee (referred to as “elective contributions”) or to make payments directly to the employee in cash; and (2) which meets certain other requirements. See § 401(k)(2) and § 1.401(k)–1(a)(4)(i) of the Income Tax Regulations. In some cases, a qualified cash or deferred arrangement is structured so that an eligible employee is treated as having elected to have the employer make elective contributions in a specified amount unless the employee elects to receive the amount directly in cash or to have the employer make elective contributions in a different amount (referred to as an “automatic contribution arrangement”).

Section 701 of PPA '06 added new provisions to the Code relating to applicable defined benefit plans. Under § 411(a)(13)(C) of the Code, an “applicable defined benefit plan” is: (1) a defined benefit plan under which the accrued benefit (or any portion thereof) is calculated as the balance of a hypothetical account maintained for the participant or as an accumulated percentage of the participant’s final average compensation; or (2) to the extent provided under regulations, a defined benefit plan (or any portion of such a plan) that has a similar effect.

Section 6058 generally requires an employer maintaining a qualified retirement plan to file an annual return with respect to the plan. Section 6059 generally requires the plan administrator of a defined benefit plan to file an actuarial report with respect to the plan on a periodic basis. Form 5500, *Annual Return/Report of Employee Benefit Plan*, which consists of a primary form and various schedules, includes the information required to be filed under §§ 6058 and 6059, as well as information required to be reported to the Department of Labor and the Pension Benefit Guaranty Corpo-

ration under the Employee Retirement Income Security Act of 1974, as amended, Public Law 93-406 (ERISA). The plan administrator generally satisfies annual reporting requirements with respect to each of the three agencies by filing the Form 5500.

*Code § 414(x)*

Section 414(x) of the Code, added by section 903(a) of PPA '06 and amended by section 109(c) of WRERA, provides special rules for eligible combined plans.<sup>1</sup>

*Definitions*

Under § 414(x)(2)(A) of the Code, an “eligible combined plan” is a plan: (1) that is maintained by an employer that is a small employer at the time the plan is established; (2) that consists of a defined benefit plan and an applicable defined contribution plan; (3) the assets of which are held in a single trust forming part of the plan and are clearly identified and allocated to the defined benefit plan and the applicable defined contribution plan to the extent necessary for the separate application of the Code; and (4) that meets the benefit, contribution, vesting, and nondiscrimination requirements under § 414(x). Section 414(x)(2)(A) also provides that a “small employer” is generally an employer (taking into account the rules of § 414(b), (c), (m), and (o)) that employed an average

of at least 2 but not more than 500 employees on each business day during the preceding calendar year and who employs at least 2 employees on the first day of the plan year. In the case of an employer that was not in existence throughout the preceding calendar year, the determination of whether the employer is a small employer is based on the average number of employees it is reasonably expected the employer will employ on business days in the current calendar year. Section 414(x)(7) defines an “applicable defined contribution plan” as a defined contribution plan that includes a qualified cash or deferred arrangement.

*Application of qualified plan requirements to eligible combined plans*

Section 414(x)(1) provides that, except as otherwise provided in § 414(x), the requirements of the Code are applied to a defined benefit plan or applicable defined contribution plan that is part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan. Further, in the case of the termination of both the defined benefit plan and the applicable defined contribution plan forming an eligible combined plan, the defined benefit plan and the applicable defined contribution plan must be terminated separately by the plan administrator. Under § 414(x)(6)(A), the rules of § 414(k), which determine the requirements applicable to defined benefit pen-

sion plans with separate participant accounts, do not apply to eligible combined plans.

*Minimum benefits and vesting under defined benefit plan*

Under § 414(x)(2)(B), the defined benefit plan that forms part of the eligible combined plan must provide each participant with a minimum employer-provided accrued benefit. The minimum benefit must be an annual retirement benefit that is not less than the applicable percentage of the participant’s final average pay. For this purpose, the applicable percentage is the lesser of: (1) 1 percent multiplied by the participant’s years of service with the employer or (2) 20 percent. Final average pay is determined using the period of consecutive years (not exceeding five) during which the participant had the greatest aggregate compensation from the employer.

A special rule applies in the case of an applicable defined benefit plan that meets certain interest credit requirements under § 411(b)(5)(B)(i). Such a plan is treated as meeting the minimum benefit requirement with respect to any plan year if, for the plan year, each participant receives a minimum pay credit to his or her hypothetical account. The minimum pay credit must be not less than the percentage of compensation applicable to the participant in accordance with the following table:

Participant’s Age as of Beginning of Plan Year	Percentage
30 or less	2
Over 30 but less than 40	4
40 or over but less than 50	6
50 or over	8

For purposes of the minimum benefit rules, years of service are determined under the rules of § 411(a)(4), (5), and (6), except that the plan may not disregard any year of service merely because a participant makes, or fails to make, any elective contributions under the qualified cash or deferred arrangement that is included in the applicable defined contribution plan that forms part of the eligible combined plan.

Under § 414(x)(2)(D), a participant must be fully vested in his or her employer-provided accrued benefit under the defined benefit plan after completion of three years of service.

*Minimum contributions and vesting under applicable defined contribution plan*

Under § 414(x)(2)(C), the applicable defined contribution plan that forms

part of the eligible combined plan must meet certain contribution requirements. In particular, the qualified cash or deferred arrangement included in such plan must constitute an automatic contribution arrangement. In addition, the employer must be required to make matching contributions on behalf of each employee eligible to participate in the qualified cash or deferred arrangement. To satisfy the basic matching contribution requirement

<sup>1</sup> Similarly, section 903(b) of PPA '06 amends ERISA to add new section 210(e), which provides special rules for eligible combined plans.

in § 414(x)(2)(C)(i)(II), matching contributions must be made in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 4 percent of compensation. Alternatively, the plan may provide for a different rate of matching contribution, provided that the rate of matching contribution does not increase as the participant's rate of elective contribution increases, and the aggregate amount of matching contributions at each rate of elective contribution is no less than the aggregate amount of matching contributions that would be provided under the basic matching contribution requirement. In no case may the rate of matching contribution for any elective contribution of a highly compensated employee at any rate of elective contribution be higher than the rate of matching contribution for a nonhighly compensated employee.

The applicable defined contribution plan can also provide for nonelective employer contributions, but nonelective contributions are not taken into account in determining whether the matching contribution requirements are met.

Under § 414(x)(2)(D), all participants must be fully vested in any matching contributions provided under the applicable defined contribution plan, including any matching contributions exceeding required matching contributions. In addition, a participant must be fully vested in any nonelective contributions under the applicable defined contribution plan after completion of three years of service.

#### *Other benefit and contribution requirements*

Under § 414(x)(2)(E), all contributions and benefits under the defined benefit plan and applicable defined contribution plan forming part of the eligible combined plan, and all rights and features under each such plan, must be provided uniformly to all participants. Under § 414(x)(2)(F), the minimum benefit and contribution requirements applicable to the defined benefit plan and applicable defined contribution plan must be met without application of the permitted disparity rules under § 401(l). In addition, the defined benefit plan and applicable defined contribution plan must meet the nondiscrimination requirements under § 401(a)(4) and the minimum cover-

age requirements under § 410(b) without application of the permitted disparity rules and without being combined with any other plan.

#### *Nondiscrimination and top-heavy requirements*

Under § 414(x)(3), a qualified cash or deferred arrangement that is included in the applicable defined contribution plan that forms part of an eligible combined plan and that meets the minimum contribution requirements described above is treated as meeting the actual deferral percentage test under § 401(k) on a safe harbor basis. In addition, in applying the safe harbor contribution percentage test for matching contributions under § 401(m)(11), the minimum contribution requirements described above and the notice requirements described below are substituted for the otherwise applicable minimum contribution and notice requirements.

Under § 414(x)(4), a defined benefit plan and applicable defined contribution plan forming part of an eligible combined plan for any plan year are treated as meeting the top-heavy requirements under § 416.

#### *Automatic contribution and notice requirements*

Under § 414(x)(5), the qualified cash or deferred arrangement that is included in an eligible combined plan is treated as an automatic contribution arrangement if it meets certain notice and election requirements and provides that each employee eligible to participate in the arrangement is treated as having elected to make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contributions made or to have such contributions made at a different rate. Each employee eligible to participate in the qualified cash or deferred arrangement must receive a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf or to have the contributions made at a different rate. Each eligible employee must also have a reasonable period of time after receipt of the notice and before the first elective contribution is made to make an election. In

addition, within a reasonable period before any year, each eligible employee must be given notice of the employee's rights and obligations under the arrangement. The notice must be sufficiently accurate and comprehensive to apprise the employee of the employee's rights and obligations and must be written in a manner calculated to be understood by the average eligible employee.

#### *Reporting requirements*

Section 414(x)(6)(B) provides that an eligible combined plan is treated as a single plan for purposes of §§ 6058 and 6059.

### III. EFFECTIVE DATE

Section 414(x) is effective for plan years beginning after December 31, 2009. It is anticipated that the guidance under consideration in this notice would be prospective.

### IV. COMMENTS REQUESTED

Written comments are requested regarding possible issues to be addressed in guidance under § 414(x).

Written comments should be submitted by October 15, 2009. Send submissions to CC:PA:LPD:PR, (Notice 2009-71), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, D.C. 20044. Comments may also be hand delivered Monday through Friday between the hours of 8 a.m. and 4:00 p.m. to: CC:PA:LPD:PR, (Notice 2009-71), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington DC. Alternatively, comments may be submitted via the Internet at [notice.comments@irscounsel.treas.gov](mailto:notice.comments@irscounsel.treas.gov) (Notice 2009-71). All comments will be available for public inspection.

### DRAFTING INFORMATION

The principal author of this notice is Natalie Payne, formerly of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this notice, contact Qualified Plans Branch 1 of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) at (202) 622-6090 (not a toll-free number).

**NOTE:**

Following is a list of related instructions and forms for filing Form 1042-S Electronically:

- Current paper Instructions for Form 1042-S
- Form 4419 — Application for Filing Information Returns Electronically (FIRE)
- Form 8508 — Request for Waiver From Filing Information Returns Electronically
- Form 8809 — Application for Extension of Time To File Information Returns
- Publication 515 — Withholding of Tax on Nonresident Aliens and Foreign Entities (for general information and explanation of tax law associated with Form 1042-S)
- Publication 901 — U.S. Tax Treaties

The Internal Revenue Service (IRS), Enterprise Computing Center at Martinsburg (ECC-MTB) encourages filers to make copies of the blank forms in the back of this publication for future use. These forms can also be obtained by calling 1-800-TAX-FORM (1-800-829-3676). You can also download forms and publications from the IRS Web Site at [www.irs.gov](http://www.irs.gov).

**IMPORTANT NOTES:**

**Electronic filing will be the ONLY acceptable method for filing Form 1042-S at IRS/ECC-MTB. IRS/ECC-MTB offers an Internet connection at <http://fire.irs.gov> for electronic filing. The Filing Information Returns Electronically (FIRE) System will be down the week of December 22, 2009 through January 4, 2010 for upgrading. It is not operational during this time for submissions. In addition, the FIRE System may be down every Wednesday 3:00 a.m. to 5:00 a.m. EST for maintenance.**

**The Form 4419 is subject to review before the approval to transmit electronically is granted and may require additional documentation at the request of the IRS. If a determination is made concerning the validity of the documents transmitted electronically, IRS has the authority to revoke the Transmitter Control Code (TCC) and terminate the release of the files.**

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Use this Revenue Procedure to prepare Tax Year 2009 and prior year information returns for submission to Internal Revenue Service (IRS) electronically.

**This Revenue Procedure is not revised every year. Updates will be printed as needed in the Internal Revenue Bulletin. General Instructions for Form 1042-S are revised every year. Be sure to consult current instructions when preparing Form 1042-S.**

## Part A. General

Revenue Procedures are generally revised annually to reflect legislative and form changes. Comments concerning this Revenue Procedure, or suggestions for making it more helpful, can be addressed to:

Internal Revenue Service  
Enterprise Computing Center — Martinsburg  
Attn: Information Reporting Program  
230 Murall Drive  
Kearneysville, WV 25430

### Sec. 1. Purpose

**.01** The purpose of this Revenue Procedure is to provide the specifications for filing Form 1042-S with IRS/ECC-MTB electronically through the FIRE (Filing Information Returns Electronically) System. This Revenue Procedure must be used to prepare current and prior year information returns **filed beginning January 1, 2010, and received by IRS/ECC-MTB by December 31, 2010.**

**.02** Generally, the box names on the paper Form 1042-S correspond with the fields used to file electronically; however, if discrepancies occur, the instructions in this Revenue Procedure govern.

**.03** This Revenue Procedure supersedes Rev. Proc. 2008-44 published as Publication 1187, Specifications for Filing Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Electronically.

**.04** Refer to Part A, Sec.13, for definitions of terms used in this publication.

**.05** Specifications for filing Forms W-2, Wage and Tax Statements, electronically are available from the Social Security Administration (SSA) **only**. Filers can call 1-800-SSA-6270 to obtain the telephone number of the SSA Employer Service Liaison Officer for their area.

**.06** IRS/ECC-MTB does **not** process Forms W-2. Forms W-2 must be sent to SSA. IRS/ECC-MTB does, however, process waiver requests (Form 8508) and extension of time to file requests (Form 8809) for Forms W-2 and requests for an extension of time to provide the employee copies of Forms W-2.

**.07** Every withholding agent (defined in Section 13) must file an information return on Form 1042-S to report amounts paid during the preceding calendar year that is U.S. sourced income. See Publication 515 for additional guidance on what is considered U.S. sourced income. You must file a Form 1042-S even if you did not withhold tax because the income was exempt from tax under a U.S. tax treaty or the Code, including the exemption for income that is effectively connected with the conduct of a trade or business in the United States, or you released the tax withheld to the recipient. Amounts paid to bona fide residents of U.S. possessions and territories are not subject to reporting on Form 1042-S if the beneficial owner of the income is a U.S. citizen, national, or resident alien.

**Caution:** If you are required to file Form 1042-S, you must also file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons. See Form 1042 for more information.

**.08** The following Revenue Procedures and publications provide more detailed filing procedures for certain information returns:

- (a) Paper Instructions for Form 1042-S.
- (b) Publication 1179, General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 3921, 3922, 5498, 8935, W-2G and 1042-S.
- (c) Publication 1239, Specifications for Filing Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, Electronically.
- (d) Publication 1220, Specifications for Filing Forms 1098, 1099, 3921, 3922, 5498, 8935 and W-2G, Electronically.
- (e) Publication 3609, Filing Information Returns Electronically (FIRE).
- (f) Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

### Sec. 2. Nature of Changes—Current Year (Tax Year 2009)

Editorial changes have been made throughout this publication. Please read the entire publication carefully.

**.01** The following telephone number changes:

Toll-free fax number 877-477-0572

International fax number 304-579-4105

TDD Number 304-579-4827 (Telecommunications Device for the Deaf)

**.02** The formula for determining U.S. Federal Tax Withheld located in Part A, Section 8 .09 was modified.

**.03** Your file size cannot exceed 899,999 records.

**.04** Amended transactions must reflect an Amended Code Indicator in position 810 of the W and Q Records. See Part A, Section 9 for details.

### Sec. 3. Where To File and How to Contact the IRS, Enterprise Computing Center at Martinsburg

.01 All information returns filed electronically are processed at IRS/ECC-MTB. General inquiries concerning the filing of 1042-S Forms should be sent to the following address:

IRS–Enterprise Computing Center — Martinsburg  
Attn: 1042-S Reporting  
230 Murall Drive  
Kearneysville, WV 25430

.02 All requests for an extension of time to file information returns with IRS/ECC-MTB or to the recipients, and requests for undue hardship waivers filed on Form 8508, are sent to the following address:

IRS–Enterprise Computing Center — Martinsburg  
Information Reporting Program  
**Attn: Extension of Time Coordinator**  
240 Murall Drive  
Kearneysville, WV 25430

.03 The telephone numbers for electronic filing inquiries are:

#### Information Reporting Program Customer Service Section

**TOLL-FREE 1-866-455-7438 or**  
**Outside the U.S. 304-263-8700**  
**email at [mccirp@irs.gov](mailto:mccirp@irs.gov)**

**304-579-4827 — TDD**  
*(Telecommunication Device for the Deaf)*

**Fax Machine**  
**Toll-free within the U.S. — 877-477-0572**  
**Outside the U.S. — 304-579-4105**

**Electronic Filing — FIRE System**  
**<http://fire.irs.gov>**

**TO OBTAIN FORMS:**  
**1-800-TAX-FORM (1-800-829-3676)**

**[www.irs.gov](http://www.irs.gov) — IRS Web Site access to forms and publications.**

.04 Current paper Instructions for Form 1042-S have been included in the Publication 1187 for your convenience. The Form 1042-T is used only to transmit Copy A of **paper** Forms 1042-S. If filing paper returns, follow the mailing instructions on Form 1042-T and submit the paper returns to the Ogden Service Center, P.O. Box 409101, Ogden, UT 84409.

.05 Requests for paper Form 1042-S should be made by calling the IRS toll-free number **1-800-TAX-FORM (1-800-829-3676)** or via the IRS Web Site at [www.irs.gov](http://www.irs.gov).

.06 Questions pertaining to electronic filing of Forms W-2 **must** be directed to the Social Security Administration (SSA). Filers can call 1-800-772-6270 to obtain the telephone number of the SSA Employer Service Liaison Officer for their area.

.07 Filers **should not** contact IRS/ECC-MTB if they have received a penalty notice and need additional information or are requesting an abatement of the penalty. A penalty notice contains an IRS representative's name and/or telephone number for contact purposes; or, the filer may be instructed to respond in writing to the address provided. IRS/ECC-MTB does **not** issue penalty notices and does **not** have the authority to abate penalties. For penalty information, refer to the Penalty section of this publication or current paper Instructions for Form 1042-S.

.08 A taxpayer or authorized representative may request a copy of a tax return, including Form W-2 filed with a return, by submitting Form 4506, Request for Copy of Tax Return, to IRS. This form may be obtained by calling **1-800-TAX-FORM (1-800-829-3676)**. For any questions regarding this form, call 215-516-2000 and select option 1. This is not a toll-free number.

.09 Electronic Products and Support Services, Information Reporting Branch, Customer Service Section (IRB/CSS), answers electronic, paper filing, and tax law questions from the payer community relating to the correct preparation and filing of business information returns (Forms 1096, 1098, 1099, 5498, 8027, and W-2G). **IRB/CSS also answers questions relating to the electronic filing of Forms 1042-S. Call toll-free 1-866-455-7438 for specific information on 1042-S filing.**

**Note: The Customer Service Section does not answer tax law questions concerning the requirements for withholding of tax on payments of U.S. source income to foreign persons under Chapter 3 of the IR Code. If you need such assistance, you may call 215-516-2000 and select option 1 (not a toll-free number) or write to: Philadelphia Internal Revenue Service, International Section, P.O. Box 920, Bensalem, PA 19020-8518.**

Inquiries dealing with backup withholding and reasonable cause requirements due to missing and incorrect taxpayer identification numbers are also addressed by IRB/CSS. Assistance is available year-round to payers, transmitters, and employers nationwide, Monday through Friday, 8:30 a.m. to 4:30 p.m. Eastern Standard Time, by calling toll-free **1-866-455-7438** or via e-mail at [mccirp@irs.gov](mailto:mccirp@irs.gov). Do not include SSNs or EINs on e-mails since this is not a secure line. The Telecommunications Device for the Deaf (TDD) toll number is **304-579-4827**. Call as soon as questions arise to avoid the busy filing seasons. Recipients of information returns (payees) should continue to contact 1-800-829-1040 with any questions on how to report the information returns data on their tax returns.

## **Sec. 4. Filing and Retention Requirements**

.01 The regulations under section 6011(e)(2)(A) of the Internal Revenue Code provide that any person, including a corporation, partnership, individual, estate, and trust, who is required to file 250 or more information returns must file such returns electronically. Withholding agents who meet the threshold of 250 or more Forms 1042-S are required to submit their information electronically.

**Note: Even though filers with less than 250 information returns are not required to submit the information returns electronically and may submit them on paper, IRS/ECC-MTB encourages filers to transmit those information returns electronically.**

.02 These requirements apply separately to both originals and amended records filed electronically.

.03 All filing requirements that follow apply individually to each reporting entity as defined by its separate Taxpayer Identification Number (TIN), [Social Security Number (SSN), Employer Identification Number (EIN), Individual Taxpayer Identification Number (ITIN), or Qualified Intermediary Employer Identification Number (QI-EIN), Withholding Foreign Partnership Employer Identification Number (WP-EIN), Withholding Foreign Trust Employer Identification Number (WT-EIN)]. For example, if a corporation with several branches or locations uses the same EIN, the corporation must aggregate the total volume of returns to be filed for that EIN and apply the filing requirements to each type of return accordingly.

.04 The above requirements do not apply if the filer establishes hardship (see Part D, Sec. 5).

.05 Current and prior year data must be submitted in separate electronic transmissions. Each tax year must be a separate electronic file.

.06 Filers who have prepared their information returns in advance of the due date should submit this information to IRS/ECC-MTB no earlier than January 1 of the year the return is due.

.07 Do not report duplicate information. If a filer submits returns electronically, identical paper documents must not be filed. Duplicate filing will result in penalty notices being sent to recipients.

.08 Withholding agents should retain a copy of the information returns filed with IRS/ECC-MTB or have the ability to reconstruct the data for at least 3 years from the due date of the returns.

## **Sec. 5. Vendor List—Publication 1582**

.01 IRS/ECC-MTB prepares a list of vendors who support electronic filing. Publication 1582, Information Returns Vendor List, contains the names of service bureaus that will produce or submit files for electronic filing. It also contains the names of vendors who provide software packages for payers who wish to produce electronic files on their own computer systems. This list is compiled as a courtesy and in no way implies IRS/ECC-MTB approval or endorsement.

.02 If filers engage a service bureau to prepare files on their behalf, the filers must not also report this data, as it will create a duplicate filing situation which may cause penalty notices to be generated.

.03 The Vendor List, Publication 1582, is updated periodically. The most recent revision is available on the IRS website at [www.irs.gov](http://www.irs.gov). For an additional list of software providers, log on to [www.irs.gov](http://www.irs.gov) and go to the *Approved IRS e-file for Business Providers* link.

.04 A vendor, who offers a software package, or has the capability to electronically file information returns for customers, and who would like to be included in Publication 1582 must submit a letter or e-mail to IRS/ECC-MTB. The request should include:

- (a) Company name
- (b) Address (include city, state, and ZIP code)
- (c) Telephone and FAX number (include area code)
- (d) E-mail address
- (e) Contact person
- (f) Website
- (g) Type(s) of service provided (e.g., service bureau and/or software)
- (h) Method of filing (only electronic filing is acceptable)
- (i) Type(s) of return(s)

## Sec. 6. Form 4419, Application for Filing Information Returns Electronically (FIRE)

**.01** Transmitters are required to submit Form 4419, Application for Filing Information Returns Electronically (FIRE), to request authorization to file information returns with IRS/ECC-MTB. A single Form 4419 may be filed. IRS/ECC-MTB encourages transmitters who file for multiple withholding agents or qualified intermediaries to submit one application and to use the assigned Transmitter Control Code (TCC) for all. The Form 4419 is subject to review before the approval to transmit electronically is granted and may require additional documentation at the request of the IRS. If a determination is made concerning the validity of the documents transmitted electronically, IRS has the authority to revoke the Transmitter Control Code (TCC) and terminate the release of files.

**Note: EXCEPTIONS — An additional Form 4419 is required for filing Forms 1098, 1099, 3921, 3922, 5498, and W-2G and Form 8027, Employer’s Annual Information Return of Tip Income and Allocated Tips. See back of Form 4419 for detailed instructions.**

**.02** Electronically filed returns may not be submitted to IRS/ECC-MTB until the application has been approved. Please read the instructions on the back of Form 4419 carefully. A Form 4419 is included in the Publication 1187 for the filer’s use. This form may be photocopied. Additional forms may be obtained by calling **1-800-TAX-FORM (1-800-829-3676)**. The form is also available at [www.irs.gov](http://www.irs.gov).

**.03** Upon approval, a five-character alpha/numeric Transmitter Control Code (TCC) beginning with the digits “22” will be assigned and included in an approval letter. The TCC **must** be coded in the Transmitter “T” Record. If a transmitter uses more than one TCC to file, each TCC must be reported on a separate electronic transmission. Please make sure you submit your electronic files using the correct TCC.

**.04** If **any** of the information (name, TIN or address) on the Form 4419 changes, please notify IRS/ECC-MTB in writing so the IRS/ECC-MTB database can be updated. The transmitter should include the TCC in all correspondence.

**.05** Form 4419 may be submitted anytime during the year; however, it **must** be submitted to IRS/ECC-MTB at least 30 days before the due date of the return(s) for current year processing. This will allow IRS/ECC-MTB the minimum amount of time necessary to process and respond to applications. Form 4419 may be faxed to IRS/ECC-MTB toll-free within the U.S. at 877-477-0572; *from outside the U.S. at 304-579-4105 (not toll-free.)* In the event that computer equipment or software is not compatible with IRS/ECC-MTB, a waiver may be requested to file returns on paper documents.

**.06** IRS/ECC-MTB encourages a transmitter who files for multiple withholding agents to submit one application and to use the assigned TCC for all withholding agents.

**.07** If a withholding agent’s files are prepared by a service bureau, it may not be necessary for the withholding agent to submit an application to obtain a TCC. Some service bureaus will produce files, code their own TCC on the file, and send it to IRS/ECC-MTB for the withholding agent. Other service bureaus will prepare electronic files for the withholding agent to submit directly to IRS/ECC-MTB. These service bureaus may require the withholding agent to obtain a TCC to be coded in the Transmitter “T” Record. Withholding agents should contact their service bureaus for further information.

**.08** Once a transmitter is approved to file electronically, it is not necessary to reapply each year **unless**:

- (a) The withholding agent has discontinued filing electronically for two consecutive years; the withholding agent’s TCC may have been reassigned by IRS/ECC-MTB. Withholding agents who are aware that the TCC assigned will no longer be used are requested to notify IRS/ECC-MTB so these numbers may be reassigned; **or**
- (b) The withholding agent’s electronic files were transmitted in the past by a service bureau using the service bureau’s TCC, but now the withholding agent has computer equipment compatible with that of IRS/ECC-MTB and wishes to prepare his or her own files. The withholding agent must request a TCC by filing Form 4419.

**.09** One Form 4419 may be submitted per TIN. Multiple TCCs will only be issued to withholding agents with multiple TINs. Only one TCC will be issued per TIN unless the filer has checked the application for the following forms in addition to the Form 1042-S: Forms 1098, 1099, 3921, 3922, 5498, W-2G, and/or 8027. A separate TCC will be assigned for these forms.

**.10** Approval to file does not imply endorsement by IRS/ECC-MTB of any computer software or of the quality of tax preparation services provided by a service bureau or software vendor.

## Sec.7. Due Dates

.01 The due dates for filing paper returns with IRS also applies to electronic filing of Form 1042-S which is on a calendar year basis.

.02 Form 1042-S filed electronically must be submitted to IRS/ECC-MTB on or before March 15.

.03 If any due date falls on a Saturday, Sunday or legal holiday, the return or statement is considered timely if filed or furnished on the next day that is not a Saturday, Sunday, or legal holiday.

.04 Statements to recipients must be postmarked on or before March 15.

## Sec. 8. Validation of Information Returns at IRS Service Center

.01 The accuracy of data reported on Form 1042-S will now be reviewed and validated at the IRS Service Center. All fields indicated as “**Required**” in the record layouts in Part C *must* contain **valid information**. If the Service identifies an error, you will be notified and required to provide correct information.

.02 **Know your recipient!** See Notice 2006–35, 2006–1 C.B. 708 for know-your-customer rules.

.03 The tax rate entered must be a valid tax rate based on the Internal Revenue Code or on a valid treaty article. The valid treaty rate is based on the recipient’s country of residence for tax purposes. The rate selected must be justified by the appropriate treaty. A valid Tax Rate Table can be found in the Instructions for Forms 1042-S.

.04 The Gross Income amount field must reflect pretax income. The Gross Income amount is the total income paid before any deduction of tax at source.

.05 If a qualified intermediary, withholding foreign partnership, or withholding foreign trust is acting as such, either as a withholding agent or as a recipient, the TIN reported must be a QI-EIN, WP-EIN, or WT-EIN and must begin with “98”. See definition of QI in Part A, Section 13 or in the paper Instructions for Form 1042-S.

.06 Country Codes used must be valid codes taken from the Country Code Table. Generally, the use of “OC” or “UC” will generate an error condition. If a recipient is claiming treaty benefits, the Country Code can never be “OC” or “UC”.

.07 If a recipient is an “UNKNOWN RECIPIENT” or “WITHHOLDING RATE POOL”, no address should be present. These are the only two situations where a street address is not required.

.08 A U.S. TIN for a recipient is now generally required, particularly for most treaty benefits. The exceptions are very limited and are listed in Publication 515 and the current paper Instructions for Form 1042-S.

.09 Apply the following formula to determine *U.S. Federal Tax Withheld* (field positions 359–370 of the “Q” Record). Applying the formulas will determine what the correct amount of withholding should be. If you withheld differently you must enter the amount you actually withheld. The U.S. Federal Tax Withheld amount must be added to Withholding by Other Agents (field positions 371–382) and the total of the two fields will be reflected in the Total Withholding Credit (field positions 383–394). Also you must ensure the appropriate indicator is reflected in position 761 (U.S. Federal Tax Withheld Indicator). All field positions described below are in the “Q” Record.

### Income Codes (15–19)

Gross Income Paid (6–17)

– Withholding Allowance (18–29)

= Net Income Amount (30–41)

X Tax Rate (42–45)

= *U.S. Federal Tax Withheld* (359–370)

### All other Income Codes

Gross Income Paid (6–17)

X Tax Rate (42–45)

= *U.S. Federal Tax Withheld* (359–370)

.10 The following is how to correctly report an Unknown Recipient. All entries are in the Recipient “Q” Record.

(a) Tax Rate (positions 42–45) must be 3000.

(b) Exemption Code (positions 46–47) is 00.

(c) Recipient Code (positions 92–93) is 20.

(d) Recipient’s Name Line–1 (positions 94–133) must have “UNKNOWN” or “UNKNOWN RECIPIENT”

(e) Recipient’s Name Line–2 (positions 134–173) must be blank.

(f) Recipient’s address (positions 214–337) must be blank.

(g) Recipient’s Country Code (positions 338–339) is UC.

.11 When making a payment to an international organization (e.g., United Nations) or a tax-exempt organization under IRC 501(a), use Country Code “OC”. Use “UC” only when you have an “Unknown Recipient”.

.12 When using Exemption Code 4, the Recipient Country of Residence Code for Tax Purposes **MUST** be a **VALID** treaty country (e.g. if tax resident of Northern Ireland use United Kingdom). Do not use Exemption Code 4 unless a reduction or exemption of tax is based on a treaty claim.

.13 Generally, payments under Income Codes 06 and 08 are not exempt from withholding, however, certain exceptions apply. See the current paper Instructions for Form 1042-S.

.14 If income is from gambling winnings (Income Code 28) or is not specified (Income Code 50), the tax rate must generally be 30%. This type of income is only exempt from withholding at source if the exemption is based on a tax treaty. These treaties are listed in Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

.15 If Income Code 20 (Earnings as Artist or Athlete) is used, the Recipient Code must be 09. Do not use Recipient Code 01 (Individual), 02 (Corporation), or 03 (Partnership). Generally, the tax rate cannot be reduced even if a treaty may apply.

.16 When paying scholarship and fellowship grants (Income Code 15), the Recipient's Country of Residence for Tax Purposes must be identified and cannot be "OC" or "UC". Grants that are exempt under Code Section 117 are no longer required to be reported on Form 1042-S.

**Note: Grants that are exempt under Code 117 include only amounts provided for tuition, fees, books, and supplies to a qualified student. Amounts provided for room and board can only be exempted under a tax treaty and must be reported on Form 1042-S whether exempt from tax or not.**

.17 If a student is receiving compensation (Income Code 19) or a teacher or a researcher is receiving compensation (Income Code 18), all or part of which is exempted from tax under a tax treaty, the Country of Residence for Tax Purposes must be identified and cannot be "OC" or "UC".

## Sec. 9. Amended Returns

.01 If you filed a Form 1042-S with the IRS and later discovered an error on the filing, you must send an amended 1042-S as soon as possible.

**Note: If any information you correct on Form(s) 1042-S changes the information previously reported on Form 1042, you must also correct the Form 1042 by filing an amended return.**

.02 The electronic filing requirement of information returns of 250 or more applies separately to both original and amended returns.

<b>E</b>	If a withholding agent has 100 Forms 1042-S to be amended, they can be filed on paper because they fall
<b>X</b>	under the 250 threshold. However, if the withholding agent has 300 Forms 1042-S to be amended, they must
<b>A</b>	be filed electronically because they exceed the 250 threshold. If for some reason a withholding agent cannot
<b>M</b>	file the 300 amended returns electronically, to avoid penalties, a request for a waiver must be submitted
<b>P</b>	before filing on paper. If a waiver is approved for original documents, any amended returns for the same
<b>L</b>	type of return will be covered under this waiver.
<b>E</b>	

.03 Amended returns should be filed **as soon as possible**. Amended returns filed after August 1 may be subject to the maximum penalty of \$50 per return. Amended returns filed by August 1 may be subject to a lesser penalty. For information on penalties, refer to the Penalty section of the current paper Instructions for Form 1042-S. However, if a withholding agent discovers errors after August 1, the withholding agent is still required to file amended returns or be subject to a penalty for intentional disregard of the filing requirements. If a record is incorrect, all fields on that record must be completed with the correct information. Submit amended returns only for the returns filed in error. Do not submit the entire file. Furnish amended statements to recipients as soon as possible.

**Note: Do not include original returns and amended returns on the same electronic file.**

.04 If filers discover that certain information returns were omitted on their original file, they must **not** code these documents as amended returns. The file must be coded and submitted as an original file.

.05 Prior year data, original and amended, **must** be filed according to the requirements of this Revenue Procedure. If submitting prior year amended returns, use the record format for the current year and submit in separate transmission. However, use the actual year designation of the amended return in Field Positions 2–5 of the "T" Record. A separate electronic transmission must be made for each tax year.

.06 In general, filers should submit amended returns for returns filed within the last 3 calendar years.

.07 All paper returns, whether original or amended, must be filed with IRS, Ogden Service Center, P.O. Box 409101, Ogden, UT 84409.

.08 The "Q" Record provides a 20-position field (positions 72–91) for the recipient's account number assigned by the withholding agent. This number will help identify the appropriate incorrect return if more than one return is filed for a particular payee. This number should appear on the initial return and on the amended return in order to identify and process the amended return properly. **Do not enter a TIN in this field.**

.09 The record sequence for filing amended returns is the same as for original returns.

.10 Following is a chart showing the steps to be taken for amending Form 1042-S:

---

**Guidelines for Filing Amended Returns Electronically**

---

**One transaction is required to make the following corrections properly.**

---

Error Made on the Original Return

How To File the Amended Return

---

**ERROR TYPE 1**

**CORRECTION**

**1.** Original return was filed with one or more of the following errors:

**A.** Prepare a new file. The first record on the file will be the Transmitter “T” Record.

(a) Incorrect money amount

**B.** Make a separate “W” Record for each withholding agent being reported with a Return Type Indicator of “1” (1 = Amended) in field position 2. *Enter a “G” (Amended Return Indicator) in position 810.*

(b) Incorrect codes and/or check boxes

(c) Incorrect address

**C.** The Recipient “Q” Records must show the correct record information with a Return Type Indicator of “1” for amended in field position 2. **(See Note 1.)** *Enter a “G” (Amended Return Indicator) in position 810.*

(d) Form 1042-S submitted in error — should not have been submitted

**D.** Prepare a separate Reconciliation “C” Record for each withholding agent (“W” Record) being reported summarizing the preceding amended “Q” Records.

**Note 1:** If the 1042-S was submitted in error then all fields must be exactly the same as the original record **except** that all money amounts will be zero.

**E.** The last record on the file will be the End of Transmission “F” Record.

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**File layout one step corrections**

Transmitter “T” Record	Amended coded Withholding Agent “W” Record	Amended coded Recipient “Q” Record	Amended coded Recipient “Q” Record	Reconciliation “C” Record	End of Transmission “F” Record
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**Guidelines for Filing Amended Returns Electronically**

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**Two (2) separate transactions (files) are required to make the following corrections properly. Follow the directions for both Transactions 1 and 2. DO NOT use the two step correction process to correct money amounts.**

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Error Made on the Original Return

How To File the Amended Return

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**ERROR TYPE 2**

**CORRECTION**

1. Original "Q" Records were filed with one or more of the following errors:
- (a) No Recipient TIN (SSN, EIN, ITIN, QI-EIN)
  - (b) Incorrect Recipient TIN
  - (c) Incorrect Recipient name
  - (d) Incorrect Recipient name and address

**Transaction 1:** Identify incorrect returns.

- A. Prepare a new file. The first record on the file will be the Transmitter "T" Record.
- B. Make a separate "W" Record for each withholding agent being reported. The information in the "W" Record will be **exactly** the same as it was in the original submission except for the Return Type Indicator of "1" (1 = Amended) in field position 2 *and the Amended Return Indicator in position 810 must be a "G". (See Note 2.)*
- C. The Recipient "Q" Records must contain **exactly the same** information as submitted previously, **except**, insert the Amended Return Indicator Code of "1" in Field Position 2 of the "Q" Records, and enter "0" (zeros) in all payment amounts. *You must enter the Return Type Indicator of 1 in position 2 and the Amended Return Indicator of "G" in position 810 of all "Q" records. (See Note 2.)*
- D. Prepare a separate Reconciliation "C" Record for each withholding agent being reported summarizing the preceding "Q" records.
- E. Continue with Transaction 2 to complete the correction.

**Note 2: The Record Sequence Number will be different since this is a counter number and is unique to each file.**

**\*See Note 3.**

**Transaction 2:** Report the correct information.

- A. Make a separate "W" Record for each withholding agent being reported. The Return Type Indicator must be "1" in position 2. The Amended Indicator of "C" must be entered in position 810.
  - B. The Recipient "Q" Records must show the correct information. The Return Type Indicator in position 2 must be "1" and the Amended Return Indicator must be "C".
  - D. Prepare a separate Reconciliation "C" Record for each withholding agent being reported summarizing the preceding Q records.
  - E. The last record on the file will be the End of Transmission "F" Record.
- 

*Note 3: Step 1 and Step 2 can be included in the same electronic file.  
If you submit separate files for Step 1 and Step 2 each file must have a complete set of "T, W, Q,, C and F" records.*

File layouts **two** step corrections

Transmitter "T" Record	Amended coded Withholding Agent "W" Record	Amended coded Recipient "Q" Record	Amended coded Recipient "Q" Record	Amended coded Recipient "Q" Record	Reconciliation "C" Record
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Withholding Agent "W" Record	Recipient "Q" Record	Recipient "Q" Record	Recipient "Q" Record	Reconciliation "C" Record	End of Transmission "F" Record
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**.11** When correcting the Withholding Agent "W" Record follow the two step correction process. When the "W" Record is being corrected, then **every** Recipient "Q" Record reported under that incorrect "W" record must be amended by zero filling all the amount fields as described in the Transaction 1 step.

**.12** For information on when an amended Form 1042 is required, refer to the current Form 1042 Instructions.

## Sec. 10. Taxpayer Identification Number (TIN)

**.01** Section 6109 of the Internal Revenue Code establishes the general requirements under which a person is required to furnish a U. S. TIN to the person obligated to file the information return.

**.02** The Withholding Agent must provide its EIN, QI-EIN, WP-EIN or WT-EIN as appropriate, in the "W" Record and "T" Record, if the Withholding Agent is also the transmitter.

**.03** A recipient U. S. TIN (SSN, ITIN, EIN, QI-EIN, WP-EIN, WT-EIN) must be provided on every "Q" Record when:

- (a) Tax rate is less than 30% (See the current paper Instructions for Form 1042-S for exceptions)
- (b) Income is effectively connected with the conduct of a trade or business in the United States
- (c) Recipient claims tax treaty benefits (generally)
- (d) Recipient is a Qualified Intermediary
- (e) An NRA individual is claiming exemption from withholding on independent personal services
- (f) Other situations may apply, see Publication 515

**.04** In the event the recipient does not have a U.S. TIN, the withholding agent should advise the recipient to take the necessary steps to apply for one.

**.05** The recipient's U.S. TIN and name combination are used to associate information returns reported to IRS/ECC-MTB with corresponding information on recipients' tax returns. It is imperative that **correct** U.S. Taxpayer Identification Numbers (TINs) for recipients be provided to IRS/ECC-MTB. **Do not enter hyphens or alpha characters.** Entering all zeros, ones, twos, etc., will have the effect of an incorrect TIN.

**.06** The withholding agent and recipient names with associated TINs should be consistent with the names and TINs used on other tax returns.

**Note: A withholding agent must have a valid EIN, QI-EIN, WP-EIN, and/or WT-EIN. It is no longer valid for a withholding agent to use SSNs and ITINs.**

## Sec. 11. Effect on Paper Returns and Statements to Recipients

**.01** Electronic reporting of Form 1042-S eliminates the need to submit paper documents to the IRS. **CAUTION: Do not send Copy A of the paper forms to IRS for any forms filed electronically.** This will result in duplicate filing.

**.02** Withholding agents are responsible for providing statements to the recipients as outlined in the current paper Instructions for Form 1042-S. Refer to those instructions for filing Form 1042-S on paper with the IRS and furnishing statements to recipients.

**.03** Statements to recipients should be clear and legible. If the official IRS form is not used, the filer must adhere to the specifications and guidelines in Publication 1179, General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 3921, 3922, 5498, 8935, W-2G and 1042-S.

**.04** The address for filing paper Forms 1042-S and Form 1042 is: Ogden Service Center, P.O. Box 409101, Ogden, UT 84409. Do **NOT** send paper Forms 1042-S or 1042 to IRS/ECC-MTB.

## Sec. 12. Penalties Associated With Information Returns

.01 The following penalties generally apply to the person required to file information returns. The penalties apply to electronic filers as well as to paper filers.

.02 **Failure To File Correct Information Returns by the Due Date (Section 6721).** If you fail to file a correct information return by the due date and you cannot show reasonable cause, you may be subject to a penalty. The penalty applies if, you fail to file timely, if you fail to include all information required to be shown on a return, or if you include incorrect information on a return. The penalty also applies if you file on paper when you were required to file electronically, you report an incorrect TIN or fail to report a TIN, or you fail to file paper forms that are machine readable.

The amount of the penalty is based on when you file the correct information return. The penalty is:

- **\$15** per information return if you correctly file within 30 days of the due date of the return (See Part A, Sec. 7 .02); maximum penalty \$75,000 per year (\$25,000 for small businesses).
- **\$30** per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$150,000 per year (\$50,000 for small businesses).
- **\$50** per information return if you file after August 1 or you do not file required information returns; maximum penalty \$250,000 per year (\$100,000 for small businesses).

.03 A late filing penalty may be assessed for a replacement file which is not transmitted by the required date. See Part B, Sec. 4 .05, for more information on replacement files.

.04 **Intentional disregard of filing requirements.** If failure to file a correct information return is due to intentional disregard of the filing or correct information requirements, the penalty is at least \$100 per information return with no maximum penalty.

.05 **Failure To Furnish Correct Payee Statements (Section 6722).** For information regarding penalties which may apply to failure to furnish correct payee statements, see Instructions for Form 1042-S.

## Sec. 13. Definition of Terms

Element	Description
Amended Return	An amended return is an information return submitted by the transmitter to amend an information return that was previously submitted to and processed by IRS/ECC-MTB, but contained erroneous information.
Beneficial Owner	The beneficial owner of income is, generally, the person who is required under U.S. tax principles to include the income in gross income on a tax return. For additional information and special conditions see Definitions in the current paper Instructions for Form 1042-S.
Employer Identification Number (EIN)	A nine-digit number assigned by IRS for Federal tax reporting purposes.
Electronic Filing	Submission of information returns electronically via the Internet. See Part B of this publication for specific information on electronic filing.
File	For purposes of this Revenue Procedure, a file consists of one Transmitter "T" Record at the beginning of the file, a Withholding Agent "W" Record, followed by the Recipient "Q" Record (s), a Reconciliation "C" Record summarizing the number of preceding "Q" Records and total of preceding money fields. Follow with any additional "W", "Q", and "C" Record sequences as needed. The last record on the file will be the End of Transmission "F" Record. Nothing should be reported after the End of Transmission "F" Record.
Filer	Person (may be withholding agent and/or transmitter) submitting information returns to IRS.
Filing Year	The calendar year in which the information returns are being submitted to IRS.
Flow-Through Entity	A flow-through entity is a foreign partnership (other than a withholding foreign partnership) or a foreign simple or grantor trust (other than a withholding foreign trust). For any payments for which a reduced rate of withholding under an income tax treaty is claimed, any entity is considered to be a flow-through entity if it is considered to be fiscally transparent under IRC Section 894 with respect to the payment by an interest holder's jurisdiction.

<b>Element</b>	<b>Description</b>
Foreign Person	A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person who is not a U.S. person. The term also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization, if the foreign branch is a Qualified Intermediary. Generally, a payment to a U.S. branch of a foreign institution is a payment to a foreign person.
Gross Income	Gross income includes income from all sources, except certain items expressly excluded by statute. Gross income is the starting point for computing adjusted gross income and taxable income.
Individual Taxpayer Identification Number (ITIN)	A nine-digit number issued by IRS to individuals who are required to have a U.S. taxpayer identification number for tax purposes but are not eligible to obtain a Social Security Number (SSN). ITIN may be used for tax purposes only.
Information Return	The vehicle for withholding agents to submit required tax information about a recipient to IRS. For this Revenue Procedure, it is information about a foreign person's U.S. source income subject to withholding, and the information return is Form 1042-S.
Intermediary	An intermediary is a person who acts as a custodian, broker, nominee, or otherwise as an agent for another person, regardless of whether that other person is the beneficial owner of the amount paid, a flow-through entity, or another intermediary.
Nonqualified Intermediary (NQI)	A Nonqualified Intermediary is a foreign intermediary who is not a U.S. person and that is not a Qualified Intermediary.
Payer	A payer is the person for whom the withholding agent acts as a paying agent pursuant to an agreement whereby the withholding agent agrees to withhold and report a payment.
Presumption Rules	The presumption rules are those rules prescribed under Chapter 3 and Chapter 61 of the Internal Revenue Code that a withholding agent must follow to determine the status of a beneficial owner as a U.S. or foreign person when it cannot reliably associate a payment with valid documentation.
Pro-Rata Basis Reporting	If the withholding agent has agreed that an NQI may provide information allocating a payment to its account holders under the provisions of Regulations section 1.1441-1(e)(3)(iv)(D), and the NQI fails to allocate the payment in a withholding rate pool to the specific recipients in the pool, the withholding agent must file a Form 1042-S for each recipient on a <i>pro-rata</i> basis.
Qualified Intermediary (QI)	A Qualified Intermediary is a foreign intermediary who is a party to a withholding agreement with the IRS, in which it agrees to comply with the relevant terms of Chapters 3 and 61 of the Internal Revenue Code and is in a country with approved know-your-customer rules. See Notice 2006-35.
Qualified Intermediary Employer Identification	A nine-digit number assigned by IRS to a QI for Federal tax reporting purposes. A QI-EIN is only to be used when a QI is acting as a qualified intermediary.
Recipient	Person (nonresident alien individual, fiduciary, foreign partnership, foreign corporation, Qualified Intermediary, Withholding Rate Pool, or other foreign entity) who receives payments from a withholding agent as a beneficial owner or as a qualified intermediary acting on behalf of a beneficial owner. A non-qualified intermediary cannot be a recipient.
Replacement File	A replacement file is an information return file sent by the filer <b>at the request of IRS/ECC-MTB</b> because of certain errors encountered while processing the filer's original submission.
Service Bureau	Person or organization with whom the withholding agent has a contract to prepare and/or submit information return files to IRS/ECC-MTB. A parent company submitting data for a subsidiary is not considered a service bureau.

<b>Element</b>	<b>Description</b>
Social Security Number (SSN)	A nine-digit number assigned by Social Security Administration to an individual for wage and tax reporting purposes.
Special Character	Any character that is <b>not</b> a numeric, an alpha, or a blank.
Taxpayer Identification Number (TIN)	Refers to either an Employer Identification Number (EIN), Social Security Number (SSN), Individual Taxpayer Identification Number (ITIN), or a Qualified Intermediary Employer Identification Number (QI-EIN).
Tax Year	The year in which payments were made by a withholding agent to a recipient.
Transmitter	Refers to the person or organization submitting file(s) electronically. The transmitter may be the payer, agent of the payer, or withholding agent.
Transmitter Control Code (TCC)	A five-character alpha/numeric number assigned by IRS/ECC-MTB to the transmitter prior to filing electronically. An application Form 4419 must be filed with IRS/ECC-MTB to receive this number. This number is inserted in the Transmitter "T" Record ( field positions 190–194) of the file and <b>must</b> be present before the file can be processed. Transmitter Control Codes assigned to 1042-S filers will always begin with " <b>22</b> ".
Unknown Recipient	For this Revenue Procedure, an unknown recipient is a recipient for whom no documentation has been received by a withholding agent or intermediary or for which documentation received cannot be reliably associated. This includes incomplete documentation. An unknown recipient is always subject to withholding at the maximum applicable rate. No reduction of or exemption from tax may be applied <b><i>under any circumstances.</i></b>
Vendor	Vendors include service bureaus that produce information return files on electronic files for withholding agents. Vendors also include companies that provide software for those who wish to produce their own electronic files.
Withholding Agent	Any person, U.S. or foreign, who has control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity. The term withholding agent also includes, but is not limited to, a qualified intermediary, a nonqualified intermediary, a withholding foreign partnership, a withholding foreign trust, a flow-through entity, a U.S. branch of a foreign insurance company or foreign bank that is treated as a U.S. person, and an authorized foreign agent. A person may be a withholding agent under U.S. law even if there is no requirement to withhold from a payment or even if another person has already withheld the required amount from a payment.
Withholding Foreign Partnership (WP) or Withholding Foreign Trust (WT)	A foreign partnership or trust that has entered into a withholding or Withholding Foreign Trust agreement with the IRS in which it agrees to assume primary withholding responsibility for all payments that are made to it for its partners, beneficiaries, or owners.

## **Sec. 14. State Abbreviations**

**.01** The following state and U.S. territory abbreviations are to be used when developing the state code portion of address fields. This table provides state and territory abbreviations.

State	Code	State	Code	State	Code
Alabama	AL	Kansas	KS	No. Mariana Islands	MP
Alaska	AK	Kentucky	KY	Ohio	OH
American Samoa	AS	Louisiana	LA	Oklahoma	OK
Arizona	AZ	Maine	ME	Oregon	OR
Arkansas	AR	Maryland	MD	Pennsylvania	PA
California	CA	Massachusetts	MA	Puerto Rico	PR
Colorado	CO	Michigan	MI	Rhode Island	RI
Connecticut	CT	Minnesota	MN	South Carolina	SC
Delaware	DE	Mississippi	MS	South Dakota	SD
District of Columbia	DC	Missouri	MO	Tennessee	TN
Federated States of Micronesia	FM	Montana	MT	Texas	TX
Florida	FL	Nebraska	NE	Utah	UT
Georgia	GA	Nevada	NV	Vermont	VT
Guam	GU	New Hampshire	NH	Virginia	VA
Hawaii	HI	New Jersey	NJ	U.S. Virgin Islands	VI
Idaho	ID	New Mexico	NM	Washington	WA
Illinois	IL	New York	NY	West Virginia	WV
Indiana	IN	North Carolina	NC	Wisconsin	WI
Iowa	IA	North Dakota	ND	Wyoming	WY

.02 When reporting APO/FPO addresses use the following format:

**EXAMPLE:**

Recipient Name	PVT Willard J. Doe
Mailing Address	Company F, PSC Box 100 167 Infantry REGT
Recipient City	APO (or FPO)
Recipient State	AE, AA, or AP*
Recipient ZIP Code	098010100

\*AE is the designation for ZIPs beginning with 090–098, AA for ZIP 340, and AP for ZIPs 962–966.

**Part B. Electronic Filing Specifications**

**Note:** *The FIRE System DOES NOT provide fill-in forms, except for Form 8809, Application for Extension of Time to File Information Returns.* Filers must program files according to the Record Layout Specifications contained in this publication. For a list of software providers, log on to [www.irs.gov](http://www.irs.gov) and go to the *Approved IRS e-file for Business Providers* link. Also, see Part A, Sec. 5 .03.

**Sec. 1. General**

.01 Electronic filing of Form 1042-S (originals, amended and replacement files) is a reporting method for filers submitting 250 or more 1042-S Forms. Payers who are under the filing threshold requirement, are encouraged to file electronically.

.02 All electronic filing of information returns are received at IRS/ECC-MTB via the FIRE (Filing Information Returns Electronically) System. To connect to the FIRE System, point your browser to <http://fire.irs.gov>. The system is designed to support the electronic filing of information returns only.

.03 For files submitted on the FIRE System, it is the responsibility of the filer to check the status of your file within 5 business days to verify the results of your transmission. IRS/ECC-MTB will no longer mail error reports to filers for files that are bad. Information about the errors including the number of errors, a description and the first occurrence will be provided on the FIRE System. If additional information is needed to understand the errors, the filer can call toll free 1-866-455-7438 or outside the U.S. at 304-263-8700.

.04 The electronic filing of information returns is not affiliated with any other IRS electronic filing programs. Filers must obtain separate approval to participate in each of them. Only inquiries concerning electronic filing of information returns should be directed to IRS/ECC-MTB.

.05 Files submitted to IRS/ECC-MTB electronically must be in standard ASCII code. Do not send paper forms with the same information as electronically submitted files. This would create duplicate reporting resulting in penalty notices. See Part C, Record Format Specifications and Record Layouts.

.06 Form 8809, Application for Extension of Time to File Information Returns, is available as a fill-in form via the FIRE System. If you do not already have a User ID and password refer to Section 7. At the Main Menu, click "Extension of Time Request" and then click "Fill-in Extension Form". This option is only used to request an automatic 30-day extension and must be completed by the due date of the return for each payer requesting an extension. Print the approval page for you records. Refer to Part D for additional details.

## Sec. 2. Electronic Filing Approval Procedure

.01 Filers must obtain, or already have, a Transmitter Control Code (TCC) assigned prior to submitting files electronically. Refer to Part A, Sec. 6, for information on how to obtain a TCC.

.02 Once a TCC is obtained, electronic filers assign their own user ID, password and PIN (Personal Identification Number) and do not need prior or special approval. See Part B, Sec. 5, for more information on the PIN.

.03 If a filer is submitting files for more than one TCC, it is not necessary to create a separate logon and password for each TCC.

.04 For all passwords, it is the user's responsibility to remember the password and not allow the password to be compromised. Passwords are user assigned and must consist of 8 alpha/numerics characters containing at least 1 uppercase, 1 lowercase, and 1 numeric. FIRE will require you to change your password periodically. Users can change their passwords at any time from the Main Menu. Prior passwords cannot be used. However, filers who forget their password or PIN, can call at **toll-free 1-866-455-7438 or outside the U.S. at 304-263-8700** for assistance.

## Sec. 3. Test Files

.01 Filers are not required to submit a test file; however, the submission of a test file is encouraged for all new electronic filers to test hardware and software. If filers wish to submit an electronic test file, it **must** be submitted to IRS/ECC-MTB **no earlier than** November 1 of the current year, and **no later than** February 15, of the filing year.

.02 IRS/ECC-MTB strongly encourages all electronic filers to submit a test. The test file must consist of a sample of each type of record:

- (a) Transmitter "T" Record
- (b) Withholding Agent "W" Record
- (c) Multiple Recipient "Q" Records (**at least 11 recommended**)
- (d) Reconciliation "C" Record
- (e) End of Transmission "F" Record

.03 Use the Test Indicator "**TEST**" (upper case) in Field Positions 195-198 of the "T" Record to show this is a test file.

.04 IRS/ECC-MTB will check the file to ensure it meets the specifications of this Revenue Procedure. For current filers, sending a test file will provide the opportunity to ensure their software reflects all required programming changes. Filers are reminded that not all validity, consistency, or math error tests will be conducted.

.05 Filers who encounter problems while transmitting the electronic test file can contact IRS/ECC-MTB **toll-free at 1-866-455-7438 or outside the U.S. at 304-263-8700** for assistance.

.06 Within 2-3 days after your file has been sent, you will be notified via e-mail as to the acceptability of your file if you provide a valid e-mail address on the "Verify Your Filing Information" screen. If you are using e-mail filtering software, configure your software to accept e-mail from *fire@irs.gov* and *irs.e-helpmail@irs.gov*. If the file is bad or you have not received an e-mail, within 5 days, the filer must return to *http://fire.irs.gov* to determine what the errors are in the file by clicking on CHECK FILE STATUS.

## Sec. 4. Electronic Submissions

.01 Electronically filed information may be submitted to IRS/ECC-MTB 24 hours a day, 7 days a week. Technical assistance will be available Monday through Friday between 8:30 a.m. and 4:30 p.m. Eastern Standard Time by calling **toll-free at 1-866-455-7438 or outside the U.S. at 304-263-8700**.

.02 **The FIRE System will be down during the week of December 22, 2009 through January 4, 2010.** This allows IRS/ECC-MTB to update its system to reflect current year changes.

.03 Your file size cannot exceed 899,999 records. If you are sending files larger than 10,000 records electronically, data compression is encouraged. WinZip and PKZip are the only acceptable compression packages. IRS/ECC-MTB cannot accept self-extracting zip files or compressed files containing multiple files. The time required to transmit information returns electronically will vary depending upon the type of connection to the Internet and if data compression is used. **The time required to transmit a file can be reduced by as much as 95 percent by using compression.**

.04 Transmitters may create files using self assigned files name(s). Files submitted electronically will be assigned a new unique file name by the FIRE System. The filename assigned by the FIRE System will consist of submission type (TEST, ORIG [original], AMEN [*amended return*], and REPL [replacement]), the filer's TCC and a four-digit number sequence. The sequence number will be incremented for every file sent. For example, if it is your first original file for the calendar year and your TCC is 22000, the IRS assigned filename would be ORIG.22000.0001. **Record the filename.** This information will be needed by IRS/ECC-MTB to identify the file, if assistance is required.

.05 If a file was submitted timely and is bad, the filer will have up to 60 days from the day the file was transmitted to transmit an acceptable file. If an acceptable file is not received within 60 days, the payer could be subject to late filing penalties.

.06 The following definitions have been provided to help distinguish between an amended return and a replacement:

- An **amended return** is an information return submitted by the transmitter to correct an information return that was previously submitted to and processed by IRS/ECC-MTB, but contained erroneous information. (**See Note.**)

**Note: Amended returns should only be submitted for records that have been submitted incorrectly, not the entire file.**

- A **replacement** is an information return file sent by the filer because the CHECK FILE STATUS option on the FIRE System indicated the original/amended file was bad. After the necessary changes have been made, the file must be transmitted through the FIRE System. (**See Note.**)

**Note: Filers should never transmit anything to IRS/ECC-MTB as a “Replacement” file unless the CHECK FILE STATUS option on the FIRE System indicates the file is bad.**

.07 The TCC in the Transmitter “T” Record must be the TCC used to transmit the file; otherwise, the file will be considered an error.

## Sec. 5. PIN Requirements

.01 User will be prompted to create a PIN consisting of 10 numerics when establishing their initial logon name.

.02 The PIN is required each time an ORIGINAL, AMENDED, or REPLACEMENT file is sent electronically and serves as permission to release the file. It is not needed for a TEST file. An authorized agent/transmitter may enter their PIN, however, the Withholding Agent is responsible for the accuracy of the returns. The payer will be liable for penalties for failure to comply with filing requirements. If you forget your PIN, please call **toll-free at 1-866-455-7438 or outside the U.S. at 304-263-8700** for assistance.

## Sec. 6. Electronic Filing Specifications

.01 The FIRE System is designed exclusively for the filing of Forms 1042-S, 1098, 1099, 5498, 8027, and W-2G.

.02 A transmitter must have a TCC (see Part A, Sec. 6) before a file can be transmitted.

.03 Within 5 days, the results of the electronic transmission will be e-mailed to you if you provided an accurate e-mail address on the “Verify Your Filing Information” screen. If you are using e-mail filtering software, configure your software to accept e-mail from *fire@irs.gov* and *irs.e-helpmail@irs.gov*. If the e-mail indicates that your file is bad, you must log into the FIRE System and go to the CHECK FILE STATUS area of the FIRE System to determine what the errors are in your file.

## Sec. 7. Connecting to the FIRE System

.01 Point your browser to *http://fire.irs.gov* to connect to the FIRE System.

.02 Before connecting, have your TCC and TIN available.

.03 Your browser must support SSL 128-bit encryption.

.04 *FIRE Internet Security Technical Standards are:*

*HTTP 1.1 Specification (<http://www.w3.org/Protocols/rfc2616/rfc2616.txt>)*

*SSL 3.0 or TLS 1.0. SSL and TLS are implemented using SHA and RSA 1024 bits during the asymmetric handshake.*

*SSL 3.0 Specifications (<http://wp/netscape.com/eng/ssl3>)*

*TLS 1.0 Specifications (<http://www.ietf.org/rfc/rfc2246.txt>)*

The filer can use one of the following encryption algorithms, listed in order of priority, using SSL or TLS:

\*AES 256-bit (FIPS-197)

\*AES 128-bit (FIPS-197)

TDES 168-bit (FIPS-46-3)

\*\*RC4 128-bit

*\*IRS intends to start offering this sometime during the period of this publication. If you plan to use it, please contact us to see if it is available.*

*\*\* IRS intends to drop this non-FIPS algorithm during the period of this publication after the Service starts offering AES.*

**First time connection to The FIRE System** (If you have logged on previously, skip to Subsequent Connections to the FIRE System.)

Click "**Create New Account**".

Fill out the registration form and click "**Submit**".

Enter your **User ID** (most users logon with their first and last name).

Enter and verify your **password** (the password is user assigned and must be 8 alpha/numerics, containing at least 1 uppercase, 1 lowercase and 1 numeric). FIRE may require you to change the password once a year.

Click "**Create**".

If you receive the message "**Account Created**", click "**OK**".

Enter and verify your 10-digit self-assigned PIN (Personal Identification Number).

Click "**Submit**".

If you receive the message "**Your PIN has been successfully created!**", click "**OK**".

Read the bulletin(s) and/or click "**Click here to continue**".

### Subsequent connections to the FIRE System

Click "**Log On**".

Enter your **User ID** (most users logon with their first and last name).

Enter your **password** (the password is user assigned and is case sensitive).

### Uploading your file to the FIRE System

At Menu Options:

Click "**Send Information Returns**".

Enter your **TCC**:

Enter your **TIN**:

Click "**Submit**".

The system will then display the company name, address, city, state, ZIP Code, telephone number, contact and e-mail address. This information will be used to e-mail the transmitter regarding this transmission. Please verify that your e-mail address is correct . Update as appropriate and/or Click "**Accept**".

Click one of the following:

**Original File**

**Amended File**

**Test File** (This option will only be available November 1 through February 15.)

**Replacement File** (Click on the file to be replaced.)

Enter your 10-digit PIN.

Click "**Submit**".

Click "**Browse**" to locate the file and open it.

Click "**Upload**".

### Uploading your file to the FIRE System

When the upload is complete, the screen will display the total bytes received and tell you the name of the file you just uploaded. Record this information.

If you have more files to upload for that TCC:  
Click "*File Another?*"; otherwise,  
Click "*Main Menu*".

If you do not receive an e-mail in 5 business days or your e-mail indicates the file is bad, log back into the FIRE System and click on CHECK FILE STATUS to view the results of your file.

### Checking your FILE STATUS

At the Main Menu:  
Click "*Check File Status*".  
Enter your *TCC*:  
Enter your *TIN*:  
Click "*Search*".

If "Results" indicate:  
*"Good, Not Released"* and you agree with the "Count of Payees", you are finished with this file. The file will automatically be released after 10 calendar days unless you contact us within this timeframe.  
*"Good, Released"* — File has been released to our mainline processing.  
*"Bad"* — Correct the errors and timely resubmit the file as a "replacement".  
*"Not yet processed"* — File has been received, but we do not have results available yet. Please check back in a few days.

Click on the desired file for a detailed report of your transmission.  
When you are finished, click on *Main Menu*.  
Click "**Log Out**"  
Close your Web Browser.

## **Sec. 8. Common Submission Problems and Questions**

.01 Publication 1187 is a format document, **not** a tax law document. Therefore, this publication cannot provide for all possible reporting situations. For any given record entry, it is the responsibility of the filer to make sure that the relevant tax law is applied to the record entry being made.

### FORMAT ERRORS

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#### **1. Incorrect TIN indicator in the "W" Record.**

Be careful that the correct TIN Indicator is used. A U.S. withholding agent always has an EIN. Only a foreign withholding agent that has entered into a Qualified Intermediary agreement with the IRS can have a QI-EIN. If the withholding agent is a foreign company, then a foreign address must be entered in the withholding agent address fields.

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#### **2. Blank or invalid information in the Withholding Agent's name and address fields.**

The IRS error correction process requires that the "W" Record be checked for validity before the "Q" Record can be corrected. Please ensure that the withholding agent's Name, EIN, Street Address, City and State or Country is present along with the appropriate Postal or ZIP Code. Withholding Agent's Name Line-1 **must** contain the withholding agent's name.

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### 3. Missing Recipient TIN in the “Q” Record.

A Recipient TIN **must** be present in order to allow a reduction or exemption from withholding at the 30% tax rate. The only major exceptions to this rule involve payments of portfolio interest, dividends, and certain royalty payments. If the recipient doesn't have a TIN, one must be applied for and provided to the withholding agent before a reduction or exemption of withholding is allowed.

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### 4. Invalid recipient name and address information.

The recipient name entered in Recipient's Name Line-1 must be the same name shown on the withholding certification document provided to and retained by the withholding agent. Recipient's Street Line-1 should only show the official street address. Use Recipient's Street Line-2 for additional internal distribution information such as mail stop numbers or attention information. Follow the instructions for entry of foreign postal codes, cities and countries. Do not input all information in the City field. Use the appropriate fields and codes.

---

### 5. Incorrect use of Recipient Code 20 (Unknown Recipient).

This Recipient Code may be used **only** if no withholding certification document has been provided to and retained by the withholding agent, or the withholding certification document provided to and retained has been determined by the withholding agent to be incomplete or otherwise unreliable. If Recipient Code 20 is used then Recipient Name Line-1 must contain the words “UNKNOWN RECIPIENT” and the other name and address fields must be blank.

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### 6. Incorrect use of Recipient Code 20 and the Tax Rate and U. S. Tax Withheld fields.

If Recipient Code 20 is used, the Tax Rate and the U.S. Tax Withheld must always be 30%. Exemption Code 04 (treaty exemption) **CANNOT BE USED**.

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### 7. Incorrect use of Country Codes in the “Q” Record.

There are 3 places in the “Q” Record where country information must be entered. Generally, the information entered in these three fields should be consistent. The country list in the Instructions for Form 1042-S is comprehensive. **Do not** use any code that isn't on the list. Read the instructions for Form 1042-S regarding the use of “OC” and “UC”. **Do not** use these two codes under any circumstance other than those specifically indicated in the Instruction for Form 1042-S.

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### 8. Incorrect reporting of Tax Rates in the “Q” Record.

A valid Tax Rate Table can be found in the Instructions for Forms 1042-S. Please refer to table and only use the tax rates listed. “Blended rates” are not allowed. If a tax rate for a given recipient changes during the year, two “Q” Records must be submitted.

---

### 9. Total amounts reported in the “C” Record do not equal the total amounts reported in the “Q” Records.

The total Gross Income and *Total Withholding Credit* reported in the “Q” Record must equal the Total Gross Income and *Total Withholding Credit* reported in the corresponding “C” Record.

---

### 10. The following are other major errors associated with electronic filing:

- a. Invalid characters. The only valid characters are those characters listed in Note 3 at the beginning of the T, W and Q Records.
  - b. Q Record Positions 383–394 (Total Withholding Credit) must equal the amounts in Positions 359–370 (U.S. Tax Withheld) and Positions 371–382 (Withholding By Other Agents).
  - c. C Record Positions 31–45 must reflect the aggregate of the preceding Q records positions 383–394 (Total Withholding Credit).
  - d. Q Record Positions 42–45 (Tax Rate) must reflect a valid tax rate.
  - e. Q Record Positions 46–47 (Exemption Code) must reflect a valid code and the exemption code must be compatible with the tax rate. For example, if you enter a zero tax (0000) rate in positions 42–45 you must enter the appropriate exemption code of 01–09 in positions 46–47.
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## NON-FORMAT ERRORS

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### 1. SPAM filters are not set to receive e-mail from *fire@irs.gov* and *irs.e-helpmail@irs.gov*.

If you want to receive e-mails concerning your files, processing results, reminders and notices, set your SPAM filter to receive e-mail from *fire@irs.gov* and *irs.e-helpmail@irs.gov*.

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**2. Incorrect e-mail provided.**

When the “Verify Your Filing Information” screen is displayed, make sure your correct e-mail is displayed. If not, please update with the correct e-mail.

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**3. Transmitter does not check the FIRE System to determine why the file is bad.**

The results of your file transfer are posted to the FIRE System within five business days. If the correct e-mail address was provided on the “Verify Your Filing Information” screen when the file was sent, an e-mail will be sent regarding your FILE STATUS. If the results in the e-mail indicate “Good, Released” and you agree with the “Count of Payees”, then you are finished with this file. If you have any other results, please follow the instructions in the Check File Status option. If the file contains errors, you can get an online listing of the errors. Date received and number of payee records are also displayed. If the file is good, but you do not want the file processed, you must contact IRS/ECC-MTB within 10 calendar days from the transmission of your file.

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**4. Transmitter uses the TCC assigned for filing 1098, 1099, 5498 or W-2G Forms.**

Use your Form 1042-S TCC which begins with “22” to transmit your 1042-S file, otherwise, it will be automatically considered an error.

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**5. Incorrect file is not replaced timely.**

If we have advised you that your file is bad, correct the file and timely resubmit as a replacement. You must submit a good replacement files within 60 days of the submission date of the original file.

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**6. Transmitter compresses several files into one.**

Only compress one file at a time. For example, if you have 10 uncompressed files to send, compress each file separately and send 10 separate compressed files.

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**7. Transmitter sends a file and CHECK FILE STATUS indicates that the file is good, but the transmitter wants to send a replacement or amended file to replace the original/amended/replacement file.**

Once a file has been transmitted, you cannot send a replacement file unless CHECK FILE STATUS indicates the file is bad (5 business days after file was transmitted). If you do not want us to process the file, you must first contact us **toll-free at 1-866-455-7438 or outside the U.S. at 304-263-8700** to see if this is possible.

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**8. Transmitter sends an original file that is good, and then sends an amended file for the entire file even though there are only a few changes.**

The amended file, containing the proper coding, should only contain the records needing correction, not the entire file.

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**9. File is formatted as EBCDIC.**

All files submitted electronically must be in standard ASCII code.

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**10. Transmitter has one TCC number, but is filing for multiple companies, which TIN should be used when logging into the system to send the file?**

When sending the file electronically, you will need to enter the TIN of the company assigned to the TCC. When you upload the file, it will contain the TINs for the other companies that you are filing for. This is the information that will be passed forward.

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**11. Transmitter sent the wrong file, what should be done?**

Call us as soon as possible **toll-free at 1-866-455-7438 or outside the U.S. at 304-263-8700**. We may be able to stop the file before it has been processed. **Please do not send a replacement for a file that is marked as a good file.**

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## **Part C. Record Format Specifications and Record Layouts**

### **Sec. 1. Transmitter “T” Record**

.01 This record identifies the entity preparing and transmitting the file. The transmitter and the withholding agent may be the same, but they need not be.

.02 The first record of a file **MUST** be a Transmitter “T” Record. The “T” Record must appear on each electronic file; otherwise, a replacement file may be requested.

.03 The “T” Record is a fixed length of 820 positions.

.04 All alpha characters entered in the “T” Record must be upper case.

**Note 1:** For all fields marked “Required”, the transmitter must provide the information described under Description and Remarks. If required fields are not completed in accordance with these instructions, IRS will contact you to request a replacement file. For those fields not marked Required, a transmitter must allow for the field, but may be instructed to enter blanks or zeroes in the indicated field position(s) and for the indicated length. All records have a fixed length of 820 positions.

**Note 2:** A copy of the current paper Instructions for Form 1042-S for this revision of the Publication 1187 is included at the end of this publication. These instructions should be used for the proper coding of each field in this record where applicable. The instructions are updated each year as required. *Since Publication 1187 may not be revised every year, be sure to use the most current instructions for Form 1042-S.*

**Note 3:** The only valid characters for electronic filing are alpha, numeric, blank, ampersand (&), hyphen (-), comma (,), apostrophe (’), forward slash (/), pound sign (#), period (.), and the percent (%). Only the percent [% (used as “in care of”)] is valid in the first position. *Do not use special characters that are unique to a language other than English. Inclusion of any characters other than those identified as valid in the instructions will result in a “Bad File” status.*

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**Record Name: Transmitter “T” Record**

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Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	<b>Required.</b> Enter “T”.
2–5	Tax Year	4	<b>Required.</b> Enter year for which income and withholding are being reported.
6–14	Transmitter’s Taxpayer Identification Number (TIN)	9	<b>Required.</b> Enter the Taxpayer Identification Number of the Transmitter. This can be a Employer Identification Number (EIN), Qualified Intermediary Number (QI-EIN), Withholding Partnership (WP-EIN), or a Withholding Trust (WT-EIN). <b>DO NOT ENTER blanks, hyphens or alpha characters.</b>
15–54	Transmitter’s Name	40	<b>Required.</b> Enter name of transmitter of file. Abbreviate if necessary to fit 40-character limit. Omit punctuation if possible. Left-justify and blank fill.

**Note: Do not use special characters in names or addresses that are unique to a language other than English. For example: å = A, æ = A, ü = U, Ø = O, ñ = N, etc.**

55–94	Transmitter’s Address	40	<b>Required.</b> Enter full mailing address of the transmitter. This will include number, street, and apartment or suite number (P.O. Box can be used if mail is not delivered to street address). Abbreviate as needed to fit 40-character limit. Omit punctuation if possible. Left-justify and blank fill.
95–114	City	20	<b>Required.</b> Enter the city or town (or other locality name) of transmitter. If applicable, enter APO or FPO only. Left-justify and blank fill.
115–116	State Code	2	<b>Required if U.S. Transmitter.</b> Enter only the two-alpha State Code. DO NOT spell out the state name. See State Code Table Part A, Sec. 13. Left-justify.
117–118	Province Code	2	<b>Required if Foreign Country Code is “CA” (Canada).</b> Enter only the two-alpha character Province Code as shown in the Province Code table. <b>DO NOT spell out the Province Name. If foreign country other than Canada, blank fill.</b>

Province Code	Province
AB	Alberta
BC	British Columbia
MB	Manitoba
NB	New Brunswick
NL	Newfoundland & Labrador
NS	Nova Scotia
NT	Northwest Territories
NU	Nunavut
ON	Ontario
PE	Prince Edward Island
QC	Quebec
SK	Saskatchewan
YT	Yukon Territory

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**Record Name: Transmitter "T" Record**

Field Positions	Field Title	Length	Description and Remarks
119-120	Country Code	2	<b>Required if Foreign Transmitter. If Country Code is present, State Code field MUST be blank.</b> Enter only the two-alpha Country Code from the Country Code table. <b>DO NOT spell out the Country Name.</b>
<b>Note: COUNTRY CODES: The list of country codes provided in the current paper Instructions for Form 1042-S includes all internationally recognized country codes and must be used to ensure the proper coding of the Country Code field. This list is updated each year as required. Do not enter U.S. in the Country Code field.</b>			
121-129	Postal or ZIP Code	9	<b>Required.</b> Enter up to nine numeric characters for all U.S. addresses (including territories, possessions and APO/FPO). For foreign addresses enter the alpha/numeric foreign postal code, if applicable. Enter this code in the left most position and blank fill the remaining positions. Left-justify.
130-169	Contact Name	40	<b>Required.</b> Enter the name of the person to contact if any questions should arise with the transmission. Left-justify.
170-189	Contact Telephone Number	20	<b>Required.</b> Enter the contact person's telephone number, and extension, if applicable. If foreign, provide appropriate codes for overseas calls. Left-justify.
190-194	Transmitter Control Code (TCC)	5	<b>Required.</b> Enter the five-character alpha/numeric TCC assigned ONLY for Form 1042-S reporting. (The first two numbers will always be <b>22</b> .) All alpha characters must be upper case.
195-198	Test Indicator	4	<b>Required if this is a test file.</b> Enter the word "TEST". Otherwise, enter blanks.
199	Prior Year Indicator	1	<b>Required.</b> Enter a "P" only if reporting prior year data; otherwise, enter blank. Do not enter a "P" for current year information.
200-810	Reserved	611	Enter blanks.
811-818	Record Sequence Number	8	<b>Required.</b> Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can have only one "T" record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, <i>i.e.</i> , 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the first "W" record would be "00000002", the first "Q" record, "00000003", the second "Q" record, "00000004" and so on until you reach the final record of the file, the "F" record.
819-820	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed (CR/LF) characters.

**Transmitter "T" Record Layout**

Record Type	Tax Year	Transmitter's TIN	Transmitter Name	Transmitter Address	City	State Code	Province Code
1	2-5	6-14	15-54	55-94	95-114	115-116	117-118

Country Code	Postal or ZIP Code	Contact Name	Contact Telephone Number	TCC	Test Indicator	Prior Year Indicator	Reserved	Record Sequence Number	Blank or Carriage Return Line Feed
119-120	121-129	130-169	170-189	190-194	195-198	199	200-810	811-818	819-820

## Sec. 2. Withholding Agent “W” Record

.01 The “W” Record identifies the Withholding Agent.

.02 Enter a “W” Record after the initial “T” Record on the file, followed by the Recipient “Q” Records, and a Reconciliation “C” Record. Do **not** report for a withholding agent if there are no corresponding Recipient “Q” records.

.03 Several “W” Records for different Withholding Agents may appear on the same Transmitter’s File.

.04 Each “W” Record is a fixed length of 820 positions.

.05 All alpha characters entered in the “W” Record must be uppercase.

**Note 1: For all fields marked “Required”, the transmitter *must* provide the information described under Description and Remarks. If required fields are not completed in accordance with these instructions, your file may not process correctly. For those fields not marked “Required”, a transmitter must allow for the field, but may be instructed to enter blanks or zeroes in the indicated field position(s) and for the indicated length. All records have a fixed length of 820 positions.**

**Note 2: A copy of the current paper Instructions for Form 1042-S for this revision of the Publication 1187 is included at the end of this publication. These instructions should be used for the proper coding of each field in this record where applicable. The list of country codes in the instructions includes all recognized country codes and **MUST** be used for coding. The instructions are updated each year as required. *Since Publication 1187 may not be revised every year, be sure to use the most current instructions.***

**Note 3: The only valid characters for electronic filing are alpha, numeric, blank, ampersand (&), hyphen (-), comma (,), apostrophe (’), forward slash (/), pound sign (#), period (.), and the percent (%). Only the percent [% (used as “in care of”)] is valid in the first position. Do not use special characters that are unique to a language other than English. Inclusion of any characters other than those identified as valid in the instructions will result in a “Bad File” status.**

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### Record Name: Withholding Agent “W” Record

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Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	<b>Required.</b> Enter “W”.
2	Return Type Indicator	1	<b>Required.</b> Enter the one position value below to identify whether the record is Original or Amended. If submitting a replacement file, use the same indicator as the file being replaced (e.g., if you are replacing an amended file the indicator would be 1). Do not enter a blank or alpha character.  Acceptable Values are:  • 0 (Zero) = Original • 1 = Amended
3	Pro Rata Basis Reporting	1	<b>Required.</b> Enter the one position value below to identify if reporting on a Pro Rata Basis.  Acceptable Values are:  • 0 (Zero) = Not Pro Rata • 1 = Pro Rata Basis Reporting
4–12	Withholding Agent’s EIN	9	<b>Required.</b> Enter the nine-digit Employer Identification Number of the Withholding Agent. Do <b>NOT</b> enter blanks, hyphens or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable. Do <b>NOT</b> enter the recipient’s TIN in this field.

**Note: See current paper Instructions for Form 1042-S to determine when a Qualified Intermediary, Withholding Foreign Partnership, or Withholding Foreign Trust must provide its QI-EIN, WP-EIN or WT-EIN in this field.**

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**Record Name: Withholding Agent "W" Record**

<b>Field Positions</b>	<b>Field Title</b>	<b>Length</b>	<b>Description and Remarks</b>
13	Withholding Agent's EIN Indicator	1	<b>Required.</b> Enter the Withholding Agent's EIN indicator from the following values: <ul style="list-style-type: none"> <li>•0 = EIN</li> <li>•1 = QI-EIN, WP-EIN, WT-EIN</li> <li>•2 = NQI-EIN</li> </ul>
<b>Note: Use EIN indicator 1 only if the Withholding Agent's EIN begins with "98" AND the Withholding Agent, Withholding Trust or Withholding Partnership has entered into a withholding agreement with the IRS.</b>			
14-53	Withholding Agent's Name Line-1	40	<b>Required.</b> Enter the Withholding Agent's Name as established when filing for the EIN or QI-EIN which appears in position 4-12 of the "W" Record. Left-justify and blank fill.
<b>Note: Do not use special characters in names or addresses that are unique to a language other than English. For example: å = A, æ = A, ü = U, Ø = O, ñ = N, etc.</b>			
54-93	Withholding Agent's Name Line-2	40	Enter supplementary withholding agent's name information; otherwise, enter blanks. Use this line for additional names (e.g., partners or joint owners), for trade names, stage names, aliases or titles. Also use this line for "care of" or "via". Left-justify and blank fill. <b>See Note 3 at the beginning of the "W" Record.</b>
94-133	Withholding Agent's Name Line-3	40	See above.
134-173	Withholding Agent's Street Line-1	40	<b>Required.</b> Enter the mailing address of the withholding agent. Street address should include number, street, and apartment or suite number (or P.O. Box if mail is not delivered to street address). Abbreviate as needed. Left-justify and blank fill.
174-213	Withholding Agent's Street Line-2	40	Enter supplementary withholding agent street address information. Otherwise, blank fill.
214-253	Withholding Agent's City	40	<b>Required.</b> Enter the city or town (or other locality name). Enter APO or FPO only if applicable. <b>Do not</b> enter a foreign postal code in the city field. Left-justify and blank fill.
254-255	Withholding Agent's State Code	2	<b>Required if Withholding Agent has a U.S. address.</b> Enter the two-character State Code abbreviation. If not a U.S. state, territory or APO/FPO identifiers, blank fill. <b>Do not use any of the two character Country Codes in the State Code Field.</b>
<b>Note: If the withholding agent has a U.S. address, leave the country code in positions 258-259 blank.</b>			
256-257	Withholding Agent's Province Code	2	<b>Required if Foreign Country Code is "CA" (Canada).</b> Enter only the two-alpha character Province Code as shown in the Province Code Table. See "T" record positions 117-118 for Province Code Table. <b>DO NOT spell out the Province Name. If foreign country other than Canada, blank fill.</b>
258-259	Withholding Agent's Country Code	2	<b>Required if QI or NQI or other foreign withholding agent.</b> Enter only the two-alpha Country Code from the Country Code Table. <b>DO NOT spell out the Country Name.</b>
<b>Note: COUNTRY CODES: The list of country codes provided in the current paper Instructions for Form 1042-S includes all internationally recognized country codes and MUST be used to ensure the proper coding of the Country Code field. This list is updated each year as required. Do not enter U.S. in the Country Code field.</b>			
260-268	Postal or ZIP Code	9	<b>Required.</b> Enter up to nine numeric characters for all U.S. addresses (including territories, possessions and APO/FPO). For foreign addresses enter the alpha/numeric foreign postal code, if applicable. Enter this code in the left most position and blank fill the remaining positions. Left-justify.

**Record Name: Withholding Agent "W" Record**

<b>Field Positions</b>	<b>Field Title</b>	<b>Length</b>	<b>Description and Remarks</b>								
269–272	Tax Year	4	<b>Required.</b> Enter the four-digit year of the current tax year unless you entered a "P" in the Prior Year Indicator Field of the "T" Record. All recipient "Q" Records must report payments for this year only. Different tax years may not appear on the same file.								
273–317	Withholding Agent Contact Name	45	<b>Required.</b> Enter the name of the person IRS can contact if questions arise concerning this filing. Left-justify and blank fill the remaining positions.								
318–362	Withholding Agent's Department Title	45	<b>Required.</b> Enter the title of the contact person or the dept. which can handle inquiries concerning this filing. Left-justify and blank fill the remaining positions.								
363–382	Contact Telephone Number and Extension	20	<b>Required.</b> Enter the telephone number of a person to contact regarding electronic files. Omit hyphens. If no extension is available, left-justify and fill unused positions with blanks. If foreign, provide appropriate codes for overseas call.								
383	Final Return Indicator	1	<p><b>Required.</b> Enter the one position value below to indicate whether you will be filing Forms 1042-S in the future.</p> <ul style="list-style-type: none"> <li>• 0 (Zero) = will be filing</li> <li>• 1 = will not be filing</li> </ul>								
384–809	Reserved	426	Enter blanks.								
810	Amended Return Indicator	1	<p><b>Required for amended returns only. Enter the appropriate code:</b></p> <table border="0"> <thead> <tr> <th><u>Code</u></th> <th><u>Definition</u></th> </tr> </thead> <tbody> <tr> <td>G</td> <td>If this is a one-step transaction amended return or the first of a two-step transaction amended return</td> </tr> <tr> <td>C</td> <td>If this is the second transaction of a two-step transaction amended return</td> </tr> <tr> <td>Blank</td> <td>If this is not a return being submitted to amend information already processed by IRS</td> </tr> </tbody> </table>	<u>Code</u>	<u>Definition</u>	G	If this is a one-step transaction amended return or the first of a two-step transaction amended return	C	If this is the second transaction of a two-step transaction amended return	Blank	If this is not a return being submitted to amend information already processed by IRS
<u>Code</u>	<u>Definition</u>										
G	If this is a one-step transaction amended return or the first of a two-step transaction amended return										
C	If this is the second transaction of a two-step transaction amended return										
Blank	If this is not a return being submitted to amend information already processed by IRS										
<p><b>Note: Amended C and G coded records must be reported using separate Payer "W" Records. Refer to Part A, Sec. 9, for specific instructions on how to file amended returns.</b></p> <p><b>Non-coded records cannot be submitted in an Amended file.</b></p>											
811–818	Record Sequence Number	8	<b>Required.</b> Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can have only one "T" record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, <i>i.e.</i> , 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the first "W" record would be "00000002", the first "Q" record, "00000003", the second "Q" record, "00000004" and so on until you reach the final record of the file, the "F" record.								
819–820	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed (CR/LF) characters.								

### Withholding Agent “W” Record Layout

Record Type	Return Type Indicator	Pro Rata Basis Reporting	Withholding Agent’s EIN	Withholding Agent’s EIN Indicator	Withholding Agent’s Name Line-1	Withholding Agent’s Name Line-2
1	2	3	4–12	13	14–53	54–93

Withholding Agent’s Name Line-3	Withholding Agent’s Street Line-1	Withholding Agent’s Street Line-2	Withholding Agent’s City	Withholding Agent’s State Code	Withholding Agent’s Province Code	Withholding Agent’s Country Code
94–133	134–173	174–213	214–253	254–255	256–257	258–259

Postal or ZIP Code	Tax Year	Withholding Agent Contact Name	Withholding Agent’s Department Title	Contact Telephone Number and Extension	Final Return Indicator
260–268	269–272	273–317	318–362	363–382	383

Reserved	Amended Return Indicator	Record Sequence Number	Blank or Carriage Return Line Feed
384–809	810	811–818	819–820

### Sec. 3. Recipient “Q” Record

**.01** The “Q” Record contains name and address information for the Recipient of Income, Non-Qualified Intermediary or Flow-Through Entity if appropriate, Payer, and all data concerning the income paid and tax withheld that is required to be reported under U.S. law. Each Recipient “Q” Record is treated as if it were a separate Form 1042-S.

**.02** Since the “Q” Record is restricted to one type of income, *one type of exemption code*, and one tax rate, under certain circumstances it may be necessary to submit more than one “Q” Record for the same recipient. Failure to provide multiple Recipient “Q” Records when necessary may generate math computation errors during processing. This will result in IRS contacting you for correct information.

**.03** Following are some of the circumstances when more than one “Q” Record for a recipient would be required:

- (a) Different types of income. For example, Recipient X derived income from Capital Gains (Income Code 09) and Industrial Royalties (Income Code 10). A separate “Q” Record must be reported for each Income Code. *Each “Q” Record must reflect the Gross Income Paid and any U.S. Federal Taxes withheld by you or any other withholding agent pertaining to that Income Code.*
- (b) Change in Country Code during the year. For example, the Withholding Agent received notification via Form W-8BEN that the recipient’s country of residence for tax purposes changed from country X to country Y. A separate “Q” Record must be reported for each Country Code providing Gross Income Paid, Tax Rate, *any U.S. Federal Tax Withheld by you or any other withholding agent* and Exemption Code, if any. The amounts reported must be based on each country.
- (c) Change in a country’s tax treaty rate during the year. For example, effective April 1, country X changes its tax treaty rate from 10% to 20%. A separate “Q” Record must be reported for each of the tax rates. Provide the Gross Income Paid, Tax Rate, and *any U.S. Federal Tax Withheld by you or any other withholding agent under each tax rate.*

**.04** All recipient “Q” Records for a particular Withholding Agent must be written after the corresponding Withholding Agent “W” Record, followed by a Reconciliation “C” Record, and before the “W” Record for another Withholding Agent begins.

**.05** All alpha characters entered in the “Q” Record must be upper case.

**.06** The “Q” Record is a fixed length of 820 positions.

**.07** Report income and tax withheld in whole dollars only. Round up or down as appropriate. To round off amounts to the nearest whole dollar, drop amounts under 50 cents and increase to the next whole dollar amounts of 50 to 99 cents. If you have to add two or more amounts to figure the amount to be reported, include cents when adding and only round off the total figure to be reported. **DO NOT** enter cents.

**Note 1:** For all fields marked “Required”, the transmitter must provide the information described under Description and Remarks. If required fields are not completed in accordance with these instructions, IRS will contact you to request a replacement file. For those fields not marked “Required”, a transmitter must allow for the field, but may be instructed to enter blanks or zeroes in the indicated field position(s) and for the indicated length. All records have a fixed length of 820 positions.

**Note 2:** A copy of the current paper Instructions for Form 1042-S for this revision of the Publication 1187 is included at the end of this publication. These instructions should be used for the proper coding of each field in this record where applicable. The list of country codes in the instructions includes all recognized country codes and **MUST** be used for coding. The instructions are updated each year as required. *Since Publication 1187 may not be revised every year, be sure to use the most current instructions.*

**Note 3:** The only valid characters for electronic filing are alpha, numeric, blank, ampersand (&), hyphen (-), comma (,), apostrophe (’), forward slash (/), pound sign (#), period (.), and the percent (%). Only the percent [% (used as “in care of”)] is valid in the first position. *Do not use special characters that are unique to a language other than English. Inclusion of any characters other than those identified as valid in the instructions will result in a “Bad File” status.*

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**Record Name: Recipient “Q” Record**

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Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	<b>Required.</b> Enter “Q”.
2	Return Type Indicator	1	<b>Required.</b> Enter the one position value below to identify whether the record is Original or Amended. If submitting a replacement file, use the same indicator as the file being replaced (e.g., if you are replacing an amended file the indicator would be 1). Must be the same value as in the “W” Record. Values are:  <ul style="list-style-type: none"> <li>• 0 (Zero) = Original</li> <li>• 1 = Amended</li> </ul>
3	Pro Rata Basis Reporting	1	<b>Required.</b> Enter the one position value below to identify whether reporting Pro Rata Basis. Must be the same value as in the “W” Record. Values are:  <ul style="list-style-type: none"> <li>• 0 (Zero) = Not Pro Rata</li> <li>• 1 = Pro Rata Basis Reporting</li> </ul>
4–5	Income Code	2	<b>Required.</b> Enter the two-position value EXACTLY as it appears from the income code table. The Income Code must accurately reflect the type of income paid. <b>DO NOT</b> enter blanks or 00 (zeroes).
<b>Note: Refer to the current paper Instructions for Form 1042-S for more information.</b>			
6–17	Gross Income	12	<b>Required.</b> Enter the gross income amount in whole dollars only, rounding to the nearest dollar ( <b>do not enter cents</b> ). For example, report \$600.75 as 000000000601. An income amount of zero cannot be shown. Numeric only, right-justify and zero fill.
<b>Note: Do not report negative amounts in any amount field.</b>			
18–29	Withholding Allowance	12	<b>Used with Income Codes 15 through 19 ONLY.</b> Enter the withholding allowance amount in whole dollars only, rounding to the nearest dollar ( <b>do not enter cents</b> ). Numeric only, right-justify and zero fill. Otherwise, enter blanks.
30–41	Net Income	12	<b>Required if Dollar Amount is Entered in Withholding Allowance Field.</b> Enter the net income in whole dollars only, rounding to the nearest dollar ( <b>do not enter cents</b> ). An amount other than zero <b>must</b> be shown. Numeric only, right-justify and zero fill. Otherwise, enter blanks.

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**Record Name: Recipient "Q" Record**

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Field Positions	Field Title	Length	Description and Remarks
42-45	Tax Rate	4	<b>Required.</b> Enter the correct Tax Rate applicable to the income in gross income field or net income field, as appropriate. Enter the Tax Rate as a 2-digit whole number and 2-digit decimal (e.g., Enter 27.50 % as 2750, 15% as 1500 or 7% as 0700). See Note below.  <b>Note: The correct Tax Rate must be entered, even if withholding was at a lesser rate. See the current paper Instructions for Form 1042-S.</b>
46-47	Exemption Code	2	<b>Required. Read Carefully.</b> <ul style="list-style-type: none"><li>• If the tax rate entered is 0%, enter the appropriate exemption code "01" through "09" from the current paper Instructions for Form 1042-S.</li><li>• If the tax rate entered is 1% through 30%, enter "00".</li><li>• If the tax rate entered is greater than 30%, blank fill. <b>DO NOT</b> enter "00".</li></ul> See the current paper Instructions for Form 1042-S for circumstances under which Exemption Code "99" must be used.  <b>Note: If an incorrect amount of tax was withheld, report the amount that was actually withheld and use the correct tax rate in field positions 42-45.</b>
48-49	Recipient's Country of Residence Code for Tax Purposes	2	<b>Required.</b> Enter the two-character Country Code for which the recipient is a resident for tax purposes and on which the tax treaty benefits are based, whether or not you are applying a tax treaty benefit to this payment. The rate of tax withheld is determined by this code.  <b>Note: Do not enter U.S. in the Country Code field. Enter "OC" (other country) <u>only</u> when the country of residence does not appear on the list or the payment is made to an international organization. If you are making a payment to a QI or QI withholding rate pool, enter the country code of the QI.</b>
50-59	Reserved	10	Enter blanks
60-71	Amount Repaid	12	This field should be completed only if: <ul style="list-style-type: none"><li>• You repaid a recipient an amount that was over-withheld and you are going to reimburse yourself by reducing, by the amount of tax actually repaid, the amount of any deposit made for a payment period in the calendar year following calendar year of withholding. Otherwise, enter zeros.</li></ul>
72-91	Recipient Account Number	20	Enter the account number assigned by the withholding agent to the recipient. <b>Do not</b> enter the recipient's U.S. or foreign TIN. If account numbers are NOT assigned, then blank fill. This field may contain numeric, alpha characters, blanks or hyphens. Left-justify and blank fill.
92-93	Recipient Code	2	<b>Required.</b> Enter the appropriate Recipient Code. Refer to the list of appropriate codes in the current paper Instructions for Form 1042-S. No other codes or values are valid.  <b>Note: If recipient code "20" is used then Recipient's Name Line-1 must be "UNKNOWN" or "UNKNOWN RECIPIENT" and Recipient's Name Lines 2 and 3 must be BLANK. The tax rate must be 30%.</b>
94-133	Recipient's Name Line-1	40	<b>Required.</b> Provide the complete name of the recipient. If the recipient has a U.S. TIN, enter the name as established when applying for the TIN. If recipient code "20" is used then "UNKNOWN" or "UNKNOWN RECIPIENT" must be entered and Recipient's Name Lines 2 and 3 must be blank. See current paper Instructions for Form 1042-S for specifics on "UNKNOWN RECIPIENT" and "WITHHOLDING RATE POOL". See <b>Note 3 at the beginning of the "Q" Record.</b>

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**Note 1: A Non-Qualified Intermediary (NQI) can NEVER be entered as the recipient.**

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**Record Name: Recipient “Q” Record**

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Field Positions	Field Title	Length	Description and Remarks
<b>Note 2: Do not use special characters in names or addresses that are unique to a language other than English. For example: å = A, æ = A, ü = U, Ø = O, ñ = N, etc.</b>			
134–173	Recipient’s Name Line-2	40	Enter supplementary recipient name information including titles; otherwise, enter blanks. Use this line for additional names (e.g., partners or joint owners), for trade names, stage names, aliases or titles. Also use this line for “care of”, “Attn.” or “via”. <b>See Note 3 at the beginning of the “Q” Record.</b>
174–213	Recipient’s Name Line-3	40	See above.
214–253	Recipient’s Street Line-1	40	<b>Required.</b> Enter the mailing address of the recipient. Street address should include number, street, apartment, or suite number (or P.O. Box if mail is not delivered to street address). Abbreviate as needed. Left-justify and blank fill. <b>See Note 3 at the beginning of the “Q” Record.</b>
254–293	Recipient’s Street Line-2	40	Enter supplementary recipient street address information. If a P.O. Box is used in addition to a street address enter it here; otherwise, left-justify and blank fill.
294–333	Recipient’s City	40	<b>Required.</b> Enter the city or town (or other locality name). Enter APO or FPO only, if applicable. Do not enter a foreign postal code in the city field. Left-justify and blank fill.
334–335	Recipient’s State	2	<b>Required if U.S. address.</b> Enter the two-character State Code abbreviation. If no U.S. state, territory or APO/FPO identifier is applicable then blank fill. <b>Do not use any of the two character Country Codes in the State Code Field.</b>
<b>Note: If the recipient has a U.S. address, leave the province code in positions 336–337 and country code in positions 338–339 blank.</b>			
336–337	Recipient’s Province Code	2	<b>Required if Recipient Country Code in positions 338–339 is “CA”.</b> Enter only the two-alpha character Province Code as shown in the Province Code Table. See “T” record positions 117–118 for Province Code Table. <b>DO NOT spell out the Province Name. If foreign country other than Canada, blank fill.</b>
338–339	Recipient’s Country Code	2	<b>Required if the recipient has a foreign address.</b> Enter the two-character Country Code abbreviation.
<b>Note 1: If the state code is entered in positions 334–335, leave this field blank.</b>			
<b>Note 2: COUNTRY CODES: The list of country codes provided in the current paper Instructions for Form 1042-S includes all internationally recognized country codes and MUST be used to ensure the proper coding of the Country Code field. This list is updated each year as required. If you are making a payment to a QI, enter the country code of the QI.</b>			
<b>Note 3: Enter “UC” (unknown country) <u>only</u> if the payment is to an unknown recipient.</b>			
340–348	Postal or ZIP Code	9	<b>Required.</b> Enter up to nine numeric characters for all U.S. addresses (including territories, possessions and APO/FPO). For foreign addresses enter the alpha/numeric foreign postal code, if applicable. Enter this code in the left most position and blank fill the remaining positions. Left-justify.
349–357	Recipient’s U.S. TIN	9	Enter the recipient’s nine-digit U.S. Taxpayer Identification Number (TIN). <b>DO NOT</b> enter hyphens, alpha characters or TINS consisting of all the same digits (e.g., 11111111 or 999999999) as these are not valid TINs. If TIN is not required under regulations, blank fill.
<b>Note: U.S. TINs are now required for most recipients. See current paper Instructions for Form 1042-S.</b>			

**Record Name: Recipient "Q" Record**

Field Positions	Field Title	Length	Description and Remarks
358	Recipient's U.S. TIN Type	1	<p><b>Required.</b> Enter the recipient's U.S. TIN type indicator from the following values:</p> <ul style="list-style-type: none"> <li>• 0 (Zero) = No TIN required</li> <li>• 1 = SSN/ITIN</li> <li>• 2 = EIN</li> <li>• 3 = QI-EIN, WP-EIN, WT-EIN</li> </ul> <p>See current paper Instructions for Form 1042-S for when a TIN is not required.</p> <p><i>Note: Use EIN indicator 3 only if the Withholding Agent's EIN begins with "98" <b>AND</b> the Withholding Agent, Withholding Trust or Withholding Partnership has entered into a withholding agreement with the IRS.</i></p>
359-370	U.S. Tax Withheld	12	<p><b>Required.</b> Enter the U.S. Federal tax withheld by you. Enter the amount in whole dollars, rounding to the nearest dollar (<b>do not enter cents</b>). For example, report \$600.25 as 000000000600. Numeric only, right-justify and zero fill. If there was no withholding, zero fill.</p>
371-382	Withholding By Other Agents	12	<p><b>Required.</b> If you are a withholding agent reporting Form 1042-S information that has already been subject to withholding by another withholding agent, enter the amount withheld by the other agent. Enter the amount in whole dollars, rounding to the nearest dollar (<b>do not enter cents</b>). For example, report \$600.25 as 000000000600. Numeric only, right-justify and zero fill. <b>If there was no withholding, zero fill.</b></p>
383-394	Total Withholding Credit	12	<p><b>Required.</b> Enter the aggregate amount of U.S. Federal tax withheld by you and any other withholding agent in whole dollars, rounding to the nearest dollar (<b>do not enter cents</b>). For example, report \$600.25 as 000000000600. Numeric only, right-justify and zero fill. <b>If there was no withholding, zero fill.</b></p> <p><b>Note: If the Total Withholding Credit, (aggregate amounts of U.S. Federal Tax Withheld and Withholding By Other Agents) was either under or over reported, see Field Positions 761 of the "Q" Record.</b></p>
395-400	Reserved	6	Enter blanks.
401-440	NQI/FLW-THR/PTP Name Line-1	40	<p>Provide the complete name of the NQI/FLW-THR or PTP Entity. It is very important that the complete name of the NQI/FLW-THR or PTP entity be provided. Left-justify and blank fill. <b>See Note 3 at the beginning of the "Q" Record.</b></p> <p><b>Note 1: If you are a nominee that is the withholding agent under Code Section 1446, enter the Publicly Traded Partnership's (PTP) name and other information in the NQI/FLW-THR fields; positions 401-666.</b></p> <p><b>Note 2: All NQI/FLW-THR fields are REQUIRED if the NQI/FLW-THR entity is involved in the payment structure WITH THE EXCEPTION OF THE NQI/FLW-THR TIN.</b></p>
441-480	NQI/FLW-THR/PTP Name Line-2	40	<p>Enter supplementary information; otherwise, enter blanks. Use this line for additional names (e.g., partners or joint owners), for trade names, stage names, aliases or titles. Also use this line for "care of" or "via". <b>See Note 3 at the beginning of the "Q" Record.</b></p>
481-520	NQI/FLW-THR/PTP Name Line-3	40	See above.
521-522	Reserved	2	Enter blanks.
523-562	NQI/FLW-THR/PTP Street Line-1	40	<p>Enter the mailing address of the NQI/FLW-THR or PTP entity. Street address should include number, street, apartment, or suite number (or P.O. Box if mail is not delivered to street address). Abbreviate as needed. Left-justify and blank fill.</p>
563-602	NQI/FLW-THR/PTP Street Line-2	40	<p>Enter supplementary NQI/FLW-THR or PTP entity street address information; otherwise, blank fill.</p>

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**Record Name: Recipient “Q” Record**

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Field Positions	Field Title	Length	Description and Remarks
603–642	NQI/FLW-THR/PTP City	40	Enter the city or town (or other locality name). Left-justify and blank fill.
643–644	NQI/FLW-THR/PTP State Code	2	Enter the two-alpha character state code (see table Part A, Sec. 13). If a state code or APO/FPO is not applicable then blank fill.
645–646	NQI/FLW-THR/PTP Province Code	2	Enter the two-alpha character Province Code abbreviation, if applicable. See “T” Record positions 117–118.
647–648	NQI/FLW-THR/PTP Country Code	2	Enter the two-character Country Code abbreviation, where the NQI/FLW-THR or PTP is located. Enter blanks if the NQI/FLW-THR or PTP has a U.S. address.
649–657	NQI/FLW-THR/PTP Postal Code or ZIP Code	9	Enter the alpha/numeric foreign postal code or U.S. ZIP Code for all U.S. addresses including territories, possessions and APO/FPO. Enter the code in the left most position and blank fill the remaining positions.
658–666	NQI/FLW-THR/PTP U.S. TIN	9	Enter the NQI/FLW-THR or PTP nine-digit U.S. Taxpayer Identification Number (TIN), if any. Do NOT enter hyphens or alpha characters.
667–706	Payer’s Name	40	Enter the name of the Payer of Income if different from the Withholding Agent. Abbreviate as needed. If Withholding Agent and Payer are the same, blank fill.
707–715	Payer’s U.S. TIN	9	Enter the Payer’s U.S. Taxpayer Identification Number if there is an entry in the Payer Name Field; otherwise, leave blank.
716–727	State Income Tax Withheld	12	If State Tax has been withheld, enter that amount, in whole dollars (do not enter cents). Right-justify and zero fill. If no entry, zero fill.
<b>Note: This amount is not included in the U.S. Federal Tax fields.</b>			
728–737	Payer’s State Tax Number	10	Enter the employer’s state I.D. number if assigned by the state. Otherwise, left-justify and blank fill.
738–739	Payer’s State Code	2	Enter the two-character State Code abbreviation.
740–760	Special Data Entries	21	This field may be used for the filer’s own purposes, (e.g., Do Not Mail). If this field is not used, enter blanks.
761	U.S. Federal Tax Withheld Indicator	1	<p><b>Required.</b> Indicate if the U.S. Federal tax withheld was correct or incorrect using the following values:</p> <ul style="list-style-type: none"> <li>• 0 = Correctly reported</li> <li>• 1 = Over withheld</li> <li>• 2 = Under withheld</li> </ul>
<b>Note 1: Please refer to Total Withholding Credit positions 383–394.</b>			
762–783	Recipient’s Foreign Tax I.D. Number	22	Enter the recipient’s identifying number. Use only characters listed in Note 3 at the beginning of the “Q” Record. Left-justify and blank fill.
784–809	Reserved	27	Enter blanks.

**Record Name: Recipient "Q" Record**

Field Positions	Field Title	Length	Description and Remarks								
810	Amended Return Indicator	1	<b>Required for amended returns only.</b> Enter the appropriate code:  <table border="0"> <tr> <td><u>Code</u></td> <td><u>Definition</u></td> </tr> <tr> <td>G</td> <td>If this is a one-step transaction amended return or the first of a two-step transaction amended return</td> </tr> <tr> <td>C</td> <td>If this is the second transaction of a two-step transaction amended return</td> </tr> <tr> <td>Blank</td> <td>If this is not a return being submitted to amend information already processed by IRS</td> </tr> </table>	<u>Code</u>	<u>Definition</u>	G	If this is a one-step transaction amended return or the first of a two-step transaction amended return	C	If this is the second transaction of a two-step transaction amended return	Blank	If this is not a return being submitted to amend information already processed by IRS
<u>Code</u>	<u>Definition</u>										
G	If this is a one-step transaction amended return or the first of a two-step transaction amended return										
C	If this is the second transaction of a two-step transaction amended return										
Blank	If this is not a return being submitted to amend information already processed by IRS										
<p><b>Note: Amended C and G coded records must be reported using separate Payer "W" Records. Refer to Part A, Sec. 9, for specific instructions on how to file amended returns.</b></p> <p><b>Non-coded records cannot be submitted in Amended files.</b></p>											
811–818	Record Sequence Number	8	<b>Required.</b> Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can have only one "T" record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, <i>i.e.</i> , 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the first "W" record would be "00000002", the first "Q" record, "00000003", the second "Q" record, "00000004" and so on until you reach the final record of the file, the "F" record.								
819–820	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed (CR/LF) characters.								

**Recipient "Q" Record Layout**

Record Type	Return Type Indicator	Pro Rata Basis Reporting	Income Code	Gross Income	Withholding Allowance	Net Income	Tax Rate	Exemption Code
1	2	3	4–5	6–17	18–29	30–41	42–45	46–47

Recipient's Country of Residence Code for Tax Purposes	Reserved	Amount Repaid	Recipient Account Number	Recipient Code	Recipient's Name Line-1	Recipient's Name Line-2	Recipient's Name Line-3
48–49	50–59	60–71	72–91	92–93	94–133	134–173	174–213

Recipient's Street Line-1	Recipient's Street Line-2	Recipient's City	Recipient's State	Recipient's Province Code	Recipient's Country Code	Postal or ZIP Code	Recipient's U.S. TIN
214–253	254–293	294–333	334–335	336–337	338–339	340–348	349–357

Recipient's U.S. TIN Type	U.S. Federal Tax Withheld	Withholding By Other Agents	Total Withholding Credit	Reserved	NQI/FLW-THR/PTP Name Line-1	NQI/FLW-THR/PTP Name Line-2	NQI/FLW-THR/PTP Name Line-3
358	359-370	371-382	383-394	395-400	401-440	441-480	481-520

Reserved	NQI/FLW-THR/PTP Street Line-1	NQI/FLW-THR/PTP Street Line-2	NQI/FLW-THR/PTP City	NQI/FLW-THR/PTP State Code	NQI/FLW-THR/PTP Province Code
521-522	523-562	563-602	603-642	643-644	645-646

NQI/FLW-THR/PTP Country Code	NQI/FLW-THR/PTP Postal Code or ZIP Code	NQI/FLW-THR/PTP U.S. TIN	Payer's Name	Payer's U.S. TIN	State Income Tax Withheld
647-648	649-657	658-666	667-706	707-715	716-727

Payer's State Tax Number	Payer's State Code	Special Data Entries	U.S. Federal Tax Withheld Indicator	Recipient's Foreign Tax I.D. Number
728-737	738-739	740-760	761	762-783

Reserved	Amended Return Indicator	Record Sequence Number	Blank or Carriage Return Line Feed
784-809	810	811-818	819-820

#### Sec. 4. Reconciliation "C" Record

.01 The "C" Record is a fixed record length of 820 positions and all positions listed are **required**. The "C" Record is a summary of the number of "Q" Records for each Withholding Agent, Gross Amount Paid, and Total *Withholding Credit*.

.02 This record will be written after the last "Q" Record filed for a given withholding agent. For each "W" Record and group of "Q" Records on the file, there must be a corresponding "C" Record.

.03 All alpha characters entered in the "C" Record must be upper case.

.04 The "C" Record is a fixed length of 820 positions.

#### Record Name: Reconciliation "C" Record

Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	<b>Required.</b> Enter "C".
2-9	Total "Q" Records	8	<b>Required.</b> Enter the total number of "Q" Records for this withholding agent. Right-justify and zero fill. <b>Do not enter all zeros.</b> For example, 53 "Q" records are entered as 00000053. See Part A, Sec. 4, Filing and Retention Requirements.
10-15	Blank	6	Enter blanks.
16-30	Total Gross Amount Paid	15	<b>Required.</b> Enter the total gross income amount in whole dollars ( <b>do not enter cents.</b> ) For example report \$600.00 as 000000000000600. An income amount other than zero must be shown. Right-justify and zero fill.

**Record Name: Reconciliation "C" Record**

Field Positions	Field Title	Length	Description and Remarks
31-45	Total Withholding Credit	15	<b>Required.</b> Enter the total aggregate amount of tax withheld by you and any other withholding agent. This is the aggregate total amounts from the fields U.S. Federal Tax Withheld and Withholding By Other Agents. Enter the amount in whole dollars ( <b>do not enter cents.</b> ) For example report \$600.00 as 000000000000600. Right-justify and zero fill.
46-810	Reserved	765	Enter blanks.
811-818	Record Sequence Number	8	<b>Required.</b> Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can have only one "T" record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, <i>i.e.</i> , 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the first "W" record would be "00000002", the first "Q" record, "00000003", the second "Q" record, "00000004" and so on until you reach the final record of the file, the "F" record.
819-820	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed (CR/LF) characters.

**Reconciliation "C" Record Layout**

Record Type	Total "Q" Records	Blank	Total Gross Amount Paid	Total Withholding Credit	Reserved	Record Sequence Number	Blank or Carriage Return Line Feed
1	2-9	10-15	16-30	31-45	46-810	811-818	819-820

**Sec. 5. End of Transmission "F" Record**

.01 The "F" Record is a fixed record length of 820 positions and all positions listed are **required**. The "F" Record is a summary of the number of withholding agents in the entire file.

.02 This record will be written after the last "C" Record of the entire file. End the file with an End of Transmission "F" Record. No data will be read after the "F" Record. Only a "C" Record may precede the "F" Record.

.03 All alpha characters entered in the "F" Record must be upper case.

.04 The "F" Record is a fixed length of 820 positions.

**Record Name: End of Transmission "F" Record**

Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	<b>Required.</b> Enter "F".
2-4	Withholding Agent Count	3	<b>Required.</b> Enter the total number of withholding agents on this file. This count must be the same as the total number of "W" records. Right-justify and zero fill.
5-810	Reserved	806	Enter blanks.

**Record Name: End of Transmission "F" Record**

Field Positions	Field Title	Length	Description and Remarks
811–818	Record Sequence Number	8	<b>Required.</b> Enter the number of the record as it appears within your file. The record sequence number for the "T" record will always be "1" (one), since it is the first record on your file and you can have only one "T" record in a file. Each record, thereafter, must be incremented by one in ascending numerical sequence, <i>i.e.</i> , 2, 3, 4, etc. Right-justify numbers with leading zeroes in the field. For example, the "T" record sequence number would appear as "00000001" in the field, the first "W" record would be "00000002", the first "Q" record, "00000003", the second "Q" record, "00000004" and so on until you reach the final record of the file, the "F" record.
819–820	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed (CR/LF) characters.

**End of Transmission "F" Record Layout**

Record Type	Withholding Agent Count	Reserved	Record Sequence Number	Blank or Carriage Return Line Feed
1	2–4	5–810	811–818	819–820

**Part D. Extensions of Time and Waivers**

**Sec. 1. General — Extensions**

**.01** An extension of time to file may be requested for Form 1042-S.

**.02** Submit Form 8809, Application for Extension of Time To File Information Returns, to IRS/ECC-MTB at the address listed in .09 of this section. This form may be used to request an extension of time to file Form 1042-S submitted on paper or electronically to the IRS. Use a separate Form 8809 for each method of filing information returns you intend to use, *i.e.* paper or electronic.

**.03** The fill-in Form 8809 may be completed online via the FIRE System. (See Part B, Sec. 7, for instructions on connecting to the FIRE System.) At the Main Menu, click "Extension of Time Request" and then click "Fill-in Extension Form". This option is only used to request an automatic 30-day extension. If you are requesting an additional extension, you must submit a paper Form 8809. Requests for an additional extension of time to file information returns are not automatically granted. Requests for additional time are granted only in cases of extreme hardship or catastrophic event. The IRS will send only a letter of explanation approving or denying your additional extension request. (Refer to .12 of this Section.)

**.04** To be considered, an extension request must be postmarked, transmitted or completed online by the due date of the returns; otherwise, the request will be denied. (See Part A, Sec. 7.) If requesting an extension of time to file several types of forms, use one Form 8809; however, Form 8809 or file must be postmarked no later than the earliest due date. For example, if requesting an extension of time to file both Forms 1099-INT and 1042-S, submit Form 8809 on or before February 28, 2009.

**.05 As soon as it is apparent** that a 30-day extension of time to file is needed, an extension request should be submitted. It may take up to 30 days for IRS/ECC-MTB to respond to an extension request. IRS/ECC-MTB does not begin processing extension requests until January. **Extensions completed online via the FIRE System receive instant results.**

**.06** Under certain circumstances, a request for an extension of time may be denied. When a denial letter is received, any additional or necessary information may be resubmitted within 20 days.

**.07** Requesting an extension of time for multiple withholding agents (**10 or less**) may be done by completing the online fill-in form via the FIRE System or by mailing Form 8809 and attaching a list of the withholding agent names and associated TINs (EIN or SSN). Each withholding agent must be completed online or included in the listing to ensure an extension is recorded for all withholding agents. Form 8809 may be computer-generated or photocopied. Be sure to use the most recently updated version and include all pertinent information.

**Note: IRS encourages the withholding agent/transmitter community to utilize the online fill-in form in lieu of the paper Form 8809.**

**.08** Withholding agents/transmitters requesting an extension of time to file for **10 or more payers** are **required** to submit the extension online via the fill-in form or in a file electronically (see Sec. 3, for the record layout).

**.09** All requests for an extension of time filed on Form 8809 should be sent using the following address:

IRS-Enterprise Computing Center at Martinsburg  
Information Reporting Program  
**Attn: Extension of Time Coordinator**  
240 Murall Drive  
Kearneysville, WV 25430

**Note: Due to the large volume of mail received by IRS/ECC-MTB and the time factor involved in processing Extension of Time (EOT) requests, it is imperative that the attention line be present on all envelopes or packages containing Form 8809.**

**.10** Requests for extensions of time to file postmarked by the United States Postal Service on or before the due date of the returns, and delivered by United States mail to IRS/ECC-MTB after the due date, are treated as timely under the “timely mailing as timely filing” rule. A similar rule applies to designated private delivery services (PDSs). Notice 97-26, 1997-1 C.B. 413, provides rules for determining the date that is treated as the postmark date. For items delivered by a non-designated Private Delivery Service (PDS), the actual date of receipt by IRS/ECC-MTB will be used as the filing date. For items delivered by a designated PDS, but through a type of service not designated in Notice 2004-83, 2004-2 C.B. 1030 the actual date of receipt by IRS/ECC-MTB will be used as the filing date. The timely mailing rule also applies to furnishing statements to recipients and participants.

**.11** Transmitters requesting an extension of time for multiple withholding agents will receive one approval letter, accompanied by a list of withholding agents covered under that approval.

**.12** If an additional extension of time is needed, a second Form 8809 or file must be filed by the initial extended due date. Check line 7 on the form to indicate that an additional extension is being requested. A second 30-day extension will be approved only in cases of extreme hardship or catastrophic event. **If requesting a second 30-day extension of time, submit the information return files as soon as prepared. Do not wait for IRS/ECC-MTB’s response to your second extension request.**

**.13** If an extension request is approved, be sure to keep the approval letter in your files. **DO NOT** send the approval letter or copy of the approval letter to IRS/ECC-MTB or to the Ogden Service Center where the paper Forms 1042-S are filed.

**.14** Request an extension for only one tax year.

**.15** A signature is not required when requesting a 30 day extension. If a second 30 day extension is requested the Form 8809 **must** be signed.

**.16** Failure to properly complete and sign Form 8809 may cause delays in processing the request or result in a denial. Carefully read and follow the instructions on the back of Form 8809.

**.17** Form 8809 may be obtained by calling **1-800-TAX-FORM (1-800-829-3676)**. The form is also available at [www.irs.gov](http://www.irs.gov).

## **Sec. 2. Specifications for Filing Extensions of Time Electronically**

**.01** The specifications in Sec. 3 include the required 200-byte record layout for extensions of time to file requests submitted electronically. Also included are the instructions for the information that is to be entered in the record. **Filers are advised to read this section in its entirety to ensure proper filing.**

**.02** If a filer does not have an IRS/ECC-MTB assigned Transmitter Control Code (TCC), Form 4419, Application for Filing Information Returns Electronically, **must** be submitted to obtain a TCC. This number **must** be used to submit an extension request electronically. (See Part A, Sec. 6.)

**.03** For extension requests filed via an electronic file, the transmitter must fax Form 8809 or send an e-mail through the FIRE System ([fire@irs.gov](mailto:fire@irs.gov) and [irs.e-helpmail@irs.gov](mailto:irs.e-helpmail@irs.gov)) the same day as the transmission. The e-mail should contain the same information as the Form 8809 in order to mail a response, check the record count and form types in the file. The e-mail option is only used to request the automatic 30-day extension. If you are requesting an additional extension, you must fax a signed Form 8809 the same day as the transmission. Be sure to include the reason an additional extension is needed.

**.04** Transmitters submitting an extension of time via an electronic file should not submit a list of withholding agents names and TINs with Form 8809 or e-mail this information since this information is included on the electronic file. However, Line 6 of Form 8809 must be completed or the total number of records on the extension file must be included within the e-mail. The fill-in Form 8809 **cannot** be used in lieu of the paper Form 8809 for electronic files.

**.05** Do not submit extension requests filed electronically before January 3.

### Sec. 3. Record Layout — Extension of Time

.01 Positions 6 through 188 of the following record should contain information about the withholding agent for whom the extension of time to file is being requested. Do not enter transmitter information in these fields. **Only one TCC may be present in a file.**

Record Layout for Extension of Time							
Field Positions	Field Title	Length	Description and Remarks				
1–5	Transmitter Control Code	5	<b>Required.</b> Enter the five-digit Transmitter Control Code (TCC) issued by IRS. <b>Only one TCC per file is acceptable.</b>				
6–14	Withholding Agent's TIN	9	<b>Required.</b> Must be the valid nine-digit TIN assigned to the withholding agent. <b>Do not enter blanks, hyphens or alpha characters.</b> All zeros, ones, twos, etc., will have the effect of an incorrect TIN. For foreign entities that are not required to have a TIN, this field may be blank; however, the Foreign Entity Indicator, position 187, <b>must</b> be set to "X."				
15–54	Withholding Agent's Name	40	<b>Required.</b> Enter the name of the withholding agent whose TIN appears in positions 6–14. Left-justify information and fill unused positions with blanks.				
55–94	Second Withholding Agent's Name	40	If additional space is needed, this field may be used to continue name line information (e.g., c/o First National Bank); otherwise, left-justify and enter blanks.				
95–134	Withholding Agent's Address	40	<b>Required.</b> Enter the withholding agent's address. Street address should include number, street, apartment or suite number (or PO Box if mail is not delivered to a street address).				
135–174	Withholding Agent's City	40	<b>Required.</b> Enter withholding agent's city, town, or post office.				
<b>Note: For foreign addresses, filers may use the payer city, state, and ZIP Code as a continuous 51-position field. Enter information in the following order: city, province or state, postal code, and the name of the country.</b>							
175–176	Withholding Agent's State	2	<b>Required.</b> Enter the withholding agent's valid U.S. Postal Service state abbreviation. (Refer to Part A, Sec. 13.)				
177–185	Withholding Agent's ZIP Code	9	<b>Required.</b> Enter withholding agent's ZIP Code. If using a five-digit ZIP Code, left-justify information and fill unused positions with blanks.				
186	Document Indicator	1	<b>Required.</b> Enter the appropriate document code that indicates the form for which you are requesting an extension of time.  <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;"><u>Code</u></td> <td style="text-align: center;"><u>Document</u></td> </tr> <tr> <td style="text-align: center;">4</td> <td style="text-align: center;">1042-S</td> </tr> </table>	<u>Code</u>	<u>Document</u>	4	1042-S
<u>Code</u>	<u>Document</u>						
4	1042-S						
187	Foreign Entity Indicator	1	Enter "X" if the withholding agent is a foreign entity. <b>Note: A foreign entity is not required to have a TIN.</b>				
188	Recipient Request Indicator	1	Enter "X" if the extension request is to furnish statements to the recipients of the information return.  <b>Note: A separate file is required for this type of extension request. A file must either contain all blanks or all X's in this field.</b>				
189–198	Blank	10	Enter blanks.				
199–200	Blank	2	Enter blanks or carriage return/line feed (CR/LF) characters.				

### Extension of Time Record Layout

Transmitter Control Code	Withholding Agent's TIN	Withholding Agent's Name	Second Withholding Agent's Name	Withholding Agent's Address	Withholding Agent's City
1-5	6-14	15-54	55-94	95-134	135-174

Withholding Agent's State	Withholding Agent's ZIP Code	Document Indicator	Foreign Entity Indicator	Recipient Request Indicator	Blank	Blank or CR/LF
175-176	177-185	186	187	188	189-198	199-200

#### Sec. 4. Extension of Time for Recipient Copies of Information Returns

**.01** Request an **extension of time to furnish the statements to recipients** of Form 1042-S by submitting a letter to IRS/ECC-MTB at the address listed in Part D, Sec 1.09. The letter should contain the following information:

- (a) Withholding Agent's name
- (b) TIN
- (c) Address
- (d) Type of return
- (e) Specify that the extension request is to provide statements to recipients
- (f) Reason for delay
- (g) Signature of withholding agent or duly authorized person.

**.02** Requests for an extension of time to furnish statements to recipients of Form 1042-S are not automatically approved; however, if approved, generally an extension will allow a maximum of 30 additional days from the due date. The request must be postmarked by the date on which the statements are due to the recipients.

**.03** Generally, only the withholding agent may sign the letter requesting the extension for recipient copies. A transmitter must have a contractual agreement with the withholding agents to submit extension requests on their behalf. This should be stated in your letter of request for recipient copy extensions. If you are requesting an extension for multiple withholding agents electronically, you must use the format specifications in Sec. 3.

**.04** Requests for a recipient extension of time to file for more than 10 withholding agents are required to be submitted electronically. (See Sec. 3, for record layout.)

**.05 The fill-in Form 8809 extension option cannot be used to request an extension to furnish statements to recipients.**

#### Sec. 5. Form 8508, Request for Waiver From Filing Information Returns Electronically

**.01** If a withholding agent is required to file electronically but fails to do so and does not have an approved waiver on record, the withholding agent will be subject to a penalty of \$50 per return in excess of 250 unless reasonable cause is established. (For penalty information, refer to the Penalty Section of the *General Instructions for Form 1042-S*.)

**.02** If withholding agents are required to file original or amended returns electronically, but such filing would create an undue hardship, they may request a waiver from these filing requirements by submitting Form 8508, Request for Waiver From Filing Information Returns Electronically, to IRS/ECC-MTB. Form 8508 can be obtained on the IRS Website at [www.irs.gov](http://www.irs.gov) or by calling toll-free 1-800-829-3676.

**.03** Even though a withholding agent may submit as many as 249 amended returns on paper, IRS/ECC-MTB encourages electronic filing of amended returns. Once the 250 threshold has been met, filers are required to submit any returns of 250 or more electronically. However, if a waiver for original documents is approved, any amended returns for the same type of returns will be covered under this waiver.

**.04** Generally, only the withholding agent may sign Form 8508. A transmitter may sign if given power of attorney; however, a letter signed by the payer stating this fact must be attached to Form 8508.

**.05** A transmitter must submit a separate Form 8508 for each withholding agent. Do not submit a list of withholding agents.

**.06** All information requested on Form 8508 must be provided to IRS/ECC-MTB for the request to be processed.

**.07** The waiver, if approved, will provide exemption from the electronic filing requirement for the current tax year only. Withholding agents may not apply for a waiver for more than one tax year.

**.08** Form 8508 may be photocopied or computer-generated as long as it contains all the information requested on the original form.

.09 Filers are encouraged to submit Form 8508 to IRS/ECC-MTB at least 45 days before the due date of the returns. Generally, IRS/ECC-MTB does not process waiver requests until January. Waiver requests received prior to January are processed on a first come, first served basis.

.10 All requests for a waiver should be sent using the following address:

IRS-Enterprise Computing Center — Martinsburg  
Information Reporting Program  
240 Murall Drive  
Kearneysville, WV 25430

.11 Waivers are evaluated on a case-by-case basis and are approved or denied based on criteria set forth in the regulations under section 6011(e) of the Internal Revenue Code. The transmitter must allow a minimum of 30 days for IRS/ECC-MTB to respond to a waiver request.

.12 If a waiver request is approved, be sure to keep the approval letter in your files. **DO NOT** send a copy of the approved waiver to the Ogden Service Center.

.13 An approved waiver only applies to the requirement for filing Form 1042-S electronically. The withholding agent must timely file information returns on the official IRS paper forms or an acceptable substitute form with the Ogden Service Center.

26 CFR 601.201: Rulings and determination letters.  
(Also: Part I, §§ 401; 1.401(b)-1.)

## Rev. Proc. 2009-36

### SECTION 1. PURPOSE

.01 This revenue procedure modifies Rev. Proc. 2007-44, 2007-2 C.B. 54, to provide that a remedial amendment cycle with respect to a governmental plan within the meaning of § 414(d) of the Code (“governmental plan”) will not end before the expiration of the 91<sup>st</sup> day after the close of the first legislative session that begins more than 120 days after a determination letter is issued for the plan (or after the occurrence of certain other events relating to a determination letter application), provided that the application for the determination letter was timely submitted to the Service.

.02 This revenue procedure also modifies Rev. Proc. 2007-44 to provide that the sponsor of an individually designed governmental plan may elect Cycle E (instead of Cycle C) as the initial (EGTRRA) remedial amendment cycle for the plan. This change (which was announced in the November 5, 2008, *Special Edition* of the *EP News* <http://www.irs.gov/pub/irs-tege/se1108.pdf>) is a one-time modification that does not apply in determining a plan’s remedial amendment cycle after the initial (EGTRRA) cycle.

### SECTION 2. BACKGROUND

.01 Section 401(b) provides a remedial amendment period during which a plan may be amended retroactively to comply with the qualification requirements of § 401(a). Section 1.401(b)-1 of the Income Tax Regulations describes the disqualifying provisions that may be amended retroactively and the remedial amendment period during which retroactive amendments may be adopted. The regulations also grant the Commissioner the discretion to designate certain plan provisions as disqualifying provisions.

.02 Section 1.401(b)-1(e)(3) permits the timely adoption of retroactive remedial amendments that have been determined to be necessary for the issuance of a favorable determination letter, provided that the application for a determination letter was filed with the Service before the end of the remedial amendment period. Section 1.401(b)-1(e)(3) also provides that if an application for a determination letter on the qualified status of a plan is filed with the Service on or before the end of a remedial amendment period, the period is extended until the expiration of the 91<sup>st</sup> day after:

(1) The date on which notice of the final determination with respect to the application is issued by the Service, the application is withdrawn, or the application is otherwise disposed of by the Service; or

(2) If a petition is timely filed with the U.S. Tax Court for a declaratory judgment under § 7476 with respect to the final de-

termination (or the failure of the Service to make a final determination) in response to such application, the date on which the decision of the Tax Court in such proceeding becomes final.

.03 Section 1.401(b)-1(f) provides that the Commissioner may extend the remedial amendment period at the Commissioner’s discretion.

.04 Rev. Proc. 2007-44 provides a system of staggered, cyclical remedial amendment periods under § 401(b). Under this system, every individually designed plan has a five-year remedial amendment period or cycle, and every pre-approved plan (that is, a master and prototype or volume submitter plan) has a six-year remedial amendment period or cycle. In general, Rev. Proc. 2007-44 extends the remedial amendment period for any disqualifying provision to the end of a plan’s remedial amendment cycle that includes the date on which the remedial amendment period with respect to the provision would otherwise end under § 1.401(b)-1.

.05 In general, the end of a plan’s remedial amendment cycle is the last day by which the plan may be retroactively amended to correct disqualifying provisions for which the remedial amendment period under § 1.401(b)-1 would otherwise end during that cycle. However, if an application for a determination letter is filed with the Service before the end of a plan’s remedial amendment cycle, the remedial amendment period, and thus the deadline for retroactively amending dis-

qualifying provisions, is extended as provided in § 1.401(b)-1(e)(3).

.06 The cycle applicable to an individually designed plan is generally based on the sponsoring employer's taxpayer identification number. However, the initial remedial amendment cycle for individually designed governmental plans (Cycle C) ended on January 31, 2009, and each subsequent Cycle C ends on each fifth anniversary thereof. The six-year remedial amendment cycle for pre-approved plans, including governmental plans that are pre-approved plans, is contained in section 18 of Rev. Proc. 2007-44.

.07 The Service recognizes that the 91-day extension of the remedial amendment period provided by § 1.401(b)-1(e)(3) may not allow enough time for governmental plans to be amended to adopt retroactive remedial amendments that have been determined to be necessary for the issuance of a favorable determination letter. This is because the governing body with authority to amend the plan may be prevented, under the laws and procedures applicable to the governing body's deliberations, from considering the amendments until some time after the 91-day extension under § 1.401(b)-1(e)(3) has expired.

.08 Rev. Proc. 2009-6, 2009-1 I.R.B. 189, contains the Service's procedures regarding the issuance of determination letters for plans qualified under § 401(a). Section 19 of Rev. Proc. 2009-6 provides that an application for a determination letter may be withdrawn by the applicant, but that any user fee paid with the application generally will not be returned to the applicant.

### SECTION 3. APPLICATION OF § 1.401(b)-1(e)(3) TO GOVERNMENTAL PLANS

Pursuant to the Commissioner's authority under § 1.401(b)-1(f), if an application for a determination letter on the qualified status of a governmental plan is filed with the Service on or before the end of the plan's remedial amendment cycle, the remedial amendment period will be extended until the expiration of the 91<sup>st</sup> day after the last day of the first regular leg-

islative session beginning more than 120 days after the date in (1) or (2) below in which the governing body with authority to amend the plan can consider a plan amendment under the laws and procedures applicable to the governing body's deliberations:

(1) The date on which notice of the final determination with respect to the application is issued by the Service, the application is withdrawn, or the application is otherwise disposed of by the Service; or

(2) If a petition is timely filed with the U.S. Tax Court for a declaratory judgment under § 7476 with respect to the final determination (or the failure of the Service to make a final determination) in response to such application, the date on which the decision of the Tax Court in such proceeding becomes final.

### SECTION 4. OPTION TO ELECT CYCLE E AS INDIVIDUALLY DESIGNED GOVERNMENTAL PLAN'S INITIAL REMEDIAL AMENDMENT CYCLE

.01 The sponsor of an individually designed governmental plan may elect Cycle E (instead of Cycle C) as the plan's initial (EGTRRA) remedial amendment cycle. The election is made by filing a determination letter application for the plan during the one-year submission period for the initial Cycle E (February 1, 2010 through January 31, 2011). No election form or notice to the Service is required. A sponsor of an individually designed governmental plan that submitted a determination letter application for the plan during the submission period for the initial Cycle C (February 1, 2008 through January 31, 2009) may withdraw the application. If the application was filed on or before November 7, 2008, the user fee paid with the application will be returned to the applicant, provided a written request to withdraw the application was submitted to the Service (post-marked) on or before January 31, 2009. Otherwise, as provided in section 19 of Rev. Proc. 2009-9, the user fee generally will not be returned.

.02 If the sponsor of an individually designed governmental plan elects to file a determination letter application for the

plan during the Cycle E submission period, all requirements for an individually designed plan submitted for a determination letter during the Cycle E submission period are applicable to the sponsor's plan, including the requirement to amend the plan for all applicable items on the Cycle E Cumulative List and the requirement to timely adopt any interim amendments that are required for a governmental plan during Cycle C and Cycle D.

.03 A sponsor's election of Cycle E, instead of Cycle C, as the initial (EGTRRA) remedial amendment cycle for an individually designed governmental plan applies only to that plan and only to that cycle. For any subsequent remedial amendment cycle, the plan's cycle will revert to Cycle C. Therefore, if a sponsor of a governmental plan files a determination letter application for the plan during the initial Cycle E submission period ending on January 31, 2011, the determination letter that is issued will expire at the end of the Cycle C that next follows the initial Cycle C (January 31, 2014).

### SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2007-44 is modified.

### SECTION 6. EFFECTIVE DATE

This revenue procedure is effective on August 31, 2009, but plan sponsors may rely on this revenue procedure with respect to the modification contained in section 4 as of November 5, 2008.

### DRAFTING INFORMATION

The principal author of this revenue procedure is James P. Flannery of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this revenue procedure, please contact the Employee Plans taxpayer assistance answering service at 1-877-829-5500 (a toll-free number) or e-mail Mr. Flannery at [RetirementPlanQuestions@irs.gov](mailto:RetirementPlanQuestions@irs.gov).

# Definition of Terms

*Revenue rulings and revenue procedures (hereinafter referred to as “rulings”) that have an effect on previous rulings use the following defined terms to describe the effect:*

*Amplified* describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

*Clarified* is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

*Distinguished* describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

*Modified* is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A

and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

*Obsoleted* describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

*Revoked* describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

*Superseded* describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance

of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

*Supplemented* is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

*Suspended* is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

# Abbreviations

*The following abbreviations in current use and formerly used will appear in material published in the Bulletin.*

A—Individual.  
Acq.—Acquiescence.  
B—Individual.  
BE—Beneficiary.  
BK—Bank.  
B.T.A.—Board of Tax Appeals.  
C—Individual.  
C.B.—Cumulative Bulletin.  
CFR—Code of Federal Regulations.  
CI—City.  
COOP—Cooperative.  
Ct.D.—Court Decision.  
CY—County.  
D—Decedent.  
DC—Dummy Corporation.  
DE—Donee.  
Del. Order—Delegation Order.  
DISC—Domestic International Sales Corporation.  
DR—Donor.  
E—Estate.  
EE—Employee.  
E.O.—Executive Order.

ER—Employer.  
ERISA—Employee Retirement Income Security Act.  
EX—Executor.  
F—Fiduciary.  
FC—Foreign Country.  
FICA—Federal Insurance Contributions Act.  
FISC—Foreign International Sales Company.  
FPH—Foreign Personal Holding Company.  
F.R.—Federal Register.  
FUTA—Federal Unemployment Tax Act.  
FX—Foreign corporation.  
G.C.M.—Chief Counsel’s Memorandum.  
GE—Grantee.  
GP—General Partner.  
GR—Grantor.  
IC—Insurance Company.  
I.R.B.—Internal Revenue Bulletin.  
LE—Lessee.  
LP—Limited Partner.  
LR—Lessor.  
M—Minor.  
Nonacq.—Nonacquiescence.  
O—Organization.  
P—Parent Corporation.  
PHC—Personal Holding Company.  
PO—Possession of the U.S.  
PR—Partner.

PRS—Partnership.  
PTE—Prohibited Transaction Exemption.  
Pub. L.—Public Law.  
REIT—Real Estate Investment Trust.  
Rev. Proc.—Revenue Procedure.  
Rev. Rul.—Revenue Ruling.  
S—Subsidiary.  
S.P.R.—Statement of Procedural Rules.  
Stat.—Statutes at Large.  
T—Target Corporation.  
T.C.—Tax Court.  
T.D.—Treasury Decision.  
TFE—Transferee.  
TFR—Transferor.  
T.I.R.—Technical Information Release.  
TP—Taxpayer.  
TR—Trust.  
TT—Trustee.  
U.S.C.—United States Code.  
X—Corporation.  
Y—Corporation.  
Z—Corporation.

## Numerical Finding List<sup>1</sup>

Bulletins 2009–27 through 2009–35

## Treasury Decisions— Continued:

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### Announcements:

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Ann	Announcement
CD	Court Decision
DO	Delegation Order
EO	Executive Order
PL	Public Law
PTE	Prohibited Transaction Exemption
RP	Revenue Procedure
RR	Revenue Ruling
SPR	Statement of Procedural Rules
TC	Tax Convention
TD	Treasury Decision
TDO	Treasury Department Order

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