

LB&I Process Unit Knowledge Base – International

Library Level	Number	Title
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Book	8	Repatriation Withholding
Chapter	1	FDAP Payments
Section		

Unit Name	Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8	
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Process Overview

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

In the ordinary course of day to day operations, a Withholding Agent (WA) acquires, creates, gathers and stores electronic data that may be used to document Fixed Determinable Annual Periodic (FDAP) income paid to nonresident aliens (NRA), as well as to satisfy Chapter 3 of the Internal Revenue Code of 1954 reporting and withholding responsibilities. As part of an audit of a WA, an examiner selects payments made by the WA to foreign account holders for evaluation against the WA's Form 1042-S* submissions. This evaluation, confirming the foreign status of the account holder and the withholding tax implications of the payment amounts reported, is done by reviewing foreign account holders' Forms W-8, *Certificate of Foreign Status*, on file with the WA. Therefore, it is critical for an examiner to determine whether or not a WA's systems and procedures for creating, collecting and storing account holders' Forms W-8 are reliable.

Rev. Proc. 98-25, 1998-1 C.B. 689 (applicable to companies with assets of \$10 million or more; mandatory for some companies with fewer assets in certain situations), establishes that all machine-sensible data media used for recording, consolidating, and summarizing accounting transactions and records within a taxpayer's Automated Data Processing ("ADP") system are records within the meaning of IRC 6001 and Treas. Reg. 1.6001-1, and are required to be retained so long as the contents may become material in the administration of any internal revenue law.

Rev. Proc. 98-25, Section 3, Paragraph (3) states, "Except as otherwise provided in this revenue procedure, all requirements of section 6001 that apply to hardcopy books and records apply as well to machine-sensible books and records that are maintained within an ADP system." Section 5, Paragraph (4) states, "All machine-sensible records required to be retained by this revenue procedure must be made available to the Service upon request and must be capable of being processed [emphasis added]. Section 7, Paragraph (1) states, "The taxpayer must provide the Service at the time of an examination with the resources (e.g., appropriate hardware and software, terminal access, computer time, personnel, etc.) that the [Territory Manager or DFO] determines is necessary to process the taxpayer's machine-sensible books and records."

*Form 1042-S – *Foreign Person's U.S. Source Income Subject to Withholding*

Process Overview (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Based on the guidance on the previous slide, if an examiner determines that it is more efficient to conduct the audit using electronic data that is in the possession of the taxpayer, the examiner should request the electronic data instead of hardcopy records. This applies to data files, as well as images of documents.

This Unit outlines the following eight steps that will assist the examiner in obtaining electronic data needed to determine the reliability of information provided in Forms W-8.

1. Pre-audit evaluation of a WA's reporting utilizing IRS systems.
2. Determining the reliability of systems utilized by the WA to accumulate documentation.
3. Utilizing Information Document Requests (IDR) to evaluate the reliability of WA's electronic W-8/W-9* systems.
4. Analyzing the WA's procedures for opening up accounts.
5. Determining the reliability of documentation received from Introducing Brokers.
6. Determining the reliability of documentation received from Third Party Repositories.
7. Determining the reliability of agency agreements associated with a Shared Documentation Systems.
8. Determining the reliability of books and records electronically stored and maintained by a WA.

*Form W-9 - *Request for Taxpayer Identification Number and Certificate*

Summary of Process Steps

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Process Steps

The acquisition of electronic data useful in ascertaining a WA's ability to accumulate reliable Forms W-8 from its account holders can be obtained through various steps of the audit process.

<u>Step 1</u>	Evaluate WA's Reporting Using IRS Systems – During pre-audit, obtain and review the WA's data and records maintained in IRS systems.
<u>Step 2</u>	Determine Reliability of Systems Used by WA – Understand the WA's System to accumulate documentation and assess the reliability of supporting documentation.
<u>Step 3</u>	Use IDRs to Assess Reliability of WA's Systems – Use IDRs inquiries to a WA who maintains electronic W-8/W-9 systems to evaluate reliability.
<u>Step 4</u>	Analyze WA's Procedures for Opening Accounts – Questions to ask the WA about the systems used to open accounts.

Summary of Process Steps (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Process Steps

The acquisition of electronic data useful in ascertaining a WA's ability to accumulate reliable Forms W-8 from its account holders can be obtained through various steps of the audit process.

Step 5	Assess Reliability of Introducing Brokers' Documents – Review documentation and responses obtained from an introducing broker.
Step 6	Assess Reliability of Third Party Repository Documents – Review documentation and responses obtained from third party repositories.
Step 7	Assess Reliability of Agency Agreements on Shared Documentation Systems – Review of agency agreements between WA and agent maintaining a shared documentation system.
Step 8	Assess Reliability of WA's Books and Records – Review of a WA's electronic storage and maintenance of Forms W-8.

Step 1: Evaluate WA's Reporting Using IRS Systems

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 1

Evaluate WA's Reporting Using IRS Systems – During pre-audit, obtain and review the WA's data and records maintained in IRS systems.

Considerations	Resources
<p>Although Rev. Proc. 1998-25 makes it possible to obtain any relevant electronic data from the taxpayer, the examiner should try to first ascertain what electronic data is available from the IRS data systems and what data will be needed from the WA.</p> <ul style="list-style-type: none"> ▪ Obtain Forms 1042-S submitted by the WA from the Information Return Master File ("IRMF") ▪ If only a portion of Forms 1042-S are submitted, use IRPTRI or e-trak ▪ Forms 1042-S obtained from a WA, received in a database contained in a JBK File, can be downloaded to examiner's computer from the IRMF database. ▪ Auditor's Workbench-IRMF can be used to analyze the data in the JBK File. ▪ Analysis should include identifying foreign persons receiving large amounts of gross U.S. source income, small amounts of reported U.S. withholding tax, or administrative inconsistencies, such as the reporting of an address for the account holder that is inconsistent with the residence provided by the account holder. 	<ul style="list-style-type: none"> ▪ Rev. Proc. 1998-25 - Exam of Taxpayer's ADP Systems ▪ Audit Tool - The IRMF Query Tool and Auditor's Workbench (IRMF User Guide can be downloaded from CAS's web page)

Step 1: Evaluate WA's Reporting Using IRS Systems (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 1

Considerations	Resources
<p>A WA, that is not a financial institution ("FI") or a partnership, and that files less than 250 Forms 1042-S is permitted to file these forms and amendments on paper and is permitted to mix paper filings and electronic filings. Consequently, examiners may be unsuccessful reconciling information reported on Form 1042 with the information reported on each individual account holder's Form 1042-S. If this occurs, examiners should request from the WA, via an IDR, the following:</p> <ul style="list-style-type: none"> • FIRE* ready ASCII format or an Excel file of the Forms 1042-S • Forms 1042-T**, 1042-S • FIRE receipts in lieu of Forms 1042-T*** • An examiner should determine if the WA filed any Forms 1042-S on paper. There are two ways to do this <ul style="list-style-type: none"> - IDRS command PMFOLD - Ask the WA for a listing of paper filings. • Examiner should consider and request the assistance of a Computer Audit Specialist ("CAS") if the records are voluminous. <p>* FIRE stands for Filing Information Returns Electronically (FIRE) System **FIs are required to file Forms 1042-S electronically, regardless of whether they file 250 forms or less. ***Form 1042-T, <i>Annual Summary and Transmittal of Forms 1042-S</i></p>	

Step 2: Determine Reliability of Systems Used by WA

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 2

Determine Reliability of Systems Used by WA – Understand the WA's System to accumulate documentation and assess the reliability of supporting documentation.

Considerations	Resources
<p>During the opening conference or soon after, the examiner should obtain an understanding of the WA's systems in order to be able to assess the reliability of the supporting documentation that will be requested and to understand the potential areas of non-compliance.</p> <p>Time may be saved by requesting that the WA explain its systems using, for example, a PowerPoint presentation. As a preliminary matter, the examiner should obtain information about all of the WA's lines of business/business functions to determine which ones are impacted by the withholding requirements.</p>	

Step 2: Evaluate WA's Reporting Using IRS Systems (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 2

Considerations	Resources
<p>Other pertinent questions related to the WA's electronic data system include:</p> <ul style="list-style-type: none"> ▪ Does the WA have different systems for different lines of business? ▪ What are the names of the various systems? ▪ What is accomplished by each system? ▪ Who maintains and updates the system? ▪ Are the Forms W-8 and W-9 retained in an imaging system under Rev. Proc. 1997-22, 1997-1 C.B. 652*? ▪ Are the Forms W-8 and W-9 collected for each line of business or through a shared account system? ▪ How is the system updated to ensure that the information is current? ▪ Are documents maintained in a repository? ** ▪ Are account opening documents retrieved from a shared repository? ▪ Is the database system indexed for easy retrieval of data? ▪ Can the recipient data (from multiple databases) for a single account be retrieved relatively easily? ▪ Can the system export data/documentation to a MS office document (Excel, Word or Access database) or PDF file? <p>*See Step 8 for guidance on how to review a WA's electronic storage system under Rev. Proc. 97-22.</p> <p>**See Step 6 for information about shared repositories.</p>	<ul style="list-style-type: none"> ▪ Rev. Proc.1997-22 - Guidance to Taxpayers Using an Electronic Storage System

Step 2: Evaluate WA's Reporting Using IRS Systems (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 2

Considerations	Resources
<p>Most WAs use various computerized systems that can be grouped as follows:</p> <ul style="list-style-type: none">▪ An Electronic W-8/W-9 system that may be used by the beneficial owner to open an account online.▪ Systems where WA opens an account with instructions from the beneficial owner.▪ Systems where WA, that is a clearing broker, opens an account relying on documentation collected by an introducing broker.▪ Third Party Repositories. See Treas. Reg. 1.1441-1T(e)(4)(iv)(E).▪ Shared Documentation Systems.▪ WA maintained depositories of tax documents.▪ WA maintains universal account systems shared with its branches or branch locations of expanded affiliated group members.▪ WA maintains a shared information system, electronic or otherwise, with its branches or branch locations of expanded affiliated group members. <p>This Unit will discuss the above systems in Steps 3-8.</p>	<ul style="list-style-type: none">▪ Treas. Reg. 1.1441-1T(e)(4)(iv)(E).

Step 3: Use IDRs to Assess Reliability of WA's Systems

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 3

Use IDRs to Assess Reliability of WA's Systems – Use IDRs inquiries to a WA who maintains electronic W-8/W-9 systems to evaluate reliability.

Considerations	Resources
<p>Treas. Reg. 1.1441-1(e) (4) (iv)(A) states: "In general, a withholding agent may establish a system for a beneficial owner or payee to electronically furnish a Form W-8, an acceptable substitute Form W-8, or such other form as the Internal Revenue Service may prescribe." If the accounting process utilizes such a system, the examiner can consider asking questions such as the following:</p> <ol style="list-style-type: none"> 1. Does the system properly authenticate and verify each user? 2. For joint accounts, does the system authenticate and verify each beneficial owner? 3. Has the WA provided an overview of how the W-8 system works including authentication, security, and validation procedures? 4. Has the WA provided a detailed description of how the system validates the consistency of each form, which account holder information (e.g. account master file) or third-party information is used to validate data gathered during the W-8 interview process, which W-8 data fields are validated and provide an explanation of which fields are validated against which specific account holder or third-party information? 5. Where there is more than one account holder of an account, does the system consider an account documented for U.S. tax purpose only when all beneficial owners have each submitted a valid withholding certificate? 	<ul style="list-style-type: none"> ▪ Treas. Reg. 1.1441-1(e) (4) (iv)(A)

Step 3: Use IDRs to Assess Reliability of WA's Systems (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 3

Considerations	Resources
<ol style="list-style-type: none">6. Does the WA's system follow an interview format that properly directs the user to the appropriate form?7. Does the system capture all the relevant data fields required of the corresponding paper form?8. Does the system ensure that information for owners of disregarded entities is captured and placed on the appropriate form?9. Does the system properly detect U.S. persons, dual citizens, and those subject to U.S. resident taxation?10. Does the system ask individual beneficial owner users to identify their country of birth or whether they have a U.S. place of birth?11. Does the system follow up where necessary to determine whether a Form W-9 is required?12. When a U.S. address is either provided by the user or exists in the account records of the WA, are appropriate steps taken to verify that a Form W-9 is not required?13. Does the system document all occasions of user access that result in the submission, renewal or modification of a form?14. Does the system validate all necessary fields through a completely automated process?15. In all instances where there is an inconsistency or mismatch of information, including indicia of U.S. status, are forms directed to manual review?	

Step 3: Use IDRs to Assess Reliability of WA's Systems (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 3

Considerations	Resources
<p>16. Does the system track and report all discrepancies and instances of manual review?</p> <p>17. Does the system timely track all significant changes in account information, and obtain new Forms W-8 if required?</p> <p>18. Does the system receive regular account detail updates allowing it to continually validate the details against the WA's current account records?</p> <p>19. How often is all relevant information contained in the applicant's account files transmitted and uploaded to the system?</p> <p>20. Does the system timely track all significant changes in account information, and obtain new Forms W-8 if required?</p> <p>IRM 4.10.21, Exhibits 1,2, & 3, contain model IDRs for financial institutions, non-financial institutions and the validity period of Forms W-8 which can be used by examiners where applicable.</p>	<p>▪ IRM 4.10.21 – <i>U.S. Withholding Agent Examinations – Form 1042</i></p>

Step 4: Analyze WA's Procedures for Opening Accounts

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 4

Analyze WA's Procedures for Opening Accounts – Questions to ask the WA about the systems used to open accounts.

Considerations	Resources
<p>The computer systems used to open new accounts are usually operated by the WA's employees. Onboarding of new clients (for a specific function) may be centralized in one department. To understand this department, the examiner should request that the WA make a PowerPoint presentation outlining its procedures and systems, obtain internal training manuals and/or other documents, job aides, memoranda, or other written materials that address the day-to-day practices and procedures of this WA's account opening process.</p>	

Step 4: Analyze WA's Procedures for Opening Accounts (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 4

Considerations	Resources
<p>In addition to issuing the Model IDRs in IRM Exhibits 4.10.21-1,2,3 where applicable, the examiner should ask the following questions concerning the account opening process:</p> <ul style="list-style-type: none"> ▪ In what format is the original Form W-8/W-9 received from the recipient (e.g. paper or image)? ▪ Is the Form W-8/W-9 maintained in an image system? See Rev. Proc. 1997-22, 1997-1 C.B. 652 and Step 8. ▪ Is the image system indexed - so that all information for a specific recipient can be easily retrieved? ▪ Can the stored images be reproduced in portable document format (pdf)? ▪ Are the electronic documents (i.e., Forms W-8/W-9 and supporting documents) indexed and searchable? ▪ Can all the documents be readily retrieved for a specific recipient? ▪ Who converted paper or other documents into images? ▪ Who maintains and updates the image system? ▪ How many years of images are available online? ▪ What fields from the Form W-8 are transcribed to the WA's database? Are any of the individual fields accessible or can only the whole form be seen? Under Rev. Proc. 1997-22, the entire form must be visible, including the signature. 	<ul style="list-style-type: none"> ▪ Rev. Proc. 1997-22 - Guidance to Taxpayers Using an Electronic Storage System

Step 4: Analyze WA's Procedures for Opening Accounts (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 4

Considerations	Resources
<p>The examiner should request the procedures that govern any information, other than withholding certificates (i.e. Forms W-9 and W-8), used to determine if the account is held by a U.S. person or a foreign person, and to determine whether reduced withholding rates apply (e.g. treaty rates) such as:</p> <ul style="list-style-type: none"> ▪ Account opening applications and updates; ▪ Residence and mailing addresses shown on account opening applications and customer master files; ▪ Instructions to the WA such as to “hold mail”. See Treas. Reg. 1.1441-1T(c)(38)(ii); ▪ Documentation submitted by the account holder for identification purposes (i.e. passport, driver’s license, articles of incorporation, trust agreements, etc.); (See 31 C.F.R. 1010.230 Beneficial ownership requirements for legal entity customers). ▪ Account file information or correspondence including, but not limited to, account documents or memoranda and any correspondence associated with the account; ▪ Custodial agreements, securities lending agency agreements, repurchase agreements, and other contracts. Ask if these agreements are logged and retrievable. See Treas. Reg. 1.861-2(a)(7) for sourcing rules for substitute interest payments and 1.861-3(a)(6) for the sourcing rules for substitute dividends; ▪ Procedures to determine an account holder’s change in circumstances and electronic procedures related to such changes; ▪ Different procedures would apply for indirect account holders. 	<ul style="list-style-type: none"> ▪ 31 C.F.R. 1010.230 ▪ Treas. Reg. 1.1441-7(b)

Step 5: Assess Reliability of Introducing Brokers' Documents

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 5

Assess Reliability of Introducing Brokers' Documents – Review documentation and responses obtained from an introducing broker.

Considerations	Resources
<p>An introducing broker is a broker-dealer that contracts with a clearing firm to handle the execution and settlement of orders that the introducing broker receives from its clients or its own trading desk to buy and sell securities. If the WA opens an account relying on documentation collected by an introducing broker, Treas. Reg. 1.1441-1(e)(4)(ix)(B) permits a WA to rely on a withholding certificate collected by that introducing broker. For accounts opened via an introducing broker, no account opening documentation may be available from the WA that is the clearing broker.</p> <p>In that case, the examiner should obtain the following information/ask the following questions:</p> <ul style="list-style-type: none"> ▪ A list of the name(s) and address(es) of the introducing broker(s). ▪ The number/amount of forms/gross Income/ taxes withheld that is associated with each introducing broker. ▪ For those brokers that ceased to be introducing brokers during the tax year, inquire about how their accounts were handled. ▪ Examiner should inquire as to where the clearing broker keeps the certifications and how these certifications are incorporated into the withholding and reporting systems. ▪ Who is responsible for renewing the expiring forms? ▪ Who received the renewed forms? 	<ul style="list-style-type: none"> ▪ Treas. Reg. 1.1441-1(e)(4)(ix)(B)

Step 6: Assess Reliability of Third Party Repository Documents

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 6

Assess Reliability of Third Party Repository Documents – Review documentation and responses obtained from third party repositories.

Considerations	Resources
<p>A third party entity stores tax documents and makes them available to several WAs. Treas. Reg. 1.1441-1T(e)(4)(iv)(A) allows the withholding certificates to be provided by a third party. A WA may rely on an electronic signature on a withholding certificate if the requirements in Treas. Reg. 1.1441-1T(e)(4)(iv)(B)(3)(ii) are satisfied. If a Form W-8 has been completed and signed by a payee, scanned into an image or portable document format (PDF), and uploaded to the third-party repository, it will be considered to have been scanned by the recipient and received electronically by a WA.</p> <p>Similarly, for purposes of section 1.1441-1T(e)(4)(iv)(D) and 1.1471-3(c)(6)(iv), if the payee upon request from the WA for a Form W-8 to document its status for purposes of chapter 3 and 4, sends the WA an email with a link to the third-party repository site that allows the WA to download the image or PDF of the form that is stored on the repository for such purpose (or the payee otherwise authorizes the WA to access the specific form from the third-party repository in a similar manner), it will be considered to have been scanned and received electronically by WA . This is provided that the WA does not know that the email containing the link to the third party repository has been transmitted by someone other than the payee or an agent of the payee. Also, because the WA has obtained the form at the payee's directions, the form will be treated as having been furnished by/provided by the payee (see sections 1.1441-1T(e)(1)(ii)(A) and 1.1471-3(c)(2)).</p>	<ul style="list-style-type: none"> ▪ Treas. Reg. 1.1441-1T(e)(4)(iv)(A) ▪ Treas. Reg 1.1441-1T(e)(4)(iv)(D) ▪ Treas. Reg. 1.1441-1T(e)(4)(B)(3)(ii) ▪ Treas. Reg. 1.1471-3(c)(6)(iv) ▪ Treas. Reg. 1.1441-1T(e)(1)(ii)(A) ▪ Treas. Reg. 1.1471-3(c)(2)).

Step 6: Assess Reliability of Third Party Repository Documents (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 6

Considerations	Resources
<p>A WA is still required to determine whether the form is valid and may be relied upon for purposes of chapter 3 or 4 and whether a change in circumstances affects its continuing reliance on the form.</p> <p>There is explicit guidance (Treas. Reg. 1.1441-1T(e)(4)(iv)(D)) that allows for Forms W-8 to be scanned and uploaded into a third party repository, however, there is no similar guidance with respect to Forms W-9, for audit purposes. LB&I will not challenge a Form W-9, as part of a Chapter 3 / Chapter 4 audit that was obtained in the same manner as described by the regulations that govern Forms W-8 .</p> <p>Questions for a Third Party Repository are as follows:</p> <ul style="list-style-type: none"> ▪ Did the WA receive an electronic Form W-8 from a shared repository? ▪ Was the Form W-8 completed and signed by a payee, scanned into an image or portable document format (PDF), and uploaded to the third party repository? ▪ Did the Form 1042-S recipient send the WA an email, with a link to the third-party repository site, that allows the WA to download the image or PDF of the Form W-8 that is stored by the repository? If not, please explain how the recipient authorized the release of the Form W-8 certificate obtained from the repository. 	<ul style="list-style-type: none"> ▪ Treas. Reg.1.1441-1T(e)(4)(iv)(D)

Step 6: Assess Reliability of Third Party Repository Documents (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 6

Considerations	Resources
<p>Additional questions for a Third Party Repository are as follows:</p> <ul style="list-style-type: none">▪ What system is in place to ensure that the certificate is provided by the payee?▪ Does the WA know that the email, containing the link to the third party repository, has been transmitted by someone other than the payee or an agent of the payee?▪ Where multiple Forms W-8 are downloaded from the repository (for a single recipient), how does the WA associate a specific payment with a certain Form W-8? How is this recorded in WA's records? Who approves selections?	

Step 7: Assess Reliability of Agency Agreements on Shared Documentation Systems

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 7

Assess Reliability of Agency Agreements on Shared Documentation Systems – Review of agency agreements between WA and agent maintaining a shared documentation system.

Considerations	Resources
<p><u>Shared Documentation Systems – Agency</u></p> <p>Treas. Reg.1.1471- 3(c)(9)(i) states the rule for shared documentation systems. This is an agency arrangement, so all documents collected by the shared documentation system should be readily available to the WA.</p> <p>There are no specific concerns or additional questions since the person collecting the tax documents is an agent for the WA. Any documents collected by an agent of the WA should be made available on request.</p> <p>The same rule applies in Treas. Reg.1.1441-1T(e)(4)(ix). Any documentation collected by an agent of the WA should be made available.</p>	<ul style="list-style-type: none"> ▪ Treas. Reg.1.1471- 3(c)(9)(i) ▪ Treas. Reg.1.1441-1T(e)(4)(ix)

Step 8: Assess Reliability of WA's Books and Records

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 8

Assess Reliability of WA's Books and Records – Review of a WA's electronic storage and maintenance of Forms W-8.

Considerations	Resources
<p>Rev. Proc. 1997-22, 1997-1 C.B. 652, provides guidance to taxpayers that maintain books and records by using an electronic storage system that either images their hardcopy (paper) books and records, or transfers their computerized books and records to an electronic storage media. Records maintained in an electronic storage system that complies with the requirements of this Revenue Procedure will constitute records within the meaning of section 6001 of the Internal Revenue Code. This Revenue Procedure permits the destruction of the original hardcopy books and records and the deletion of the original computerized records (other than "machine-sensible" records required to be retained by Rev. Proc. 1991-59, 1991-2 C.B. 841), under certain specified conditions.</p> <p>All books and records required by section 6001 must be kept available at all times for inspection by authorized internal revenue officers or employees, and must be retained so long as the contents thereof may become material in the administration of any internal revenue law.</p>	<ul style="list-style-type: none"> ▪ Rev. Proc. 1997-22 - Guidance to Taxpayers Using an Electronic Storage System ▪ Rev. Proc. 1991-59 - Record Requirements for Accounting Records Maintained within an Automatic Data Processing System

Step 8: Assess Reliability of WA's Books and Records (cont'd)

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Step 8

Considerations	Resources
<p>The following questions are relevant for most electronic imaging systems:</p> <ul style="list-style-type: none"> ▪ How do the images get into the EDP system? (scanned, computer generated) ▪ Who scans the document (scanning center, the WA, the recipient, customer representative)? ▪ How does the system index the documents? ▪ Can the images be changed or replaced? ▪ Does the system maintain a log of documents added, changed or replaced? ▪ How are documents retrieved from the system? ▪ Does the WA validate the information on the image? ▪ Is the image information recorded in any other computer system? ▪ Are the hardcopy documents maintained? ▪ Can a hardcopy be produced from the system? ▪ How is the system secured? ▪ Is there an internal audit report on the imaging system? ▪ In what format can the documents be provided to the IRS? ▪ How is the system maintained? ▪ Does the electronic storage media system(s) comply with Rev. Proc. 1997-22? 	

Other Considerations / Impact to Audit

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Considerations	Resources
<p>After each step in the audit process, an examiner should determine if the WA is performing all tasks necessary to ensure collection of reliable Forms W-8. A test sample of Forms W-8 should be selected and analyzed to determine reliability. If the examiner is satisfied that the information collected resulted in properly prepared Forms W-8 then no further investigation is necessary. However, if material errors appear in the sample, further investigation will be necessary.</p>	

Index of Referenced Resources

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Audit Tool - The IRMF Query Tool and Auditor's Workbench

IRM 4.10.21 - *U.S. Withholding Agent Examinations - Form 1042*

Rev. Proc. 1991-59 - Record Requirements for Accounting Records Maintained within an Automatic Data Processing System

Rev. Proc. 1997-22 - Guidance to Taxpayers Using an Electronic Storage System

Rev. Proc. 1998-25 - Exam of Taxpayer's ADP Systems

Treas. Reg. 1.1441-1T

Treas. Reg 1.1441-3

Treas. Reg. 1.1471-7

31 C.F.R. 1010.230

Training and Additional Resources

Evaluation of Withholding Agent's Electronic Books and Records on Reliability of Forms W-8

Type of Resource	Description(s)
Saba Meeting Sessions	<ul style="list-style-type: none">▪ <i>Auditing Form W-8BEN-E and Treaty Issues</i> - 2018 Saba Meeting▪ <i>Determining Tax Residency Status</i> - 2016 Saba Meeting▪ <i>Documentation of Payees & Intermediaries</i> - 2016 Saba Meeting▪ <i>Participating Foreign FI Responsibilities</i> - 2016 Saba Meeting▪ <i>NRA Withholding - Form 1042 Auditing Techniques</i> - 2015 Centra▪ <i>NRA Withholding – Taxation of Foreign Person FDAP v ECINRA</i> - 2015 Centra

Glossary of Terms and Acronyms

Term/Acronym	Definition
ADP	Automatic Data Processing
ASCII	American Standard Code for Information Interchange
E-Trak	Electronic Tracking System tool that extracts information return data from the IRMF
FDAP	Fixed Determinable Annual Periodic
FI	Financial Institution
FIRE	Filing Information Returns Electronically
IRMF	Information Return Master File
IRMF Query Tool	A tool for examiners to get information returns (see intranet)
IRPTI	Information Return Processing Transcript Request - Selected Documents Payer Summary
JBK	Extension on the file provided to an examiner who requests 1042-Ss using an IRMF query tool
NRA	Nonresident Alien
WA	Withholding Agent

Index of Related Practice Units

Associated UIL(s)	Related Practice Unit	DCN
9442.01-01	<i>Overview of FDAP</i>	WIT/C/15_01-01 (formerly WIT/CU/P_15.1_01(2014))
9442.01-10	<i>Payee Documentation for Treaty Benefits</i>	RPW/T/08_01_01_03-01 (formerly RPW/9424.01_03(2015))