



LARGE BUSINESS AND
INTERNATIONAL DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

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MEMORANDUM FOR ALL LB&I EMPLOYEES

FROM: Ronald H Hodge II /s/ *Ronald H Hodge II*
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SUBJECT: Interim Guidance on Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business, and on Issuing Manual Refunds to Foreign Qualified Intermediaries (QI) via the International Treasury Services (ITS) system

This memorandum issues guidance on two changes to [IRM 4.10.21](#), Examination of Returns, U.S. Withholding Agent Examinations – Form 1042. The first change updates guidance on [Form 5472](#), Information Return of a 25% Foreign-Owned Corporation Engaged in a U.S. Trade or Business. The second provides new guidance on issuing manual refunds to foreign qualified intermediaries (QI) via the International Treasury Services (ITS) system. Please ensure this information is distributed to all affected employees within your organization.

Purpose: The purpose of this memorandum is to provide updated guidance to employees regarding the review of [Forms 5472](#) that are filed by corporations to provide information on reportable transactions with a foreign or domestic related party.

This memorandum also provides new guidance on issuing manual refunds to QIs using ITS, which will provide relief to foreign QIs. There currently is no recourse for a foreign QI to receive an electronic refund without setting up a third-party domestic bank account. The refunds will be processed by Taxpayer Services (TS) and issued through the International Treasury Services (ITS) system. Employees need to complete required training before Foreign Payments Practice (FPP) can request these types of refunds.

Background/Source(s) of Authority: IRC 1441-1443 and 1461 set forth when and how the tax is required to be withheld and reported. Treas. Reg. 1.1441-2 prescribes certain additional exceptions to when withholding is required under Chapter 3.

[IRM 4.10.21.10.6.2\(1\)](#) erroneously references payments by the taxpayer to the foreign corporation as “received” for compensation/consideration, commissions, rents, royalties, and interest. These payment types should be referenced as “paid” within the IRM section. These revisions can be found in Attachment 1.

Increasingly, certain countries are unable or unwilling to accept paper U.S. Treasury checks when a refund is legally disbursed to a foreign QI. Currently, the only remedy for the foreign QI in this scenario is to establish a U.S. based bank account to receive an electronic refund that will then be transferred to the foreign QI's bank of choice. This creates an undue burden on the foreign QI. The ITS program is fully operational and controlled by TS, this IG will serve as the guidance for LB&I to utilize this program to meet our taxpayer's needs. These new procedures can be found in Attachment 2.

Procedural Change: The updated and new procedures are found on Attachments 1 and 2.

Effect on Other Documents: This guidance will be incorporated into [IRM 4.10.21](#), Examination of Returns, U.S. Withholding Agent Examinations – Form 1042, within two years from the date of this memorandum.

Effective Date: The guidance is effective as of the date of this memorandum.

Contact: Employees should ask their management chain for guidance on issues not specifically addressed in this memo. Questions may be sent to the LB&I Policy Office through the [LB&I Policy Gateway](#) and [Create a Request](#).

Attachments

Distribution: www.IRS.gov

Attachment 1

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IRM 4.10.21.10.6.2 is replaced with the following as of the date of this memo.

4.10.21.10.6.2

07-01-2024

Form 5472

- (1) [Form 5472](#), Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business, is used to provide information when reportable transactions with related parties occur during the tax year of a domestic corporation that is directly, indirectly, or constructively owned (at least 25%) by a foreign person, or a foreign corporation that is engaged in a U.S. trade or business. A separate [Form 5472](#) is filed by a corporation with respect to each related party with which the reporting corporation had one or more reportable transactions.

Note: The term “reportable transaction” in the context of Form 5472 broadly addresses related-party transactions. See Treas. Reg. 1.6038A-2; T.D. 8353, 56 FR 28056 (1991, preceding the special rules for a foreign-owned U.S. disregarded entity “reporting corporation”).

- (2) Amounts reportable on Part IV, Monetary Transactions Between Reporting Corporations and Foreign Related Party, and Part VI, Nonmonetary and Less-Than-Full-Consideration Transactions Between the Reporting Corporation and the Foreign Related Party, may be in whole or in part U.S. source FDAP income to the foreign related party or ultimate recipients. These amounts may include, but are not limited to:

- Platform contribution transaction payments paid
- Cost sharing transaction payments paid
- Rents paid
- Royalties paid
- Other amounts paid for intangible property rights
- Consideration paid for services
- Commissions paid
- Premiums paid for insurance or reinsurance
- Interest paid
- Loan guarantee fees paid
- Other amounts paid

Note: Part VI requires descriptions of any nonmonetary and less-than-full-consideration reportable transactions with the related party. Be sure to understand these transactions and consider any NRA withholding implications.

- (3) The examiner should determine if reportable amounts were subjected to NRA withholding and reported on Form [1042](#), Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, and Form [1042-S](#), Foreign Person's U.S. Source Income Subject to Withholding. If not, the examiner should request an explanation from the reporting corporation.

Attachment 2

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IRM 4.10.21.13 is added to IRM 4.10.21 as of the date of this memo.

4.10.21.13

07-01-2024

International Direct Deposit Manual Refunds through ITS

- (1) If a taxpayer living abroad faces difficulties in cashing a U.S. Treasury refund check due to restrictions in their home country, you may opt to issue an international direct deposit manual refund through the International Treasury Services (ITS) system.
- (2) ITS allows the IRS to issue direct deposit payments to foreign bank accounts without the taxpayer having to set up a U.S. bank account. See [IRM 3.17.79.1.8\(7\)](#) for more information.
- (3) Employees prepare the direct deposit manual refund on a [Form 3753](#), Manual Refund Posting Voucher, and transmit the form to the Ogden Submission Processing (SP) site for review and input.

4.10.21.13.1

07-01-2024

Manual Refund Training & Authorizing Official Designation

- (1) If you are an employee initiating or signing manual refunds, you must adhere to the training guidelines established by TS as outlined in [IRM 21.4.4.1.3](#), Responsibilities.
- (2) Approving officials need to register with Ogden SP as the employee who signs manual refunds. Your Head of Office must complete and sign the latest revision of Form 14031, Manual Refund Signature Form, and submit form via email to the Accounting Manual Refund function at Ogden SP. See [IRM 3.17.79.3.5](#), Employees Authorized to Sign Requests for Refunds, for more information.

Note: Follow [IRM 3.17.79.3.5.5](#), Manual Refund Digital Signature Requirement, when approving Forms [14031](#) and [3753](#) to ensure they are accepted by SP.

4.10.21.13.2

07-01-2024

Preparing Form 3753

- (1) [IRM 21.4.4](#), Refund Inquiries, Manual Refunds, contains the primary guidance for manual refund initiation.
- (2) [IRM 21.4.4.5.2](#), Preparation of the Form 3753, Manual Refund Posting Voucher, contains detailed instructions on how to complete the Form 3753.
- (3) LB&I employees issuing international manual refunds through ITS are not required to use Integrated Automation Technology (IAT) Manual Refund Tool referenced in [IRM 21.4.4](#).

- (4) When issuing international direct deposit manual refunds the initiator must provide one of the following:
- Proof from bank that a savings or checking account exists and it is the account of the taxpayer (i.e., letter from bank)
 - Voided check
 - Copy of an original tax return (signed and accepted) for the same tax period as the requested refund showing the taxpayer bank routing and account information
- (5) When sending manual refunds via ITS your [Form 3753](#) must also include information about the foreign bank destination for the refund. [IRM 3.17.79.3.10.1.2](#), International Payments via International Treasury Services (ITS), details the specific information that is required.
- Note:** All refunds issued from the IRS manual refund program via ITS will be sent in U.S. dollars.
- (6) All international manual refunds being issued through ITS will be sent to the Ogden SP site for processing after they have been filled out and signed by the approving official. Use the chart located in [IRM 21.4.4-3](#), Accounting Function – Manual Refund Team Contact Information, for the correct email address to transmit your digital [Form 3753](#).

4.10.21.13.3

07-01-2024

Monitoring Manual Refunds

- (1) Effective June 20, 2023, responsibility for all manual refund monitoring is now performed at the Accounts Management Headquarters level.