

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.

INCOME TAX

Rev. Rul. 2004-102, page 784.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for November 2004.

Rev. Rul. 2004-103, page 783.

Modification of Rev. Rul. 95-63. Rev. Rul. 95-63, with respect to countries described in section 901(j)(2)(A) of the Code, is modified by providing that Iraq ceased to be described in that section on June 27, 2004. Rev. Rul. 95-63 modified.

T.D. 9160, page 785.

Final regulations under section 6050P(c)(2)(D) of the Code provide guidance on the information reporting requirements for discharges of indebtedness by organizations that have a significant trade or business of lending money. These regulations provide that the lending of money is a significant trade or business if money is loaned on a regular and continuing basis.

Notice 2004-71, page 793.

Section 1(h)(11) of the Code provides that certain dividends paid to an individual shareholder from either a domestic corporation or a "qualified foreign corporation" are subject to tax at the reduced rates applicable to certain capital gains. This notice provides guidance for persons required to make returns and provide statements under section 6042 of the Code (e.g., Form 1099-DIV) regarding distributions with respect to securities issued by a foreign corporation, and for individuals receiving such statements. The notice also describes when a security (or an American depositary receipt in respect of such security) issued by a foreign corporation that is other than ordinary or common stock (such as preferred stock) will satisfy the readily tradable test.

Announcement 2004-82, page 834.

This announcement notifies Archer MSA trustees of their obligation to report the number of Archer MSAs established between January 1, 2004, and June 30, 2004.

EXEMPT ORGANIZATIONS

Announcement 2004-87, page 834.

This announcement is a public notice of the suspension of the federal tax exemption under section 501(p) of the Code of a certain organization that has been designated as supporting or engaging in terrorist activity or supporting terrorism. Contributions made to this organization during the period that the organization's tax-exempt status is suspended are not deductible for federal tax purposes.

Announcement 2004-89, page 835.

Michael & Laura Gallop Family Foundation of Agoura Hills, CA, no longer qualifies as an organization to which contributions are deductible under section 170 of the Code.

ADMINISTRATIVE

Rev. Proc. 2004-63, page 795.

This procedure provides specifications for filing Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*, Electronically or Magnetically. The procedure will be reprinted as the current revision of Publication 1187. Rev. Proc. 2003-83 superseded.

Announcement of Declaratory Judgment Proceedings Under Section 7428 begins on page 835.
Finding Lists begin on page ii.



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 I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted applicable federal long-term rate is set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 467.—Certain Payments for the Use of Property or Services

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 901.—Taxes of Foreign Countries and of Possessions of United States

Modification of Rev. Rul. 95-63. Rev. Rul. 95-63, with respect to countries described in section 901(j)(2)(A) of the Code, is modified by providing that Iraq ceased to be described in that section on June 27, 2004. Rev. Rul. 95-63 modified.

Rev. Rul. 2004-103

This ruling modifies Rev. Rul. 95-63, 1995-2 C.B. 85, which lists countries subject to certain special rules under sections 901(j) and 952(a)(5) of the Code.

LAW AND ANALYSIS

Sections 901, 902, and 960 of the Code generally allow U.S. taxpayers to claim a foreign tax credit for income, war profits, and excess profits taxes paid or accrued (or deemed paid or accrued) to any foreign country or to any possession of the United States.

Section 901(j)(1)(A) denies the credit for taxes paid or accrued (or deemed paid or accrued under sections 902 or 960) to any country described in section 901(j)(2)(A) if the taxes are with respect to income attributable to a period during which section 901(j) applies. Section 901(j)(1)(B) requires taxpayers to apply subsections (a), (b), and (c) of section 904 and sections 902 and 960 separately with respect to income attributable to such a period from sources within such country. In addition, section 952(a)(5) provides that subpart F income includes income derived by a controlled foreign corporation from any foreign country during any period during which section 901(j) applies to that foreign country.

The special rules under sections 901(j) and 952(a)(5) cease to apply to a country when the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in section 901(j)(2)(A). Revenue Ruling 95-63 sets forth the countries which are (or were) described in section 901(j)(2)(A) and the period during which the special rules under sections 901(j) and 952(a)(5) apply with respect to each such country. Based on the certification by the Secretary of State, this revenue ruling states the date on which Iraq ceased to be described in section 901(j)(2)(A).

HOLDINGS AND EFFECTIVE DATES

The list of countries in Revenue Ruling 95-63 is modified by changing the reference to Iraq as follows:

<i>Country</i>	<i>Starting Date</i>	<i>Ending Date</i>
Iraq	February 1, 1991	June 27, 2004

For guidance on issues arising in a taxable year when section 901(j) ceases to apply to a country, see Rev. Rul. 92-62, 1992-2 C.B. 193.

EFFECT ON OTHER REVENUE RULINGS

This ruling modifies Rev. Rul. 95-63, 1995-2 C.B. 85, with respect to countries described in section 901(j)(2)(A) of the Code.

DRAFTING INFORMATION

The principal author of this revenue ruling is Mark R. Pollard of the Office of Associate Chief Counsel (International). For further information regarding this revenue ruling, contact Mr. Pollard at (202) 622-3850 (not a toll-free call).

Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also, Sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.)

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for November 2004.

Rev. Rul. 2004-102

This revenue ruling provides various prescribed rates for federal income tax purposes for November 2004 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable fed-

eral rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(2) for buildings placed in service during the current month. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2004-102 TABLE 1

Applicable Federal Rates (AFR) for November 2004

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	2.37%	2.36%	2.35%	2.35%
110% AFR	2.62%	2.60%	2.59%	2.59%
120% AFR	2.85%	2.83%	2.82%	2.81%
130% AFR	3.09%	3.07%	3.06%	3.05%
<i>Mid-term</i>				
AFR	3.55%	3.52%	3.50%	3.49%
110% AFR	3.91%	3.87%	3.85%	3.84%
120% AFR	4.26%	4.22%	4.20%	4.18%
130% AFR	4.63%	4.58%	4.55%	4.54%
150% AFR	5.35%	5.28%	5.25%	5.22%
175% AFR	6.25%	6.16%	6.11%	6.08%
<i>Long-term</i>				
AFR	4.70%	4.65%	4.62%	4.61%
110% AFR	5.19%	5.12%	5.09%	5.07%
120% AFR	5.66%	5.58%	5.54%	5.52%
130% AFR	6.14%	6.05%	6.00%	5.98%

REV. RUL. 2004-102 TABLE 2				
Adjusted AFR for November 2004				
	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	1.68%	1.67%	1.67%	1.66%
Mid-term adjusted AFR	2.80%	2.78%	2.77%	2.76%
Long-term adjusted AFR	4.20%	4.16%	4.14%	4.12%

REV. RUL. 2004-102 TABLE 3	
Rates Under Section 382 for November 2004	
Adjusted federal long-term rate for the current month	4.20%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	4.51%

REV. RUL. 2004-102 TABLE 4	
Appropriate Percentages Under Section 42(b)(2) for November 2004	
Appropriate percentage for the 70% present value low-income housing credit	7.96%
Appropriate percentage for the 30% present value low-income housing credit	3.41%

REV. RUL. 2004-102 TABLE 5	
Rate Under Section 7520 for November 2004	
Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years, or a remainder or reversionary interest	4.20%

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 6050P.—Returns Relating to the Cancellation of Indebtedness by Certain Entities

26 CFR 1.6050P-1: Information reporting for discharges of indebtedness by certain entities.
26 CFR 1.6050P-2: Organization a significant trade or business of which is the lending of money.

T.D. 9160

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1 and 602

Information Reporting Under Section 6050P for Discharges of Indebtedness

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the information reporting requirement under section 6050P of the Internal Revenue Code (Code) for discharges of indebtedness. These final

regulations reflect the enactment of section 6050P(c)(2)(D) by the Ticket to Work and Work Incentives Improvement Act of 1999. These final regulations provide guidance on the information reporting requirements for discharges of indebtedness by organizations that have a significant trade or business of lending money. This document also contains amendments to the existing final regulations to reflect the amendments to section 6050P by the Debt Collection Improvement Act of 1996.

DATES: *Effective date:* These regulations are effective October 25, 2004.

Applicability date: These regulations are applicable to discharges of indebtedness occurring on or after January 1, 2005.

FOR FURTHER INFORMATION CONTACT: Joseph P. Dewald, at (202) 622-4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR parts 1 and 602. The amendments describe circumstances in which an organization has a significant trade or business of lending money for purposes of section 6050P(c)(2)(D). The amendments also conform the existing final regulations under section 6050P to cover applicable entities, including executive, judicial, and legislative agencies.

In general, section 6050P(a) requires certain organizations (applicable entities) to file information returns with the Internal Revenue Service (IRS), and to furnish information statements to debtors, reporting discharges of indebtedness of \$600 or more. As enacted by the Omnibus Budget Reconciliation Act of 1993, Public Law 103-66 (107 Stat. 312, 531-532 (1993)), section 6050P required “applicable financial entities” (including Federal executive agencies) to report discharges of indebtedness. The Debt Collection Improvement Act of 1996, Public Law 104-134 (110 Stat. 1321, 368-369 (1996)) (the 1996 Act), amended section 6050P to cover “applicable entities.” Section 6050P(c)(1) as amended defines an *applicable entity* to include: (1) any executive, judicial, or legislative agency (as defined in 31 U.S.C. 3701(a)(4)); and (2) any applicable financial entity.

Section 6050P(c)(2)(D) was enacted by section 553(a) of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170 (113 Stat. 1860, 1931 (1999)) (the 1999 Act), effective for discharges of indebtedness occurring after December 31, 1999. The 1999 Act amended section 6050P by expanding the applicable financial entities required to report. As expanded, the term includes any organization “a significant trade or business of which is the lending of money.”

The IRS issued Notice 2000-22, 2000-1 C.B. 902, which provides that penalties under sections 6721 and 6722 for failures to report discharges of indebtedness occurring before January 1, 2001, will not be imposed on organizations newly required to report under section 6050P(c)(2)(D). In Notice 2001-8, 2001-1 C.B. 374, for these same organi-

zations, the IRS extended the waiver of penalties to failures to report discharges of indebtedness occurring before the first calendar year that begins at least two months after final regulations under section 6050P(c)(2)(D) are issued.

A notice of proposed rulemaking under section 6050P(c)(2)(D) (REG-107524-00, 2002-2 C.B. 110) was published in the **Federal Register** (67 FR 40629) on June 13, 2002. The proposed regulations address whether an organization has a significant trade or business of lending money for purposes of section 6050P(c)(2)(D). The proposed regulations also reflect the amendments made by the 1996 Act. A public hearing was held on the proposed regulations on October 8, 2002. The IRS received written and electronic comments responding to the notice of proposed rulemaking. After consideration of all comments, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Provisions and Summary of Comments

Section 6050P(c)(2)(D) requires any organization “a significant trade or business of which is the lending of money” to report discharges of indebtedness. The proposed regulations provide guidance on whether an organization is engaged in a trade or business of lending money and whether that trade or business is significant. In general, the proposed regulations provide that the lending of money is a significant trade or business if money is loaned on a regular and continuing basis. The proposed regulations provide three safe harbors under which organizations will be considered not to have a significant trade or business of lending money. The final regulations retain these rules.

1. Comments Concerning the Proposed Regulations

A. Obligations acquired from persons other than the debtor

Several commentators requested clarification of the information reporting requirements for debt obligations acquired from persons other than the debtor. Section 1.6050P-2(e) of the proposed regulations provides that lending money includes acquisition of a debt obligation from a

prior holder of the obligation and that gross income from an indebtedness is treated as gross income from lending money regardless of whether the debt was originated by the organization itself or by a related party. The final regulations clarify that a debt obligation acquired from the debtor or any person other than the debtor is subject to reporting under section 6050P(c)(2)(D) if the owner of the obligation is engaged in a significant trade or business of lending money.

B. Gross income from lending of money

One commentator requested clarification on what amounts constitute gross income from lending money. Section 1.6050P-2(d) of the proposed regulations provides that gross income from lending money includes income from interest, fees, penalties, merchant discount, interchange, and gains arising from the sale of an indebtedness. The final regulations clarify that gross income from lending money includes: interest (including qualified stated interest, original issue discount, and market discount); gains arising from the sale or other disposition of indebtedness; penalties with respect to indebtedness (whether or not the penalty is interest for Federal tax purposes); and fees with respect to indebtedness, including merchant discount or interchange (whether or not the fee is interest for Federal tax purposes).

C. “Factoring” transactions

(i) Commentators’ Description of “Factoring” Transactions

Several commentators addressed reporting issues associated with what the commentators called “factoring.” One commentator described factoring transactions, primarily between unrelated parties, as ordinarily involving (a) a factor, who performs the functions described below with respect to a pool of short-term accounts receivable (30-, 60-, or 90-day debt), (b) the factor’s client, who sells goods in exchange for the short-term accounts receivable, and (c) the client’s customers, who buy the goods and who issue the accounts receivable. According to the commentator, the factor generally performs the following functions: initial credit investigation, selective assumption of the risk of loss (sometimes referred to

as guaranteeing credit), on-going credit monitoring of the client's customers, collection, and bookkeeping.

As described by the commentator, after the credit investigation (on either a customer-specific or a pooled basis), the factor informs the client if the factor is willing to guarantee the receivables from some or all of the client's customers. For customers whose accounts receivable the factor will not guarantee, the client may enter into the sale and accept an account receivable without the benefit of the factor's guarantee or may refuse to extend credit and either make the sale for cash or forego the sale altogether.

The commentator described factors' competitive fees for typical transactions with unrelated parties as ranging between 0.35 percent of the face value of the accounts receivable (if the client retains the collection function) and 0.70 percent of that face value (if the factor undertakes the collection function). In either case, the face value on the basis of which the fee is computed includes any accounts receivable that the client accepts from customers even though the factor is unwilling to assume the risk of loss on those accounts receivable. The factor determines the rate at which fees are charged on the basis of the initial credit investigation and of whether the factor undertakes collection and bookkeeping.

To facilitate collection, according to the commentator, factors generally take legal title to the accounts receivable either at the time of, or shortly after, the sales transactions. If the factor performs all collection, the factor may take title to all accounts receivable as soon as they are issued by the customers. If, however, the client retains the initial collection responsibilities for a specified short period of time, the factor may take title at the end of that period only to those accounts receivable that are not paid within that period. If the factor guarantees the accounts receivable and collects, the factor pays the client, net of the factor's fees, either soon after the receivables are collected or by a specified time if the receivables have not been collected. If the receivables are not guaranteed, the client receives payment only if and when the customer pays. The commentator explained that, if the factor has guaranteed the receivables, the factor has the right to recovery against a customer.

If the factor does not guarantee the receivable and assumes collection responsibility, the factor assigns title back to the client when the receivables become uncollectible under the contract.

For some clients, the factor also provides liquidity by advancing funds against the client's aggregate accounts receivable. Advances are made based on the factor's assessment of the client's creditworthiness and are treated as a reduction of the amount the factor owes the client when the receivables are collected or, if the receivables are guaranteed, when the factor is required to pay the client under the guarantee. These advances are satisfied by the factor reducing the payments otherwise owed to the client. Interest is charged for the period of the outstanding advances, and the interest provides additional income to the factor over and above the fees for the credit investigation, credit guarantee, collection, and bookkeeping functions.

The commentator urged that the unique aspects of these three-party relations make it extremely difficult for factors to report discharges under section 6050P. The commentator pointed out that, although the factor may hold title to a customer account receivable at the time the account receivable is discharged, the client is the one with a direct relation with the customer. Even if the factor agreed to guarantee accounts receivable of a customer, that decision may have been made after an inquiry into the characteristics of the client's customers as a group, without any specific knowledge about the particular customer. Thus, the factor may know nothing about a customer that happens to be in default.

For these reasons, the commentator suggested that reporting under section 6050P should be the responsibility of the client, which has, or had, a direct relation with the debtor. The commentator further suggested that, if factors are required to report, the \$600 dollar threshold should be increased or any inclusion of the debtor's taxpayer identification number (TIN) should be optional.

The reporting requirements under section 6050P fall on the entity that owns the debt that is discharged. In the case of the transactions that the commentator called "factoring," therefore, it is necessary to determine who is the owner of the account receivable for Federal tax purposes. This

determination has to be made on the basis of all the facts and circumstances.

The first question is whether the lending of money is a significant trade or business of the factor for the taxable year. This will be the case if, on a regular and continuing basis during the calendar year, the factor makes advances to the clients or acquires the clients' accounts receivable. If the factor is an applicable entity for purposes of section 6050P(c)(2)(D), the second question is whether the factor owned the account receivable for Federal tax purposes when the account receivable was discharged. Section 6050P(c)(2)(D) does not require reporting by a factor if the factor was not the owner of the account receivable for Federal tax purposes at the time of the identifiable event marking the discharge.

The final regulations do not provide guidance on whether a factoring transaction should be treated as a purchase of accounts receivable for Federal tax purposes. Whether or not a factoring transaction is treated as a purchase for Federal tax purposes depends on the facts and circumstances of each transaction. The final regulations provide an example describing the reporting obligations if an account receivable is treated as purchased for Federal tax purposes and, alternatively, if it is not treated as purchased. This example, however, is not intended to address whether a purchase has taken place for Federal tax purposes, and, thus, no inference is intended concerning the character of the transactions addressed in these regulations for purposes of section 6050P or for other provisions, including for purposes of determining effectively connected income of a foreign factor under §1.864-4(c)(5).

After evaluating the concerns described by the commentator and the requirements imposed by section 6050P, the IRS and the Treasury Department believe that the reporting requirements of these final regulations, combined with the January 1, 2005, effective date, provide reasonable and administrable rules and are consistent with the general requirements applicable to information reporting. The final regulations, therefore, do not adopt the recommendation that the \$600 threshold be raised for debt obligations acquired from persons other than the debtor, nor do the final regulations adopt the recommendation that a factor be allowed to report

discharges without the debtor's TIN. The \$600 threshold and the requirement to include the debtor's TIN derive from section 6050P.

(ii) Filer May Request a Waiver of Penalty if the Filer Cannot Obtain the Debtor's TIN

If section 6050P requires an applicable entity to file an information return, the applicable entity may request a waiver under section 6724 of any information reporting penalties under section 6721 and 6722. Under section 6724, the IRS may waive the penalties if the failure is due to reasonable cause and is not due to willful neglect. Therefore, upon a showing of reasonable cause, the IRS may waive the penalty under section 6721 for failure to file complete and correct information returns (including the failure to include a TIN) and the penalty under section 6722 for failure to furnish complete and correct information statements (including the failure to include a TIN).

Under §301.6724-1(a)(2)(ii), a penalty may be waived for reasonable cause if the failure arose from events beyond the filer's control. Section 301.6724-1(c)(6)(i) provides that events beyond the filer's control include the failure of another person to provide the information necessary for the filer to file a correct information return. Section 301.6724-1(a)(2) of the regulations provides that to establish reasonable cause, the filer must have acted in a responsible manner both before and after the failure occurred. Section 301.6724-1(e) provides that a filer must undertake to act in a responsible manner in order to establish reasonable cause for failure to include a TIN (the TIN solicitation rules).

Section 1.6050P-1(e)(6) of the existing final regulations provides special TIN solicitation rules for discharges of indebtedness. Under these rules, a filer must undertake to act in a responsible manner for purposes of section 6724 and the regulations. Section 1.6050P-1(e)(6) provides that a TIN obtained at the time of the indebtedness satisfies the solicitation requirements, unless the entity required to file knows that the TIN is incorrect. The regulations require the filer to solicit the debtor's TIN if it has not obtained the debtor's TIN prior to the occurrence of an identifiable event marking the discharge of indebted-

ness. The regulations further provide that, if the filer solicits the debtor's TIN in the manner described in §301.6724-1(e)(1)(i) and (2), the filer is deemed to have acted in a responsible manner for purposes of section 6724. Section 1.6050P-1(e)(6)(ii) contemplates that the filer may undertake the TIN solicitation after the occurrence of the identifiable event. Therefore, a factor that fails to include a debtor's TIN on the required information return and information statement may request a waiver of penalties and may establish reasonable cause under section 6724 if it complies with the special TIN solicitation rules in §1.6050P-1(e)(6).

D. Related sellers of nonfinancial goods or services

Commentators requested clarification as to whether a finance company that acquires installment sales contracts from a related seller should be considered an organization that has a significant trade or business of lending money even if the seller would qualify for the exception to reporting for seller-financing transactions. Specifically, the commentators urged that a finance company related to a commonly owned automobile dealership not be required to report the discharge of an installment sales contract that originated between the automobile dealership and an automobile purchaser.

The preamble to the proposed regulations explains that section 6050P(c)(2)(D) applies on an entity-by-entity basis and that the seller-financing exception is not available to a separate financing subsidiary of a retailer. The 1999 Act took an entity-by-entity approach when it expanded the scope of section 6050P to reach "any organization a significant trade or business of which is the lending of money (such as finance companies and credit card companies *whether or not affiliated with financial institutions*)." See Joint Committee on Taxation Staff, *General Explanation of Tax Legislation Enacted in the 106th Congress*, 107th Cong., 1st Sess. 48 (2001) (emphasis added). The final regulations, therefore, do not adopt the recommendation to provide an exception to reporting for a company that finances purchases by the customers of a separate, but related, seller of nonfinancial goods or services.

E. Reporting amounts that section 108 excludes from the debtor's income

Several commentators noted that often debtors may be insolvent at the time the debt is discharged and that, in these cases, the discharge is excludable from income under section 108(a)(1)(B). The legislative history to section 6050P, however, reflects that Congress intended entities to report discharges regardless of whether the debtor is subject to tax on the discharged debt, including whether the discharge qualifies for exclusion under section 108. See H.R. Conf. Rep. No. 213, 103^d Cong., 1st Sess. 671 (1993). This principle is reflected in the general rule of §1.6050P-1(a)(3) of the existing final regulations and is not changed by this Treasury Decision. The existing regulations provide, "Except as otherwise provided in [§1.6050P-1], discharged indebtedness must be reported regardless of whether the debtor is subject to tax on the discharged debt under sections 61 and 108 or otherwise by applicable law."

F. Reporting discharges of FFELP loans

Other commentators requested clarification on the information reporting requirements for public, nonprofit guarantors that participate in the Federal Family Education Loan Program (FFELP) if the debtor defaults on the FFELP loan. According to the comments, a typical FFELP transaction involves a borrower, a lender (such as a bank, savings and loan association, credit union, school, or state or private nonprofit agency), a state or private nonprofit organization (guaranty agency), and the U.S. Department of Education. If a guaranty agency receives a default claim for nonpayment of a FFELP student loan, the guaranty agency generally pays a percentage of the outstanding balance to the holder of the loan. The U.S. Department of Education, in turn, reimburses the guaranty agency for a percentage of the default claim paid to the holder of the loan. The guaranty agency then acts on behalf of the U.S. Department of Education collecting against the borrower and remitting any amount collected, less a percentage for collection costs, to the U.S. Department of Education.

One commentator suggested that the activities of the guaranty agency do not

constitute the lending of money. This commentator suggested that guarantors of FFELP student loans are not applicable entities as defined in section 6050P(c)(2)(D). Another commentator suggested that the final regulations provide that the information reporting requirements under section 6050P do not apply to any student loan made under Title IV of the Higher Education Act, including student loans under the FFELP.

The information reporting requirements under section 6050P apply to student loans made under Title IV of the Higher Education Act. If the owner of the student loan for Federal tax purposes is an entity or organization that is an applicable entity within the meaning of section 6050P(c)(1), the owner must report under section 6050P upon the occurrence of an identifiable event marking the discharge of the indebtedness.

2. Comments Concerning the Existing Final Regulations

Several commentators raised issues relating to the reporting requirements in §1.6050P-1 of the existing final regulations. These comments are beyond the scope of this regulation project, which addresses whether an organization has a significant trade or business of lending money for purposes of section 6050P(c)(2)(D), but these comments may be addressed in future guidance.

A. Amounts forgiven pursuant to the terms of a loan

Commentators requested clarification as to whether an organization is required to report amounts forgiven pursuant to the terms of a debt obligation, including loan forgiveness under the FFELP upon a stated event (such as death, disability, or satisfaction of the service requirements of the Teacher Loan Forgiveness Program). The IRS may issue future guidance under section 6050P addressing amounts forgiven pursuant to the terms of a debt obligation for purposes of section 6050P. Pending issuance of future guidance, applicable entities will not be subject to penalties under section 6721 and section 6722 for failure to report under section 6050P amounts forgiven pursuant to the terms of a debt obligation.

B. Amounts that are defined as “indebtedness” under §1.6050P-1(c) of the existing final regulations but that do not arise in the context of a money-lending transaction

One commentator requested clarification of the information reporting requirements for amounts that are owed to an organization but that do not arise in the context of a money-lending transaction. The commentator suggested that the definition of indebtedness in §1.6050P-1(c) of the existing final regulations should be revised to require reporting only of discharged amounts that would give rise to income under section 61(a)(12) and that the definition should cover only amounts arising in money-lending transactions. Alternatively, the commentator suggested that amounts owed that arise in non-money-lending transactions should not be “indebtedness” for purposes of section 6050P unless, and until, reduced to judgment. This commentator also suggested that discharges of amounts such as fees, penalties, administrative costs, and fines should not be subject to reporting under section 6050P regardless of whether the transaction is a money-lending transaction. Section 1.6050P-1(d)(3) of the existing final regulations provides an exception to reporting for discharges of these amounts only in lending transactions.

In particular, the commentator was concerned about amounts arising in leasing transactions. An organization that engages only in transactions that are treated as leases, and not as sales, for Federal tax purposes is not required to report under section 6050P, because leasing is not lending money for purposes of section 6050P(c)(2)(D) and §1.6050P-2(a). However, if an organization is otherwise engaged in a significant trade or business of lending money and is also engaged in leasing transactions, the existing final regulations under section 6050P would require the organization to report the discharge of any amount owed to it, including fees, administrative costs, and fines for the non-lending leasing transactions.

The IRS and the Treasury Department may issue future guidance under section 6050P addressing the requirements for reporting amounts discharged in non-lending transactions. Pending issuance of future guidance, applicable entities will not

be subject to penalties under section 6721 and section 6722 for failure under section 6050P to report amounts discharged in non-lending transactions.

Effective Date

In order to give organizations that are subject to section 6050P(c)(2)(D) time to comply with the reporting requirements of section 6050P, these regulations apply to discharges that occur on or after January 1, 2005.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is Joseph P. Dewald, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. However, other personnel from the IRS and Treasury Department participated in the development of the regulations.

* * * * *

Adoption of Amendment to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read, in part, as follows:

Authority: 26 U.S.C. 7805. * * *

Section 1.6050P-2 also issued under 26 U.S.C. 6050P. * * *

Par. 2. Section 1.6050P-0 is amended as follows:

1. The introductory text is amended by adding the language “and §1.6050P-2” immediately after the language “§1.6050P-1”.

2. The entry for §1.6050P-1 is amended by removing the word “financial”.

3. The entry for §1.6050P-1(e)(2)(v) is added.

4. The entries for §§1.6050P-1(e)(5) through (e)(8) are redesignated as entries for §§1.6050P-1(e)(6) through (e)(9) and a new entry for §1.6050P-1(e)(5) is added.

5. The entries for §1.6050P-2 are added.

The additions read as follows:

§1.6050P-0 Table of contents.

* * * * *

§1.6050P-1 Information reporting for discharges of indebtedness by certain entities.

* * * * *

(e) * * *

(2) * * *

(v) No double reporting.

* * * * *

(5) Entity formed or availed of to hold indebtedness.

* * * * *

§1.6050P-2 Organization a significant trade or business of which is the lending of money.

(a) In general.

(b) Safe harbors.

(1) Organizations not subject to section 6050P in the previous calendar year.

(2) Organizations that were subject to section 6050P in the previous calendar year.

(3) No test year.

(c) Seller financing.

(d) Gross income from lending of money.

(e) Acquisition of an indebtedness from a person other than the debtor included in lending money.

(f) Test year.

(g) Predecessor organization.

(h) Examples.

(i) Effective date.

Par. 3. Section 1.6050P-1 is amended as follows:

1. The section heading for §1.6050P-1 is amended by removing the word “financial”.

2. Paragraphs (a)(1), (b)(2)(i)(F), (c), (e)(2)(i), (e)(3), (e)(7), (f)(1) introductory text, (f)(1)(ii), and (f)(2) are amended by removing the word “financial”.

3. The first sentence of paragraph (c) is amended by adding the language “and §1.6050P-2” immediately after the word “section”.

4. Paragraph (e)(2)(v) is added.

5. Paragraph (e)(4) is amended by removing “6050P(c)(1)(A)” each time it appears and adding “6050P(c)(2)(A)” in its place and by removing “6050P(c)(1)(C)” and adding “6050P(c)(2)(C)” in its place.

6. Paragraphs (e)(5) through (e)(8) are redesignated as (e)(6) through (e)(9) and a new paragraph (e)(5) is added.

7. Paragraph (e)(7)(i), as redesignated, is amended by removing “(e)(6)” where it appears and adding “(e)(7)” and paragraph (e)(7)(ii), as redesignated, is amended by removing “(e)(6)(i)” where it appears and adding “(e)(7)(i)” in its place.

8. Paragraph (h)(1) is amended by adding “and, except paragraph (e)(5) of this section, which applies to discharges of indebtedness occurring after December 31, 2004.”, immediately after the language “1994”.

The additions read as follows:

§1.6050P-1 Information reporting for discharges of indebtedness by certain entities.

* * * * *

(e) * * *

(2) * * *

(v) *No double reporting.* If multiple creditors are considered to hold interests in an indebtedness for purposes of this paragraph (e)(2) by virtue of holding ownership interests in an entity, and the entity is required to report a discharge of that indebtedness under paragraph (e)(5) of this section, then the multiple creditors are not required to report the discharge of indebtedness.

* * * * *

(5) *Entity formed or availed of to hold indebtedness.* Notwithstanding §1.6050P-2(b)(3), if an entity (the transferee entity) is formed or availed of by

an applicable entity (within the meaning of section 6050P(c)(1)) for the principal purpose of holding indebtedness acquired (including originated) by the applicable entity, then, for purposes of section 6050P(c)(2)(D), the transferee entity has a significant trade or business of lending money.

* * * * *

Par. 4. Section 1.6050P-2 is added to read as follows:

§1.6050P-2 Organization a significant trade or business of which is the lending of money.

(a) *In general.* For purposes of section 6050P(c)(2)(D), the lending of money is a significant trade or business of an organization in a calendar year if the organization lends money on a regular and continuing basis during the calendar year.

(b) *Safe harbors—*(1) *Organizations not subject to section 6050P in the previous calendar year.* For an organization that was not required to report under section 6050P in the previous calendar year, the lending of money is not treated as a significant trade or business for the calendar year in which the lending occurs if gross income from lending money (as described in paragraph (d) of this section) in the organization’s most recent test year (as defined in paragraph (f) of this section) is both less than \$5 million and less than 15 percent of the organization’s gross income for that test year.

(2) *Organizations that were subject to section 6050P in the previous calendar year.* For an organization that was required to report under section 6050P for the previous calendar year, the lending of money is not treated as a significant trade or business for the calendar year in which the lending occurs if gross income from lending money (as described in paragraph (d) of this section) in each of the organization’s three most recent test years is both less than \$3 million and less than 10 percent of the organization’s gross income for that test year.

(3) *No test year.* The lending of money is not treated as a significant trade or business for an organization for the calendar year in which the lending occurs if the organization does not have a test year for that calendar year.

(c) *Seller financing.* If the principal trade or business of an organization is selling nonfinancial goods or providing nonfinancial services and if the organization extends credit to the purchasers of those goods or services to finance the purchases, then, for purposes of section 6050P(c)(2)(D), these extensions of credit are not a significant trade or business of lending money.

(d) *Gross income from lending of money.* For purposes of this section, gross income from lending of money includes—

(1) Income from interest, including qualified stated interest, original issue discount, and market discount;

(2) Gains arising from the sale or other disposition of indebtedness;

(3) Penalties with respect to indebtedness (whether or not the penalty is interest for Federal tax purposes); and

(4) Fees with respect to indebtedness, including merchant discount or interchange (whether or not the fee is interest for Federal tax purposes).

(e) *Acquisition of an indebtedness from a person other than the debtor included in lending money.* For purposes of this section, lending money includes acquiring an indebtedness not only from the debtor at origination but also from a prior holder of the indebtedness. Gross income arising from indebtedness is gross income from the lending of money without regard to who originated the indebtedness. If an organization acquires an indebtedness, the organization is required to report any cancellation of the indebtedness if the organization is engaged in a significant trade or business of lending money.

(f) *Test year.* For any calendar year, a *test year* is a taxable year of the organization that ends before July 1 of the previous calendar year.

(g) *Predecessor organization.* If an organization acquires substantially all of the property that was used in a trade or business of some other organization (the predecessor) (including when two or more corporations are parties to a merger agreement under which the surviving corporation becomes the owner of the assets and assumes the liabilities of the absorbed corporation(s)) or was used in a separate unit of the predecessor, then whether the organization at issue qualifies for one of the safe harbors in paragraph (b) of this section is determined by also taking into account the

test years, reporting obligations, and gross income of the predecessor.

(h) *Examples.* The rules of this section are illustrated by the following examples:

Example 1. (i) *Facts.* Finance Company A, a calendar year taxpayer, was formed in Year 1 as a non-bank subsidiary of Manufacturing Company and has no predecessor. A lends money to purchasers of Manufacturing Company's products on a regular and continuing basis to finance the purchase of those products. A's gross income from stated interest in Year 1 is \$4.7 million. In Year 1, A's gross income from fees and penalties with respect to the indebtedness is \$0.5 million, and A has no other gross income from lending money within the meaning of paragraph (d) of this section.

(ii) *Results.* Section 6050P does not require A to report discharges of indebtedness occurring in Years 1 or 2, because A has no test year for those years. Notwithstanding that A lends money in those years on a regular and continuing basis, under paragraph (b)(3) of this section, A does not have a significant trade or business of lending money in those years for purposes of section 6050P(c)(2)(D). However, for Year 3, A's test year is Year 1. A's gross income from lending in Year 1 is not less than \$5 million for purposes of the applicable safe harbor of paragraph (b)(1) of this section. Because A lends money on a regular and continuing basis and does not meet the applicable safe harbor, section 6050P requires A to report discharges of indebtedness occurring in Year 3.

Example 2. (i) *Facts.* The facts are the same as in *Example 1*, except that A is a division of Manufacturing Company, rather than a separate subsidiary. Manufacturing Company's principal activity is the manufacture and sale of non-financial products, and, other than financing the purchase of those products, Manufacturing Company does not extend credit or otherwise lend money.

(ii) *Results.* Under paragraph (c) of this section, that financing activity is not a significant trade or business of lending money for purposes of section 6050P(c)(2)(D), and section 6050P does not require Manufacturing Company to report discharges of indebtedness.

Example 3. (i) *Facts.* Company B, a calendar year taxpayer, is formed in Year 1. B has no predecessor and a part of its activities consists of the lending of money. B packages and sells part of the indebtedness it originates and holds the remainder. B is engaged in these activities on a regular and continuing basis. For Year 1, the sum of B's gross income from sales of the indebtedness, plus other income described in paragraph (d) of this section, is only \$4.8 million, but it is 16% of B's gross income in Year 1.

(ii) *Results.* Because B lends money on a regular and continuing basis and does not meet the applicable safe harbor of paragraph (b)(1) of this section, section 6050P requires B to report discharges of indebtedness occurring in Year 3. B is not required to report discharges of indebtedness in Years 1 and 2 because B has no test year for Years 1 and 2.

Example 4. (i) *Facts.* The facts are the same as in *Example 3*. In addition, in each of Years 2, 3, and 4, the sum of B's gross income from sales of the indebtedness, plus other income described in paragraph (d) of this section, is less than both \$3 million and 10% of B's gross income.

(ii) *Results.* (A) Because B was required to report under section 6050P for Year 3, the applicable safe harbor for Year 4 is paragraph (b)(2) of this section, which is satisfied only if B's gross income from lending activities for each of the three most recent test years is less than both \$3 million and 10% of B's gross income. For Year 4, even though B has only two test years, B's gross income in one of those test years, Year 1, causes B to fail to meet this safe harbor. Accordingly, B is required to report discharges of indebtedness under section 6050P in Year 4. For Year 5, B's three most recent test years are Years 1, 2, and 3. However, B's gross income from lending activities in Year 1 is not less than \$3 million and 10% of B's gross income. Accordingly, section 6050P requires B to report discharges of indebtedness in Year 5.

(B) For Year 6, B satisfies the applicable safe harbor requirements of paragraph (b)(2) of this section for each of the three most recent test years (Years 2, 3, and 4). Therefore, section 6050P does not require B to report discharges of indebtedness in Year 6. Because B is not required to report for Year 6, the applicable safe harbor for Year 7 is the one contained in paragraph (b)(1) of this section, and thus the only relevant test year is Year 5.

Example 5. (i) *Facts.* (A) Company C, a calendar year taxpayer, was formed in Year 1 and, on a regular and continuing basis, enters into the following transactions with its clients, all of whom are unrelated parties to C. C does not have any other income.

(B) C's clients sell goods to customers, frequently accepting as payment accounts receivable that are due in 30 to 90 days. Under a contract with each client, C investigates the creditworthiness of the client's customers with respect to the prospective sales, and, for each customer, C determines whether, and to what extent, C is willing to assume the risk of loss on accounts receivable to be issued by the customer. C's decision whether to assume risk of loss may be based on an evaluation of the credit quality of particular customers or on the aggregate credit quality of all of the client's prospective customers. If C is unwilling to assume the risk, the client either may refuse to extend any credit to the customer or may accept the account receivable and bear the risk of loss.

(C) Pursuant to some contracts between C's clients and C, C's clients assign legal title to the accounts receivable to C when the accounts receivable are issued by the customers. For these accounts receivable, C agrees to undertake collections and to remit the amounts collected to the client, less a fee of 0.70 percent of the face value of the accounts receivable. Pursuant to other contracts between C's clients and C, C's clients retain legal title to the accounts receivable and retain the initial collection responsibility. For these accounts receivable, C's fee is reduced to 0.35 percent. Both groups of accounts receivable include accounts receivable for which C has assumed the risk of loss and accounts receivable for which C has not assumed the risk of loss.

(D) Based on all the facts and circumstances, C acquires ownership for Federal tax purposes of some, but not all, of the accounts receivable that it has agreed to collect and of some, but not all, of the accounts receivable for which the client has retained collection responsibility.

(E) In Year 1, C's total fee income with respect to accounts receivable of which it acquired tax ownership was \$2 million. C's fee income in Year 1 from

accounts receivable of which it did not acquire tax ownership was \$700,000. C does not have any other income for Year 1.

(F) In Year 3, there were discharges of \$950,000, representing \$100,000 of customer defaults on those accounts receivable of which C was the owner for Federal tax purposes at the time of the identifiable event marking the discharge and \$850,000 of customer defaults on the accounts receivable of which the clients, and not C, were the owner. Whenever C determined the uncollectibility of an account receivable for which it had not assumed the risk of loss, C reassigned title to the account receivable to the appropriate client. Each defaulting customer defaulted on an account receivable with an outstanding balance of at least \$600.

(ii) *Results.* (A) For Year 3, C's test year is Year 1. Under paragraph (e) of this section, C's \$2 million fee income from the accounts receivable of which it acquired tax ownership is "gross income from lending money" for purposes of paragraph (b) of this section, because C was the owner of the accounts for Federal

tax purposes. Under paragraph (e) of this section, C's \$700,000 fee income from the accounts receivable of which it did not acquire tax ownership is not "gross income from lending money" for purposes of paragraph (b) of this section, because C was not the owner of the accounts receivable for Federal tax purposes. In Year 1, therefore, C's gross income from lending money is less than \$5 million but is not less than 15% of C's gross income. Because C lends money on a regular and continuing basis and does not meet the applicable safe harbor, section 6050P requires C to report discharges of indebtedness occurring in Year 3.

(B) In Year 3, section 6050P requires C to report the \$100,000 of discharges of the accounts receivable of which C was the owner for Federal tax purposes at the time of the identifiable event marking the discharge. Unless an exception to reporting under paragraph (b) or (c) of this section applies, section 6050P requires C's clients to report the \$850,000 of discharges of the accounts receivable of which C did not become the owner.

(i) *Effective date.* This section applies to discharges of indebtedness occurring on or after January 1, 2005.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 5. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 6. In §602.101, paragraph (b) is amended by removing two entries from the table as follows:

§602.101 OMB Control numbers.

* * * * *
(b) * * *

CFR part or section where identified and described	Current OMB Control No.
* * * * *	
1.6050P-1	1545-1419
1.6050-1T	1545-1419
* * * * *	

Mark E. Matthews,
Deputy Commissioner for Services and Enforcement.

Approved October 19, 2004.

Gregory F. Jenner,
Acting Assistant Secretary of the Treasury.

(Filed by the Office of the Federal Register on October 22, 2004, 8:45 a.m., and published in the issue of the Federal Register for October 25, 2004, 69 F.R. 55000)

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Section 7872.—Treatment of Loans With Below-Market Interest Rates

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 2004. See Rev. Rul. 2004-102, page 784.

Part III. Administrative, Procedural, and Miscellaneous

Information Reporting and Other Guidance Regarding Distributions With Respect to Securities Issued by Foreign Corporations

Notice 2004-71

SECTION 1. OVERVIEW

The Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108-27, 117 Stat. 752) (the “2003 Act”) was enacted on May 28, 2003. Subject to certain limitations, the 2003 Act generally provides that a dividend paid to an individual shareholder from either a domestic corporation or a “qualified foreign corporation” is subject to tax at the reduced rates applicable to certain capital gains. A qualified foreign corporation includes certain foreign corporations that are eligible for benefits of a comprehensive income tax treaty with the United States which the Secretary determines is satisfactory for purposes of this provision and which includes an exchange of information program. In addition, a foreign corporation not otherwise treated as a qualified foreign corporation is so treated with respect to any dividend it pays if the stock with respect to which it pays such dividend is readily tradable on an established securities market in the United States.

This notice provides guidance for persons required to make returns and provide statements under section 6042 of the Internal Revenue Code regarding distributions with respect to securities issued by a foreign corporation, and for individuals receiving such statements. This notice provides generally that the simplified procedures and other rules contained in Notice 2003-79 are extended to apply for 2004 information reporting of distributions with respect to securities issued by foreign corporations.

SECTION 2. NOTICE 2003-79

In November of 2003, the Treasury Department and the IRS issued Notice 2003-79, 2003-50 I.R.B. 1206, which provided guidance for persons required to make returns and provide statements under section 6042 of the Internal Revenue Code

(e.g., Form 1099-DIV) regarding distributions with respect to securities issued by a foreign corporation, and for individuals receiving such statements. Notice 2003-79 identified a series of separate determinations that must be made in order to determine whether a distribution with respect to a security issued by a foreign corporation is eligible for the reduced rates of tax under the 2003 Act. Notice 2003-79 provided simplified procedures to be used for 2003 information reporting of a distribution with respect to such a security. Notice 2003-79 also provided guidance regarding the determination as to whether a security (or an American depositary receipt in respect of such security) issued by a foreign corporation other than ordinary or common stock (such as preferred stock) is considered readily tradable on an established securities market in the United States for purposes of the 2003 Act.

In addition, Notice 2003-79 described certification procedures the Treasury Department and the IRS intend to develop for use for information reporting in future years of distributions with respect to securities issued by foreign corporations. Notice 2003-79 requested comments on the proposed certification procedures outlined, and several comments were received.

SECTION 3. GUIDANCE FOR 2004

.01 Generally.

After reviewing the comments received and working further to develop procedures as outlined in Notice 2003-79, the Treasury Department and the IRS have concluded that it is appropriate to issue more detailed guidance setting forth the specific procedures to be used for information reporting in proposed form in order to provide interested parties an opportunity to comment. In order to allow for the issuance of proposed procedures and the consideration of comments before such procedures are finalized, the Treasury Department and the IRS are extending to 2004 information reporting the simplified procedures that were provided in Notice 2003-79 for 2003 information reporting.

Section 3.02 of this notice provides guidance regarding whether a security

is readily tradable on an established securities market in the United States for purposes of section 1(h)(11). Section 3.03 summarizes guidance for 2004 information reporting of a distribution with respect to a security issued by a foreign corporation. Section 3.04 provides guidance for 2004 for recipients of Form 1099-DIV.

.02 Readily Tradable.

Notice 2003-79 provided guidance for 2003 regarding whether certain securities other than common or ordinary stock are considered readily tradable on an established securities market in the United States for purposes of section 1(h)(11). Upon further review, the Treasury Department and the IRS have concluded that the guidance provided in Notice 2003-79 regarding this determination should be extended to future years. Accordingly, for 2004 and future years, a security (or an American depositary receipt in respect of such security) issued by a foreign corporation that is other than ordinary or common stock (such as preferred stock) will be considered readily tradable on an established securities market in the United States for purposes of the 2003 Act if the security is listed on a national securities exchange that is registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. § 78f) or on the Nasdaq Stock Market as described in Notice 2003-71.

.03 Persons Required to File Form 1099-DIV.

The rules for 2003 information reporting of a distribution with respect to a security issued by a foreign corporation that are described in detail in sections 3.01 through 3.07 of Notice 2003-79 will also apply for 2004 information reporting. Those rules are outlined in the following summary. For 2004, a person required to make a return under section 6042 shall report a distribution with respect to such a security in Box 1b of Form 1099-DIV as a qualified dividend if:

1. either the security with respect to which the distribution is made is a common or an ordinary share, or a public SEC filing contains a statement that the security will be, should

- be, or more likely than not will be treated as equity rather than debt for U.S. federal income tax purposes; and
2. either:
 - a. the security is considered “readily tradable on an established securities market in the United States”;¹
 - b. the foreign corporation is organized in a possession of the United States; or
 - c. the foreign corporation is organized in a country whose income tax treaty with the United States is comprehensive, is satisfactory to the Secretary for purposes of section 1(h)(11), and includes an exchange of information program,² and if the relevant treaty contains a limitation on benefits provision, the corporation’s common or ordinary stock is listed on an exchange covered by that limitation on benefits provision’s public trading test, unless the person required to file an information return knows or has reason to know that the corporation is not eligible for benefits under that treaty; and
 3. the person required to file Form 1099–DIV does not know or have reason to know that the foreign corporation is or expects to be, in the taxable year of the corporation in which the dividend was paid, or was, in the preceding taxable year, a foreign personal holding company (as defined in section 552), a foreign investment company (as defined in section 1246(b)), or a passive foreign investment company (as defined in section 1297);³ and

4. the person required to make a return under section 6042 determines that the owner of the distribution has satisfied the holding period requirement of section 1(h)(11) or it is impractical for such person to make such determination.

The IRS will exercise its authority under section 6724(a) of the Code to waive penalties under sections 6721 and 6722 with respect to reporting of calendar year 2004 payments if persons required to file Form 1099–DIV make a good faith effort to report payments consistent with the rules summarized above and described in detail in sections 3.01 through 3.06 of Notice 2003–79. A person required to make a return under section 6042 may report a distribution in Box 1b as a qualified dividend even if the distribution does not satisfy these simplified information reporting procedures for 2004, subject to the applicable penalty provisions, as described in detail in section 3.07 of Notice 2003–79.

.04 Recipients of Form 1099–DIV for 2004.

For taxable years beginning in 2004, a recipient of Form 1099–DIV may treat amounts reported in Box 1b as qualified dividends, unless and to the extent the recipient knows or has reason to know that such amounts are not qualified dividends, as described in detail in section 3.08 of Notice 2003–79.

SECTION 4. EXPECTED GUIDANCE FOR FUTURE YEARS

The Treasury Department and the IRS are developing detailed procedures for implementing the certification approach for information reporting outlined in section 5 of Notice 2003–79. The Treasury Department and the IRS intend shortly to issue guidance setting forth those detailed pro-

cedures in proposed form. This will provide interested parties an opportunity to provide specific comments before the procedures are issued in final form to be effective for information reporting for future years.

SECTION 5. EFFECTIVE DATE

This notice is effective for taxable years beginning on or after January 1, 2004.

SECTION 6. PAPERWORK REDUCTION ACT

The information collection referenced in this notice has been previously reviewed and approved by the Office of Management and Budget as part of the promulgation of Form 1099–DIV. See OMB Control Number 1545–0110. This notice merely provides additional guidance regarding the proper filing of such returns and furnishing of such statements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. § 6103.

SECTION 7. CONTACT INFORMATION

The principal author of this notice is Michelle L. Drumbl of the Office of Associate Chief Counsel (International). For further information regarding this notice, contact Ms. Drumbl at (202) 622–3880 (not a toll-free call).

¹ Notice 2003–71, 2003–43 I.R.B. 922, and section 3.02 of this notice provide guidance regarding when a security is considered readily tradable on an established securities market in the United States for purposes of section 1(h)(11).

² Notice 2003–69, 2003–42 I.R.B. 851, contains a list of qualifying treaties for this purpose.

³ Notice 2004–70, 2004–44 I.R.B. 724, provides guidance regarding the extent to which distributions, inclusions, and other amounts received by, or included in the income of, individual shareholders as ordinary income from foreign corporations subject to certain anti-deferral regimes may be treated as qualified dividend income for purposes of section 1(h)(11).

NOTE:

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

- **Current Instructions for Form 1042-S**
- **Form 4419 — Application for Filing Information Returns Electronically/Magnetically**
- **Form 4804 — Transmittal of Information Returns Reported Magnetically**
- **Form 8508 — Request for Waiver From Filing Information Returns Magnetically**
- **Form 8809 — Application for Extension of Time To File Information Returns**
- **Notice 210 — Preparation Instructions for Media Labels**
- **Publication 515 — Withholding of Tax on Nonresident Aliens and Foreign Corporations (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.

IMPORTANT NOTES:

IRS/ECC-MTB now offers an Internet connection at <http://fire.irs.gov> for electronic filing. The FIRE System will be down from Dec. 23, 2004, through Jan. 4, 2005, for upgrading. It is not operational during this time for submissions.

Beginning in Tax Year 2006, processing year 2007, IRS/ECC-MTB will no longer accept 3 1/2-inch diskettes for filing information returns.

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Use this Revenue Procedure to prepare Tax Year 2004 and prior year information returns for submission to Internal Revenue Service (IRS) using any of the following:

- Electronic Filing
- Tape Cartridge
- 3½-Inch Diskette

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 at 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 electronically through the FIRE (Filing Information Returns Electronically) System or magnetically, using IBM 3480, 3490, 3490E, 3590, 3590E compatible tape cartridges or 3½-inch diskette. This Revenue Procedure must be used to prepare current and prior year information returns **filed beginning January 1, 2005, and received by IRS/ECC-MTB or postmarked by December 31, 2005.**

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

.03 This Revenue Procedure supersedes Rev. Proc. 2003-83 published as Publication 1187, Specifications for Filing Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Electronically or Magnetically.

.04 Refer to Part A, Sec.16, for definitions of terms used in this publication.

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

.06 IRS/ECC-MTB does **not** process Forms W-2. Paper **and/or** magnetic media for 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 The following Revenue Procedures and publications provide more detailed filing procedures for certain information returns:

- (a) 2004 Instructions for Form 1042-S.
- (b) Publication 1179, Rules and Specifications for Private Printing of Substitute Forms 1096, 1098, 1099, 1042-S, 5498, and W-2G.
- (c) Publication 1239, Specifications for Filing Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, Electronically or Magnetically.
- (d) Publication 1220, Specifications for Filing Forms 1098, 1099, 5498, and W-2G, Electronically or Magnetically.
- (e) Publication 1245, Specifications for Filing Form W-4, Employee's Withholding Allowance Certificate, Electronically or Magnetically.

Sec. 2. Nature of Changes—Current Year (Tax Year 2004)

.01 Part B, Electronic Filing Specifications, was completely revised. Please read carefully. We now offer an internet connection at <http://fire.irs.gov>.

.02 The following changes were made to the Transmitter 'T' Record:

- (a) In position 199 a new field, Prior Year Data Indicator, was added.
- (b) In positions 771-778 a new field, Record Sequence Number, was added.

- .03** The following changes were made to Withholding Agent 'W' Record:
- (a) In position 13, Withholding Agent's EIN Indicator, the indicators were renumbered and a new indicator for NQI-EIN was added.
 - (b) In positions 771-778 a new field, Record Sequence Number, was added.
- .04** The following change was made to the Recipient 'Q' Record:
- (a) In positions 771-778 a new field, Record Sequence Number, was added.
- .05** The following change was made to Reconciliation 'C' Record:
- (a) In positions 771-778 a new field, Record Sequence Number, was added.
- .06** The following change was made to the End of Transmission 'F' Record:
- (a) In positions 771-778 a new field, Record Sequence Number, was added.
- .07** Additional editorial changes of a clarifying nature have been made throughout this publication. Please read the entire publication carefully.

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

.01 All information returns filed electronically or magnetically are processed at IRS/ECC-MTB. Files containing information returns and requests for IRS electronic filing and magnetic media information should be sent to the following address:

IRS-Enterprise Computing Center at 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, should be sent to the following address:

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

.03 The telephone numbers for electronic or magnetic media inquiry submissions 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*

304-267-3367 — TDD

(Telecommunication Device for the Deaf)

304-264-5602 — Fax Machine

Electronic Filing — FIRE System

<http://fire.irs.gov>

TO OBTAIN FORMS:

1-800-TAX-FORM (1-800-829-3676)

www.irs.gov — IRS Web Site access to forms

.04 Current 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** Form 1042-S. If filing paper returns, follow the mailing instructions on Form 1042-T and submit the paper returns to the Internal Revenue Service Center, Philadelphia, PA 19255.

.05 Requests for paper Form 1042-S and publications relating to electronic/magnetic media filing 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**.

.06 Questions pertaining to magnetic media filing of Forms W-2 **must** be directed to the Social Security Administration (SSA). Filers can call 1-800-SSA-6270 to obtain the phone 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 phone 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 the current 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 or Transcript of Tax Form, 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 The Information Reporting Program Customer Service Section (IRP/CSS), located at IRS/ECC-MTB, answers electronic/magnetic media, paper filing and tax law questions from the payer community relating to the filing of business information returns (Forms 1096, 1098, 1099, 5498, 8027, W-2G, and W-4). IRP/CSS also answers questions relating to the **electronic/magnetic media filing** of Form 1042-S. Inquiries dealing with backup withholding and reasonable cause requirements due to missing and incorrect taxpayer identification numbers are also addressed by IRP/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 time, by calling toll-free **1-866-455-7438** or via email at mccirp@irs.gov. **Do not include SSNs or EINs on emails since this is not a secure line.** The Telecommunications Device for the Deaf (TDD) toll number is **304-267-3367**. Call as soon as questions arise to avoid the busy filing seasons at the end of January and February. 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.

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 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.

Sec. 4. Filing 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/magnetically. Withholding agents who meet the threshold of 250 or more Forms 1042-S are required to submit their information electronically or magnetically.

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

.02 These requirements apply separately to both originals and corrections filed electronically/magnetically.

.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), or 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 Filers who are required to submit their information returns on magnetic media may choose to submit their documents by electronic filing. IRS/ECC-MTB has one method for filing information returns electronically; see Part B.

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

Sec. 5. Vendor List

.01 IRS/ECC-MTB prepares a list of vendors who support electronic filing or magnetic media. The Vendor List (Pub. 1582) contains the names of service bureaus that will produce files on the prescribed types of magnetic media or via electronic filing. It also contains the names of vendors who provide software packages for filers who wish to produce electronic or magnetic media 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 meeting the filing requirements engage a service bureau to prepare media on their behalf, the filers should be careful not to report duplicate data, which may cause penalty notices to be generated.

.03 The Vendor List, Publication 1582, is updated periodically. The most recent revision will be available on the IRS website at www.irs.gov.

.04 A vendor who offers a software package and has the ability to produce magnetic media for customers, or has the capability to electronically file information returns and would like to be included on the list, must submit a written request to IRS/ECC-MTB. The request should include:

- (a) Company name,
- (b) Address (include city, state, and ZIP code),
- (c) Telephone number (include area code),
- (d) Email address,
- (e) Contact person,
- (f) Type(s) of service provided (e.g., service bureau and/or software),
- (g) Type(s) of media offered (e.g., tape cartridge, 3 1/2-inch diskette, or electronic filing),
- (h) Type(s) of return(s)

Sec. 6. Form 4419, Application for Filing Information Returns Electronically/Magnetically

.01 Transmitters are required to submit Form 4419, Application for Filing Information Returns Electronically/Magnetically, 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. Please make sure you submit your electronic/magnetic files using the correct TCC.

EXCEPTIONS

**An additional Form 4419 is required for filing each of the following types of returns:
Forms 1098, 1099, 5498, W-2G, 8027 and Questionable W-4.**

FORM	TITLE	EXPLANATION
1098, 1099, 5498, W-2G	Various types of information returns	Payments subject to reporting requirements under Code Section 6011(e)(2)(A), including interest, dividends, royalties, pensions and annuities, gambling winnings and compensation for personal services.
8027	Employer's Annual Information Return of Tip Income and Allocated Tips	Receipts from operations where tipping is customary. Used by employers to report employees' tips or allocated tips.
Questionable W-4 (See Note)	Employee's Withholding Allowance Certificate	Forms received during the quarter from employees still employed at the end of the quarter who claim (a) More than 10 withholding allowances, or (b) Exempt status and wages normally would be more than \$200 a week.

Note: Employers are not required to send other Forms W-4 unless notified to do so by the IRS.

.02 Tape cartridge, diskette, and 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.

.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 separate media or in separate transmissions if filing electronically.

.04 When revisions occur, a Publication 1187 containing the current Revenue Procedure, forms, and instructions will be sent to the attention of the contact person indicated on Form 4419.

.05 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. However, a change in the method by which information returns are being submitted is not information which needs to be updated (e.g., diskette to electronic). The transmitter should include the TCC in all correspondence.

.06 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. 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.

.07 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.

.08 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 media, and send it to IRS/ECC-MTB for the withholding agent. Other service bureaus will prepare magnetic media and return the media to the withholding agent for submission 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.

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

- (a) The withholding agent has discontinued filing electronically or magnetically 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 magnetic media 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.

.10 One Form 4419 may be submitted regardless of how many types of media or methods are used to file the return. 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, 5498, W-2G, 8027, and/or Questionable W-4. A separate TCC will be assigned for these forms.

.11 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. Test Files

.01 IRS/ECC-MTB strongly encourages all electronic or magnetic media 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 20**)
- (d) Reconciliation "C" Record
- (e) End of Transmission "F" Record

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

.03 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 no validity, consistency, or math error tests will be conducted.

.04 Tests should be sent to IRS/ECC-MTB between November 1 and December 15. Tests must be received at ECC-MTB by December 15 in order to be processed.

.05 For tests filed on tape cartridge, and 3 1/2-inch diskette, the transmitter must include the signed Form 4804 in the same package with the corresponding magnetic media. Mark the "TEST" box in Block 1 on the form. Also, mark "TEST" on the external media label.

.06 IRS/ECC-MTB will send a letter of acknowledgment to indicate the test results for magnetic media with documentation identifying the fatal errors. Resubmission of magnetic media test files must be received by IRS/ECC-MTB no later than December 15. See Part B, Sec. 4.03 for information on electronic test results.

.07 Magnetic media will not be returned to filers.

Note: Most validity, consistency and related math error checks within individual "Q" Records will no longer be conducted as part of ECC-MTB's testing procedures.

Sec. 8. Filing of Information Returns Magnetically and Retention Requirements

.01 Form 4804, Transmittal of Information Returns Reported Magnetically, or a computer-generated substitute, must accompany all magnetic media shipments.

.02 IRS/ECC-MTB allows for the use of computer-generated substitutes for Form 4804. The substitutes must contain all information requested on the original forms including the affidavit and signature line. Photocopies are acceptable but an original signature is

required. When using computer-generated forms, be sure to mark very clearly which tax year is being reported. This will eliminate phone communication from IRS/ECC-MTB to question the tax year.

.03 Multiple types of media may be submitted in a shipment. However, submit a separate Form 4804 for each type of media.

.04 Current and prior year data may be submitted in the same shipment; however, each tax year must be on separate media, and a separate Form 4804 must be prepared to clearly indicate each tax year.

.05 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.

.06 Do not report duplicate information. If a filer submits returns electronically/magnetically, identical paper documents must not be filed. This may result in erroneous penalty notices.

.07 Form 4804 may be signed by the withholding agent or the transmitter, service bureau, paying agent, or disbursing agent (all hereafter referred to as agent) on behalf of the payer. Failure to sign the affidavit on Form 4804 may delay processing or could result in IRS/ECC-MTB requesting a replacement file. An agent may sign the Form 4804 if the agent has the authority to sign the affidavit under an agency agreement (either oral, written, or implied) that is valid under state law and adds the caption "FOR: (name of withholding agent/payer)."

.08 Although an authorized agent may sign the affidavit, the withholding agent is responsible for the accuracy of the Form 4804 and the returns filed. The withholding agent will be liable for tax and interest penalties for failure to comply with filing requirements.

.09 A self-adhesive external media label, created by the filer, must be affixed to each piece of magnetic media. For instructions on how to prepare an external media label, refer to Notice 210 in the forms section of this publication.

.10 On the outside of the shipping container, affix or attach a label which reads "IRB Box _____ of _____" reflecting the number of containers in the shipment. (Filers can create a label with this information or cut out one of the labels on the special label page provided in this publication.) If there is only one container, mark the outside as Box 1 of 1. For multiple containers, include the sequence (for example, Box 1 of 3, 2 of 3, 3 of 3).

.11 When submitting magnetic files include the following:

(a) A **signed** Form 4804;

(b) External media label (created by filer) affixed to magnetic media;

(c) IRB Box _____ of _____ outside label.

.12 IRS/ECC-MTB will not pay for or accept "Cash-on-Delivery" or "Charge to IRS" shipments of tax information that an individual or organization is legally required to submit.

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

Sec. 9. Due Dates

.01 The due dates for filing paper returns with IRS also apply to magnetic media. Filing of Form 1042-S is on a calendar year basis.

.02 Form 1042-S filed magnetically must be submitted to IRS/ECC-MTB postmarked 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 Magnetic media returns postmarked by the United States Postal Service (USPS) on or before March 15, 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. Notice 97-26, 1997-1 C.B. 413, provides rules for determining the date that is treated as the postmark date. A similar rule applies to items delivered by private delivery services (PDSs) designated by the IRS. A PDS must be designated by the IRS before it will qualify for the timely mailing rule. (See **Note**.) Notice 99-41, 1999-35 I.R.B. 325, provides the list of designated PDSs. Designation is effective until the IRS issues a revised list. For items delivered by a non-designated 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 99-41, the actual date of receipt by IRS/ECC-MTB will be used as the filing date.

Note: Due to security regulations at ECC-MTB, the Internal Revenue police officers will only accept media from PDSs or couriers from 7:00 a.m. to 5:00 p.m., Monday through Friday.

.05 Statements to recipients must be mailed on or before March 15.

Sec. 10. Processing of Information Returns Magnetically at IRS/ECC-MTB

.01 All data received at IRS/ECC-MTB for processing will be given the same protection as individual income tax returns (Form 1040). IRS/ECC-MTB will process the data and determine if the records are formatted and coded according to this Revenue Procedure.

.02 If the data is formatted incorrectly, IRS/ECC-MTB will request a replacement file in writing. When IRS/ECC-MTB requests a replacement file, it is because we encountered errors and were unable to process the media. Filers will receive a

Media Tracking Slip (Form 9267) and letter detailing the reason(s) their media could not be processed. It is imperative that filers maintain backup copies and/or recreate capabilities for their information return files.

- A **replacement** is an information return file sent by the filer **at the request of IRS/ECC-MTB** because of errors encountered while processing the filer's original submission. After necessary changes have been made, the file must be resubmitted for processing along with the Media Tracking Slip (Form 9267) which was included in the correspondence from IRS/ECC-MTB. Filers should never send anything to IRS/ECC-MTB marked "Replacement" unless IRS/ECC-MTB has requested a replacement file in writing or via the FIRE System.

.03 All fields indicated as "Required" in the record layouts in Part C **must** contain valid information. If information is not valid, IRS/ECC-MTB will request a replacement file. For example: In the Recipient "Q" Record, position 2, Return Type Indicator, the only valid characters are 0, 1, or 2. If any other character is entered, a replacement file will be requested.

.04 Magnetic media files must be corrected and returned with the Media Tracking Slip (Form 9267) to IRS/ECC-MTB within 45 days from the date of the letter. Refer to Part B, Section 6, for procedures for correcting files submitted electronically. A penalty for failure to file correct information returns by the due date will be assessed if the files are not corrected and replaced within the 45 days **or if IRS/ECC-MTB requests replacement files more than two times**. A penalty for intentional disregard of the filing requirements will be assessed if a replacement file is not received. (For penalty information, refer to the Penalty section of the current Instructions for Form 1042-S.)

.05 A letter identifying errors encountered will be provided. It is the responsibility of the transmitter to check the entire replacement file for errors before resubmitting.

.06 IRS/ECC-MTB will not return magnetic media. Therefore, if the transmitter wants proof that IRS/ECC-MTB received a shipment, the transmitter should select a service with tracking capabilities or one that will provide proof of delivery.

.07 IRS/ECC-MTB will work with filers as much as possible to assist with processing problems.

Sec. 11. 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!

.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 Form 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 the 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 the current Instructions for Form 1042-S.

.09 Apply the following formula to determine U.S. Federal Tax Withheld (field positions 48-59 of the "Q" Record). 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 (48–59)

All other Income Codes

Gross Income Paid (6–17)
X Tax Rate (42–45)
= U.S. Federal Tax Withheld (48–59)

.10 If the Recipient Code is 20 (Unknown Recipient), the tax rate **must** be 30%.

.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., tax resident of Northern Ireland uses 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 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 that has an “Other Income” article.

.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. 12. Common Submission Problems

.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.

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.

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.

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 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.

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.

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**.

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 Instructions for Form 1042-S.

8. Incorrect reporting of Tax Rates in the "Q" Record

A valid Tax Rate Table can be found in the Instructions for Form 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 U.S. Tax Withheld reported in the "Q" Record must equal the total Gross Income and Total U.S. Tax Withheld reported in the corresponding "C" Record.

.02 Problems relating specifically to filing Form 1042-S electronically can be found in Part B, Sec. 12.

Sec. 13. Voided and Corrected Returns

.01 A corrected record must always have a corresponding voided record submitted prior to or in association with the corrected record.

.02 To provide clarification of the correction process for Form 1042-S, the following definitions have been provided:

- (a) A void record is an information return (Form 1042-S) submitted by the transmitter to delete a previously filed incorrect original return. A void record must be a duplicate of the original successfully processed return with the exception of a Return Type Indicator of "1" (1 = Void) in field position 2 of the "W" and "Q" Records. The voided "Q" Record can be filed with or without a corresponding correction record. For example, a Form 1042-S was submitted, and it should have been prepared as a Form 1099. A "Q" Record with the original Form 1042-S information would be filed with a Return Type Indicator of "1" (1 = Void) in field position 2. In this instance, a corresponding "Q" Record coded as a correction would NOT be necessary and should not be submitted.
- (b) A correction is an information return (Form 1042-S) submitted by the transmitter to correct a return that was successfully processed by IRS/ECC-MTB, but contained erroneous information. A Return Type Indicator of "2" (2 = Corrected) in field position 2 of the "W" and "Q" Records identifies a correction record. **A corrected record must always have a corresponding voided record submitted prior to or in association with the corrected record.**

.03 The magnetic media filing requirement of information returns of 250 or more applies separately to both original and corrected returns.

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

.04 Corrections should be filed **as soon as possible**. Corrections filed after August 1 may be subject to the maximum penalty of \$50 per return. Corrections filed by August 1 may be subject to a lesser penalty. For information on penalties, refer to the Penalty section of the current Instructions for Form 1042-S. However, if a withholding agent discovers errors after August 1, the withholding agent is still required to file corrections 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 corrections only for the returns filed in error. Do not submit the entire file. Furnish corrected statements to recipients as soon as possible.

.05 Corrected returns must be identified on the Form 4804 and the external media label by indicating "Correction".

Note: Do not include original returns and corrected returns on the same media or in the same electronic file.

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

.07 Prior year data, original and corrected, **must** be filed according to the requirements of this Revenue Procedure. If submitting prior year corrections, use the record format for the current year and submit on separate media. However, use the actual year designation of the correction in Field Positions 2-5 of the "T" Record. If filing electronically, a separate transmission must be made for each tax year.

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

.09 All paper returns, whether original or corrected, must be filed with IRS Philadelphia Service Center.

.10 Form 4804 must be submitted with corrected files submitted magnetically.

.11 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 corrected return in order to identify and process the correction properly. **Do not enter a TIN in this field.**

.12 The record sequence for filing corrections is the same as for original returns.

.13 Following is a chart showing the steps to be taken for voiding and correcting Form 1042-S:

Guidelines for Filing Corrected Returns Electronically/Magnetically

Transaction 1: Identify incorrect returns (void process)

The record sequence for filing corrections is the same as for original returns. Create the file in the following order exactly the same as the original transmission:

- (a) Transmitter "T" Record
- (b) Withholding Agent "W" Record with a Return Type Indicator of "1" (1 = Void) in field position 2
- (c) Recipient "Q" Record(s) with the exact information as submitted originally; however, place a Return Type Indicator of "1" (1 = Void) in field position 2 of the "Q" Record (See **Note**)
- (d) Prepare a Reconciliation "C" Record summarizing the preceding voided "Q" Records. (See sample format below.)

Note: A voided "Q" Record may or may not have a corresponding corrected "Q" Record.

Transaction 2: Report the correct information (correction process)

If possible, on the same media or electronic submission prepare:

- (a) Withholding Agent "W" Record with a Return Type Indicator of "2" (2 = Corrected) in field position 2.
 - (b) Recipient "Q" Record(s) with the correct information. Place a "2" (2 = Corrected) in field position 2 of the "Q" Record.
 - (c) Prepare a Reconciliation "C" Record summarizing the preceding corrected "Q" Records.
 - (d) Prepare an End of Transmission "F" Record.
-

Guidelines for Filing Corrected Returns Electronically/Magnetically

➤ **Note:** Each corrected “Q” Record **MUST** have a corresponding voided “Q” Record submitted prior to or in association with the corresponding correction record.

Sample data sequence for void/correction records submitted in the same file:

“T” Record
“W” Record coded for voided records
“Q” Record coded as void
“Q” Record coded as void
“Q” Record coded as void
“Q” Record coded as void
“Q” Record coded as void
“C” Record to summarize voided records
“W” Record coded for corrected records
“Q” Record coded as corrected records
“Q” Record coded as corrected
“Q” Record coded as corrected
“C” Record to summarize corrected records
“F” Record

.14 For information on when an amended Form 1042 is required, refer to Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

Sec. 14. 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 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 TIN (SSN, ITIN, EIN, QI-EIN, WP-EIN, or WT-EIN) must be provided on every “Q” Record when:

- (a) Tax rate is less than 30% (See the current 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 TIN, the withholding agent should advise the recipient to take the necessary steps to apply for one.

.05 The recipient’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** 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. 15. Effect on Paper Returns and Statements to Recipients

.01 Electronic/magnetic 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 or on magnetic media.** This will result in duplicate filing.

.02 Withholding agents are responsible for providing statements to the recipients as outlined in the current 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, Rules and Specifications for Private Printing of Substitute Forms 1096, 1098, 1099, 1042–S, 5498, and W–2G.

.04 The address for filing paper Forms 1042-S and Form 1042 is: Internal Revenue Service Center, Philadelphia, PA 19255. Do NOT send paper Forms 1042-S or 1042 to IRS/ECC-MTB.

Sec. 16. Definition of Terms

Element	Description
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 Instructions for Form 1042-S.
Correction	A correction 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. A corrected record must always have a corresponding voided record submitted prior to or in association with the corrected record.
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. A file format diagram is located at the end of Part D.
Filer	Person (may be withholding agent and/or transmitter) submitting information returns to IRS.
FIRE	Filing Information Returns Electronically (FIRE) System is the method for submitting Forms 1042-S electronically to IRS/ECC-MTB. See Part B.
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.
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 that 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 person 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.

Element	Description
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 that 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.
Magnetic Media	For this Revenue Procedure, the term magnetic media refers to IBM 3480, 3490, 3490E, 3590, or 3590E compatible tape cartridge; or 3 1/2-inch diskette.
Media Tracking Slip	Form 9267 accompanies correspondence sent by IRS/ECC-MTB requesting a replacement file due to incorrect format or certain errors encountered when trying to process the media. This form must be returned with the replacement file.
Nonqualified Intermediary (NQI)	A Nonqualified Intermediary is a foreign intermediary that 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 pro-rata basis.
Qualified Intermediary (QI)	A Qualified Intermediary is a foreign intermediary that 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.
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) that 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 at the request of IRS/ECC-MTB 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.
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 not 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.

Element	Description
Transmitter	Refers to the person or organization submitting file(s) electronically/magnetically. 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 or magnetically. 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 must be present before the file can be processed. Transmitter Control Codes assigned to 1042–S filers will always begin with "22" .
Unknown Recipient	For this Revenue Procedure, an unknown recipient is a recipient for which 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 <u>under any circumstances.</u>
Vendor	Vendors include service bureaus that produce information return files on the prescribed types of magnetic media or via electronic filing for withholding agents. Vendors also include companies that provide software for those who wish to produce their own media or electronic files.
Void	A void record is used in the correction process of Form 1042–S. For purposes of this Revenue Procedure, a void record is submitted by the transmitter to delete a previously filed incorrect original Form 1042–S. A void record must be a duplicate of the original successfully processed record with the exception of a "1" in field position 2 of the "W" and "Q" Records.
Withholding Agent	Any person, U.S. or foreign, that 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. 17. 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

State	Code	State	Code	State	Code
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:

Payee Name	PVT Willard J. Doe
Mailing Address	Company F, PSC Box 100 167 Infantry REGT
Payee City	APO (or FPO)
Payee State	AE, AA, or AP*
Payee 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 is now on the Internet at <http://fire.irs.gov>. It is no longer a dial-up connection.

Sec. 1. General

.01 Electronic filing of Form 1042–S (originals, corrections and replacement files) is offered as an alternative to magnetic media (tape cartridge or diskette) or paper filing. Filing electronically will fulfill the magnetic media requirements for those withholding agents who are required to file magnetically. Withholding agents who are under the filing threshold requirement are encouraged to file electronically. If the original file was sent magnetically, but IRS/ECC-MTB has requested a replacement file, the replacement may be transmitted electronically. Also, if the original file was submitted via magnetic media, any corrections may be transmitted 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 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.

.04 Files submitted to IRS/ECC-MTB electronically must be in standard ASCII code. Do not send magnetic media or paper forms with the same information as electronically submitted files. This would create duplicate reporting resulting in penalty notices.

.05 The record formats of the “T”, “W”, “Q”, “C”, and “F” records are the same for both electronically or magnetically filed records. See Part C, Record Format Specifications and Record Layouts.

Sec. 2. Advantages of Filing Electronically

Some of the advantages of filing electronically are:

- (1) Paperless, no Form 4804 requirements.
- (2) Security — Secure Socket Layer (SSL) 128-bit encryption.
- (3) Results available within 20 workdays regarding the acceptability of the data transmitted. It is the filer’s responsibility to log into the system and check results.
- (4) Better customer service due to on-line availability of transmitter’s files for research purposes.

Sec. 3. Electronic Filing Approval Procedure

.01 Filers must obtain, or already have, a Transmitter Control Code (TCC) assigned prior to submitting their files electronically. (Filers who currently have a TCC for magnetic media filing of Form 1042-S, beginning with "22", will not be assigned a second TCC for electronic filing.) 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. 6, for more information on the PIN.

.03 If a filer is submitting files for more than one TCC, it's 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 at first logon and must be 8 alpha/numerics containing at least 1 uppercase, 1 lowercase, and 1 numeric. However, filers who forget their password or PIN, can call **toll-free 1-866-455-7438** for assistance. The FIRE System may require users to change their passwords on a yearly basis.

Sec. 4. 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 for Tax Year 2004 (returns to be filed in 2005), it **must** be submitted to IRS/ECC-MTB **no earlier than** November 1, 2004, and **no later than** December 15, 2004.

.02 Filers who encounter problems while transmitting the electronic test file can contact IRS/ECC-MTB **toll-free 1-866-455-7438** for assistance.

.03 Filers must verify the status of the transmitted test data by going to <http://fire.irs.gov> and verifying the status of their file by clicking on CHECK FILE STATUS. This information will be available within 20 workdays after the transmission is received by IRS/ECC-MTB.

.04 Form 4804 is not required for test files submitted electronically. See Part B, Sec. 6.

Sec. 5. 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 time by calling us **toll-free 1-866-455-7438**.

.02 **The FIRE System will be down from December 23, 2004, through January 4, 2005.** This allows IRS/ECC-MTB to update its system to reflect current year changes.

.03 If you are sending files larger than 10,000 records electronically, data compression is encouraged. If you are considering sending files larger than 5 million records, please contact IRS/ECC-MTB for specifics. 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], CORR [correction], 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 ECC-MTB to identify the file, if assistance is required.

.05 The following definitions have been provided to help distinguish between a correction and a replacement:

- A **correction** 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: Corrections should only be made to 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 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.

.06 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. 6. PIN Requirements

.01 Form 4804 is not required for electronic files. Instead, the user will be prompted to create a PIN consisting of 10 numerics when establishing their initial logon name and password.

.02 The PIN is required each time an ORIGINAL, CORRECTION, or REPLACEMENT file is sent electronically and is permission to release the file. It is not needed for a TEST file. An authorized agent may enter their PIN, however, the payer 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 1-866-455-7438 for assistance.

Sec. 7. Electronic Filing Specifications

.01 The FIRE System is designed exclusively for the filing of Forms 1042-S, 1098, 1099, 5498, 8027, W-2G and Questionable W-4.

.02 A transmitter must have a TCC (see Part A, Sec. 6) before a file can be transmitted. A TCC assigned for 1042-S magnetic media filing should also be used for electronic filing.

.03 The results of the electronic transmission will be available in the CHECK FILE STATUS area of the FIRE System within 20 business days. It is the filer's responsibility to verify the acceptability of files submitted by selecting the CHECK FILE STATUS option.

Sec. 8. 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 EIN available.

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

.04 Your browser must be set to receive "cookies". Cookies are used to preserve your User ID status.

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 "**Start the FIRE application**".

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 ***EIN***:
Click "***Submit***".

The system will then display the company name, address, city, state, ZIP code, phone number, contact and email address. This information will be used to contact or send correspondence (if necessary) regarding this transmission. Update as appropriate and/or Click "***Accept***".

Click one of the following:

Original File
Correction File
Test File

Replacement File (if you select this option, select one of the following):

NEW FIRE Replacement (file was originally transmitted on this system)
Click the file to be replaced

Magnetic Media Replacement

Enter the alpha character from Form 9267, Media Tracking Slip, that was sent with the request for replacement file. Click "***Submit***".

Enter your 10-digit PIN.
Click "***Submit***".
Click "***Browse***" to locate the file and open it.
Click "***Upload***".

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

If you have more files to upload for that TCC:

Click "***File Another?***"; otherwise,
Click "***Main Menu***".

<p>It is your responsibility to check the acceptability of your file; therefore, be sure to check back into the system in 20 business days using the CHECK FILE STATUS option.</p>

Checking your FILE STATUS

At the Main Menu:

Click "***Check File Status***".
Enter your ***TCC***:
Enter your ***EIN***:
Click "***Search***".

If "Results" indicate:

"Good, Released" — File has been released to our mainline processing.

Checking your FILE STATUS

“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. 9. Common Problems and Questions Associated with Electronic Filing

.01 Refer to Part A, Sec. 12, Common Submission Problems, for common format errors.

.02 The following are the major errors associated with electronic filing:

NON-FORMAT ERRORS

1. Transmitter does not check the FIRE System to determine file acceptability.

The results of your file transfer are posted to the FIRE System within 20 business days. It is your responsibility to verify file acceptability and, if the file contains errors, you can get an online listing of the errors. Date received and number of recipient records are also displayed.

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

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

3. Incorrect file is not replaced timely.

If we have advised you your file is bad, correct the file and timely resubmit as a replacement.

4. 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.

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

Once a file has been transmitted, you cannot send a replacement file unless CHECK FILE STATUS indicates the file is bad (20 business days after file was transmitted). If you do not want us to process the file, you must first contact us **toll-free 1-866-455-7438** to see if this is a possibility.

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

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

7. File is formatted as EBCDIC.

All files submitted electronically must be in standard ASCII code.

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

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

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

Call us as soon as possible **toll-free 1-866-455-7438**. 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.**

Part C. Magnetic Media Specifications

Sec. 1. General

.01 The specifications contained in this part of the Revenue Procedure define the **required** format and content of the records to be included in the electronic/magnetic media file. Do not deviate from this format.

.02 Transmitters must be consistent in the use of recording modes and density on files. If the media does not meet these specifications, IRS/ECC-MTB will request a replacement file. Filers are encouraged to submit a test prior to submitting the actual file. Contact IRS/ECC-MTB for further information **toll-free 1-866-455-7438**.

.03 Regardless of the type of media used or if returns are filed electronically, the record length must be 780 positions.

Sec. 2. Tape Cartridge Specifications

.01 In most instances, IRS/ECC-MTB can process tape cartridges that meet the following specifications:

- (a) Must be IBM 3480, 3490, 3490E, 3590, or 3590E compatible.
- (b) Must meet American National Standard Institute (ANSI) standards and have the following characteristics:
 - (1) Tape cartridges will be 1/2-inch tape contained in plastic cartridges which are approximately 4-inches by 5-inches by 1-inch in dimension.
 - (2) Magnetic tape will be chromium dioxide particle based 1/2-inch tape.
 - (3) Cartridges must be 18-track, 36-track, 128-track, or 256-track parallel (See **Note**).
 - (4) Cartridges will contain 37,871 CPI or 75,742 CPI (characters per inch).
 - (5) Mode will be full function.
 - (6) The data may be compressed using EDRC (Memorex) or IDRC (IBM) compression.
 - (7) Either EBCDIC (Extended Binary Coded Decimal Interchange Code) or ASCII (American Standard Coded Information Interchange) may be used.

.02 The tape cartridge records defined in this Revenue Procedure may be blocked subject to the following:

- (a) A block **must not** exceed 23,400 tape positions.
- (b) All records, except the header and trailer labels, may be blocked or unblocked. A record may not contain any control fields or block descriptor fields which describe the length of the block or the logical records within the block. The number of logical records within a block (the blocking factor) must be constant in every block with the exception of the last block which may be shorter (see item (b) above). The block length must be evenly divisible by 780.
- (c) **Records may not span blocks.**

.03 Tape cartridges may be labeled or unlabeled.

.04 For the purposes of this Revenue Procedure, the following must be used:

Tape Mark:

- (a) Signifies the physical end of the recording on tape.
- (b) For even parity, use BCD configuration 001111 (8421).
- (c) May follow the header label and precede and/or follow the trailer label.

Note: Filers should indicate on the external media label and transmittal Form 4804 whether the cartridge is 18-track, 36-track, 128-track or 256-track.

Sec. 3. 3¹/₂-Inch Diskette Specifications

.01 To be compatible, a diskette file must meet the following specifications:

- (a) 3¹/₂-inches in diameter.
- (b) Data must be recorded in standard ASCII code.
- (c) Records must be a fixed length of 780 bytes per record.
- (d) Delimiter character commas (,) must not be used.
- (e) Positions 779 and 780 of each record have been reserved for use as carriage return/line feed (cr/lf) characters, if applicable.
- (f) Filename of 1042TAX must be used. Do not enter any other data in this field. If a file will consist of more than one diskette, the filename 1042TAX will contain a three-digit extension. This extension will indicate the sequence of the diskettes within the file. For example, if the file consists of three diskettes, the first diskette will be named 1042TAX.001, the second will be 1042TAX.002, and the third will be 1042TAX.003. The first diskette, 1042TAX.001, will begin with a "T" Record and the third diskette, 1042TAX.003, will have an "F" Record at the end of the file.
- (g) A diskette will not contain multiple files as defined in Part A, Sec. 16. A file may have only ONE Transmitter "T" Record.
- (h) Failure to comply with instructions will result in IRS/ECC-MTB requesting a replacement file.
- (i) Diskettes must meet one of the following specifications:

<u>Capacity</u>	<u>Tracks</u>	<u>Sides/Density</u>	<u>Sector Size</u>
1.44 mb	96tpi	hd	512
1.44 mb	135tpi	hd	512

.02 IRS/ECC-MTB encourages transmitters to use blank or currently formatted diskettes when preparing files. If extraneous data follows the End of Transmission “F” Record, IRS/ECC-MTB will request a replacement file.

.03 IRS/ECC-MTB will **only** accept 3½-inch diskettes created using MS-DOS.

☛ **Notes: IRS no longer has the capability to process non-MS-DOS compatible diskettes. 3½-inch diskettes created on a System 36 or AS400 are not acceptable.**

.04 Transmitters should check diskettes for viruses before submitting it to IRS/ECC-MTB.

Sec. 4. 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 (preceded only by header labels). The “T” Record must appear on each tape and cartridge; otherwise a replacement file may be requested.

.03 The “T” Record is a fixed length of 780 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 correct information. 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 media position(s) and for the indicated length. All records have a fixed length of 780 positions.**

☛ **Note 2: A copy of the current 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.***

Record Name: Transmitter “T” Record

Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter “T”
2–5	Tax Year	4	Required. Enter year for which income and withholding are being reported.
6–14	Transmitter’s Taxpayer Identification Number (TIN)	9	Required. Enter the Taxpayer Identification Number of the Transmitter. This can be a Social Security Number (SSN), Individual Taxpayer Identification Number (ITIN), Employer Identification Number (EIN) or Qualified Intermediary Number (QI-EIN). DO NOT ENTER blanks, hyphens or alpha characters. A TIN consisting of all the same digits (e.g., 11111111) is not acceptable.
15–54	Transmitter’s Name	40	Required. Enter name of transmitter of file. Abbreviate if necessary to fit 40-character limit. Omit punctuation if possible. Left-justify and blank fill.
55–94	Transmitter’s Address	40	Required. 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.

☛ **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.**

Record Name: Transmitter "T" Record

Field Positions	Field Title	Length	Description and Remarks
95–114	City	20	Required. 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	Required if U.S. Transmitter. Enter only the two-alpha State Code. DO NOT spell out the state name. See State Code Table, Part A, Sec. 17.
117–118	Province Code	2	Required if Foreign Country Code is "CA" (Canada). Enter only the two-alpha character Province Code as shown in the Province Code table. DO NOT spell out the Province Name. If foreign country other than Canada, blank fill.
	Province Code	Province	
	AB	Alberta	
	BC	British Columbia	
	LB	Labrador	
	MB	Manitoba	
	NB	New Brunswick	
	NF	Newfoundland	
	NS	Nova Scotia	
	NT	Northwest Territories	
	NU	Nunavut	
	ON	Ontario	
	PE	Prince Edward Island	
	QC	Quebec	
	SK	Saskatchewan	
	YK	Yukon Territory	
119–120	Country Code	2	Required if Foreign Transmitter. If Country Code is present, State Code field MUST be blank. Enter only the two-alpha Country Code from the Country Code table. DO NOT spell out the Country Name.
Note 1: COUNTRY CODES: The list of country codes provided in the current 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.			
121–129	Postal or ZIP Code	9	Required if U.S. address. Enter up to nine numeric characters for all U.S. addresses (including territories, possessions and APO/FPO). Conditional for foreign addresses. Enter the alpha/numeric foreign postal code. Left-justify and blank fill the remaining positions. DO NOT use hyphens.
130–169	Contact's Name	40	Required. Enter the name of the person to contact if any questions should arise with the transmission.
170–189	Contact's Telephone Number	20	Required. 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	Required. Enter the five-character alpha/numeric TCC assigned ONLY for Form 1042–S reporting. (The first two numbers will always be 22).
195–198	Test Indicator	4	Required if this is a test file. Enter the word "TEST". Otherwise enter blanks.
199	Prior Year Indicator	1	Required. Enter a "P" only if reporting prior year data; otherwise, enter blank. Do not enter a "P" for current year information.
200–770	Reserved	571	Blank fill.

Record Name: Transmitter "T" Record

Field Positions	Field Title	Length	Description and Remarks
771-778	Record Sequence Number	8	Required. 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.e., 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.
779-780	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's Name	Transmitter's 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's Name	Contact's 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	200-770	771-778	779-780

Sec. 5. 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 780 positions.
- .05 All alpha characters entered in the "W" 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, 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 media position(s) and for the indicated length. All records have a fixed length of 780 positions.

Note 2: A copy of the current 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.*

Record Name: Withholding Agent "W" Record

Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter "W".
2	Return Type Indicator	1	Required. Enter the one position value below to identify whether the record is Original, Void or Corrected. Do not enter a blank or alpha character. Acceptable Values are: <ul style="list-style-type: none"> • 0 (Zero) = Original • 1 = Void • 2 = Corrected
3	Pro Rata Basis Reporting	1	Required. Enter the one position value below to identify if reporting on a Pro Rata Basis. Acceptable Values are: <ul style="list-style-type: none"> • 0 (Zero) = Not Pro Rata • 1 = Pro Rata Basis Reporting
4–12	Withholding Agent's EIN	9	Required. Enter the nine-digit Employer Identification Number of the Withholding Agent. Do NOT enter blanks, hyphens or alpha characters. An EIN consisting of all the same digits (e.g., 11111111) is not acceptable. Do NOT enter the recipient's TIN in this field. Note: See current 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.
13	Withholding Agent's EIN Indicator	1	Required. Enter the Withholding Agent's EIN indicator from the following values: <ul style="list-style-type: none"> • 0 (Zero) = EIN • 1 = QI-EIN, WP-EIN, WT-EIN • 2 = NQI-EIN Note: Use EIN indicator 2 only if the Withholding Agent's EIN begins with "98" AND the Withholding Agent's City, State and Country Code fields indicate that the Withholding Agent is <u>not</u> a U.S. withholding agent.
14–53	Withholding Agent's Name Line-1	40	Required. Enter the Withholding Agent's Name as established when filing for the EIN or QI-EIN which appears in positions 4–12 of the "W" Record. 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.
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". Valid characters are alpha, numeric, blank, ampersand (&), hyphen (-), comma (,) and the percent (%). The percent [% (used as "in care of")] is valid in the first position only.
94–133	Withholding Agent's Name Line-3	40	See above.
134–173	Withholding Agent's Street Line-1	40	Required. 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.

Record Name: Withholding Agent "W" Record

Field Positions	Field Title	Length	Description and Remarks
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	Required. 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.
254–255	Withholding Agent's State Code	2	Required if Withholding Agent has a U.S. address. Enter the two-character State Code abbreviation. If not a U.S. state, territory or APO/FPO identifiers, blank fill. Do not use any of the two character Country Codes in the State Code Field.
Note 1: If the withholding agent has a U.S. address, leave the country code in positions 258–259 blank.			
256–257	Withholding Agent's Province Code	2	Required if Foreign Country Code is "CA" (Canada). 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. DO NOT spell out the Province Name. If foreign country other than Canada, blank fill.
258–259	Withholding Agent's Country Code	2	Required if QI or NQI or other foreign withholding agent. Enter only the two-alpha Country Code from the Country Code Table. DO NOT spell out the Country Name.
Note 1: COUNTRY CODES: The list of country codes provided in the current 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.			
260–268	Postal or ZIP Code	9	Required if U.S. address. Enter up to nine numeric characters for all U.S. addresses (including territories, possessions and APO/FPO). Conditional for foreign addresses. Enter the alpha/numeric foreign postal code. DO NOT use hyphens or blanks within the Postal Code. Left-justify and blank fill the remaining positions.
269–272	Tax Year	4	Required. 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.
273–292	Contact's Phone Number and Extension	20	Required. Enter the telephone number of a person to contact regarding electronic or magnetic files. Omit hyphens. If no extension is available, left-justify and fill unused positions with blanks. If foreign, provide appropriate codes for overseas call.
293	Final Return Indicator	1	Required. Enter the one position value below to indicate whether you will be filing Forms 1042-S in the future. <ul style="list-style-type: none"> • 0 (Zero) = will be filing • 1 = will not be filing
294–770	Reserved	477	Blank fill.

Record Name: Withholding Agent "W" Record

Field Positions	Field Title	Length	Description and Remarks
771-778	Record Sequence Number	8	Required. 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.e., 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.
779-780	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed characters (CR/LF).

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	Contact's Phone Number and Extension	Final Return Indicator	Reserved	Record Sequence Number	Blank or Carriage Return Line Feed
260-268	269-272	273-292	293	294-770	771-778	779-780

Sec. 6. 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 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, providing Gross Income Paid and U.S. Federal Tax Withheld 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, U.S. Federal Tax Withheld 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 U.S. Federal Tax Withheld 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 Report income and tax withheld in whole dollars only. Round up or down as appropriate. **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 the correct information. 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 media position(s) and for the indicated length. All records have a fixed length of 780 positions.

Note 2: A copy of the current 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.*

Record Name: Recipient "Q" Record

Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter "Q".
2	Return Type Indicator	1	Required. Enter the one position value below to identify whether the record is Original, Void or Corrected. Must be the same value as in the "W" Record. Values are: <ul style="list-style-type: none"> • 0 (Zero) = Original • 1 = Void • 2 = Corrected
3	Pro Rata Basis Reporting	1	Required. 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"> • 0 (Zero) = Not Pro Rata • 1 = Pro Rata Basis Reporting
4-5	Income Code	2	Required. 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. DO NOT enter blanks or 00 (zeroes).
Note: Refer to the current Instructions for Form 1042-S for more information.			
6-17	Gross Income	12	Required. Enter the gross income amount in whole dollars only, rounding to the nearest dollar (do not enter cents). For example report \$600.75 as 000000000601. An income amount of zero cannot be shown. Numeric only, right-justify and zero fill.
Note: Do not report negative amounts in any amount field.			
18-29	Withholding Allowance	12	Used with Income Codes 15 through 19 ONLY. Enter the withholding allowance amount in whole dollars only, rounding to the nearest dollar (do not enter cents). Numeric only, right-justify and zero fill. Otherwise enter blanks.
30-41	Net Income	12	Required if Dollar Amount is Entered in Withholding Allowance Field. Enter the net income in whole dollars only, rounding to the nearest dollar (do not enter cents). An amount other than zero must be shown. Numeric only, right-justify and zero fill. Otherwise enter blanks.

Record Name: Recipient "Q" Record

Field Positions	Field Title	Length	Description and Remarks
42-45	Tax Rate	4	Required. 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 39.6% as 3960, 15% as 1500 or 6% as 0600). See Note below.
<p>Note: The correct Tax Rate must be entered, even if withholding was at a lesser rate. See the current Instructions for Form 1042-S.</p>			
46-47	Exemption Code	2	Required. Read Carefully. <ul style="list-style-type: none"> • If the tax rate entered is 0%, enter the appropriate exemption code "01" through "09" from the current Instructions for Form 1042-S. • If the tax rate entered is 1% through 30%, enter "00". • If the tax rate entered is 31% or higher, blank fill. DO NOT enter "00". See the current Instructions for Form 1042-S for circumstances under which Exemption Code "99" must be used.
<p>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.</p>			
48-59	U.S. Tax Withheld	12	Required. Enter the U.S. Federal tax withheld amount in whole dollars, rounding to the nearest dollar (do not enter cents). For example, report \$600.25 as 000000000600). Right-justify and zero fill.
60-71	Amount Repaid	12	This field should be completed only if you repaid a recipient an amount that was overwithheld 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 blanks.
72-91	Recipient's Account Number	20	Enter the account number assigned by the withholding agent to the recipient. Do not 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	Required. Enter the appropriate Recipient Code. Refer to the list of appropriate codes in the current Instructions for Form 1042-S. No other codes or values are valid.
<p>Note: If recipient code "20" is used, then Recipient's Name Line-1 must be "Unknown" and Recipient's Name Lines 2 and 3 must be BLANK. The tax rate must be 30%.</p>			
94-133	Recipient's Name Line-1	40	Required. 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" must be entered and Recipient's Name Lines 2 and 3 must be blank. See current Instructions for Form 1042-S for specifics on "Unknown Recipient" and "Withholding Rate Pool". Valid characters are alpha, numeric, ampersand (&), hyphen (-), comma (,), or blank. Left-justify and blank fill.
<p>Note 1: A Non-Qualified Intermediary (NQI) can NEVER be entered as the recipient.</p> <p>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.</p>			
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". Valid characters are alpha, numeric, blank, ampersand (&), hyphen (-), comma (,), and the percent (%). The percent [% (use as "in care of")] is valid in the first position only.
174-213	Recipient's Name Line-3	40	See above.

Record Name: Recipient "Q" Record

Field Positions	Field Title	Length	Description and Remarks
214–253	Recipient's Street Line-1	40	Required. 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. Valid characters are alpha, numeric, blank, ampersand (&), hyphen (-), comma (,), and the percent (%). Do not use street address fields for "Attn" lines; use name line fields. Left-justify and blank fill.
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 blank fill.
294–333	Recipient's City	40	Required. 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	Required if U.S. address. Enter the two-character State Code abbreviation. If no U.S. state, territory or APO/FPO identifier is applicable then blank fill. Do not use any of the two character Country Codes in the State Code Field.
Note: If the recipient has a U.S. address, leave the country code in positions 338–339 blank.			
336–337	Recipient's Province Code	2	Required if Foreign Country Code is "CA" (Canada). 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. DO NOT spell out the Province Name. If foreign country other than Canada, blank fill.
338–339	Recipient's Country Code	2	Required if the recipient has a foreign address. Enter the two-character Country Code abbreviation.
Note 1: If the state code is entered in positions 334–335, leave this field blank.			
Note 2: COUNTRY CODES: The list of country codes provided in the current 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.			
Note 3: Enter "UC" (unknown country) <u>only</u> if the payment is to an unknown recipient. If you are making a payment to a QI or QI withholding rate pool, enter the country code of the QI.			
340–348	Postal or ZIP Code	9	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. DO NOT use hyphens or blanks between numbers or letters (e.g., if the postal code is written as A6B 3C5 input as A6B3C5). Left-justify.
349–357	Recipient's U.S. TIN	9	Enter the recipient's nine-digit U.S. Taxpayer Identification Number (TIN). DO NOT enter hyphens or alpha characters. If TIN is not required under regulations, blank fill.
Note: U.S. TINs are now required for most recipients. See current Instructions for Form 1042-S.			
358	Recipient's U.S. TIN Type	1	Required. Enter the recipient's U.S. TIN type indicator from the following values: <ul style="list-style-type: none"> • 0 (Zero) = No TIN required • 1 = SSN/ITIN • 2 = EIN • 3 = QI-EIN, WP-EIN, WT-EIN <p>See current Instructions for Form 1042-S for when a TIN is not required.</p>
359–398	Recipient's Country of Residence for Tax Purposes	40	Required. Enter the complete name of the recipient's country of residence for tax purposes in which the recipient claims residency under that country's tax law, whether or not you are applying a tax treaty benefit to this payment.

Record Name: Recipient "Q" Record

Field Positions	Field Title	Length	Description and Remarks
399-400	Recipient's Country of Residence Code for Tax Purposes	2	Required. 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.
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.			
401-440	NQI/FLW-THR Name Line-1	40	Provide the complete name of the NQI/FLW-THR Entity. It is very important that the complete name of the NQI/FLW-THR entity be provided. Valid characters are alpha, numeric, ampersand (&), hyphen (-), comma (,), or blank. Left-justify and blank fill.
441-480	NQI/FLW-THR Name Line-2	40	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". Valid characters are alpha, numeric, blank, ampersand (&), hyphen (-), comma (,), and the percent (%). The percent [% (used as "in care of")] is valid in the first position only.
481-520	NQI/FLW-THR Name Line-3	40	See above.
521-522	Reserved	2	Enter blanks.
523-562	NQI/FLW-THR Street Line-1	40	Enter the mailing address of the NQI/FLW-THR 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.
563-602	NQI/FLW-THR Street Line-2	40	Enter supplementary NQI/FLW-THR entity street address information; otherwise, blank fill.
603-642	NQI/FLW-THR City	40	Enter the city or town (or other locality name). Left-justify and blank fill.
643-644	Reserved	2	Enter blanks.
645-646	NQI/FLW-THR Province Code	2	Enter the two-alpha character Province Code abbreviation, if applicable. See "T" record positions 117-118.
647-648	NQI/FLW-THR Country Code	2	Enter the two-character Country Code abbreviation, where the NQI/FLW-THR is located.
649-657	NQI/FLW-THR Postal Code	9	Enter the alpha/numeric foreign postal code. Enter this code in the left most position and blank fill the remaining positions. DO NOT use hyphens or blanks between numbers or letters (e.g., if the postal code written as A6B 3C5 input as A6B3C5). Left-justify.
658-666	NQI/FLW-THR U.S. TIN	9	Enter the NQI/FLW-THR nine-digit U.S. Taxpayer Identification Number (TIN). Do NOT enter hyphens or alpha characters.
Note: All NQI/FLW-THR fields are REQUIRED if the NQI/FLW-THR entity is involved in the payment structure.			
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.

Record Name: Recipient "Q" Record

Field Positions	Field Title	Length	Description and Remarks
728-737	Payer's State Tax Number	10	Enter the employer's state I.D. number assigned by the state.
738-739	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.
761-770	<i>Reserved</i>	<i>10</i>	<i>Enter blanks.</i>
771-778	Record Sequence Number	8	Required. 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.e., 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.
779-780	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

U.S. Tax Withheld	Amount Repaid	Recipient's Account Number	Recipient Code	Recipient's Name Line-1	Recipient's Name Line-2	Recipient's Name Line-3	Recipient's Street Line-1
48-59	60-71	72-91	92-93	94-133	134-173	174-213	214-253

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	Recipient's U.S. TIN Type
254-293	294-333	334-335	336-337	338-339	340-348	349-357	358

Recipient's Country of Residence for Tax Purposes	Recipient's Country of Residence Code for Tax Purposes	NQI/FLW-THR Name Line-1	NQI/FLW-THR Name Line-2	NQI/FLW-THR Name Line-3	Reserved
359-398	399-400	401-440	441-480	481-520	521-522

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

NQI/FLW-THR Country Code	NQI/FLW-THR Postal Code	NQI/FLW-THR U.S. TIN	Payer's Name	Payer's U.S. TIN	State Income Tax Withheld	Payer's State Tax Number
647-648	649-657	658-666	667-706	707-715	716-727	728-737

State Code	Special Data Entries	<i>Reserved</i>	<i>Record Sequence Number</i>	Blank or Carriage Return Line Feed
738-739	740-760	761-770	771-778	779-780

Sec. 7. Reconciliation "C" Record

.01 The "C" Record is a fixed record length of 780 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 U.S. Tax Withheld.

.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.

Record Name: Reconciliation "C" Record

Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter "C".
2-9	Total "Q" Records	8	Required. Enter the total number of "Q" Records for this withholding agent. Right-justify and zero fill. Do not enter all zeros. For example, 53 "Q" records are entered as 00000053. See Part A, Sec. 4, Filing Requirements.
10-15	Blank	6	Enter blanks.
16-30	Total Gross Amount Paid	15	Required. Enter the total gross income amount in whole dollars (do not enter cents). For example report \$600.00 as 000000000600. An income amount other than zero must be shown. Right-justify and zero fill.
31-45	Total U.S. Tax Withheld	15	Required. Enter the total U.S. Federal tax withheld amount in whole dollars (do not enter cents). For example report \$600.00 as 000000000600. Right-justify and zero fill.
46-770	<i>Reserved</i>	725	<i>Blank fill.</i>
771-778	<i>Record Sequence Number</i>	8	Required. 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.e., 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.
779-780	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 U.S. Tax Withheld	Reserved	Record Sequence Number	Blank or Carriage Return Line Feed
1	2-9	10-15	16-30	31-45	46-770	771-778	779-780

Sec. 8. End of Transmission "F" Record

.01 The "F" Record is a fixed record length of 780 positions and all positions listed are required. The "F" Record is a summary of the number of withholding agents and media count 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. The "F" Record may only be followed by a tape mark, a trailer label or a combination of both.

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

Record Name: End of Transmission "F" Record

Field Positions	Field Title	Length	Description and Remarks
1	Record Type	1	Required. Enter "F".
2-4	Withholding Agent Count	3	Required. 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.
5-7	Media Count	3	Required. Enter the total number of media for this transmission. Right-justify and zero fill.
8-770	Reserved	763	Blank fill.
771-778	Record Sequence Number	8	Required. 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.e., 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.
779-780	Blank or Carriage Return Line Feed	2	Enter blanks or carriage return line feed characters (CR/LF).

End of Transmission "F" Record Layout

Record Type	Withholding Agent Count	Media Count	Reserved	Record Sequence Number	Blank or Carriage Return Line Feed
1	2-4	5-7	8-770	771-778	779-780

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 .08 of this section. This form may be used to request an extension of time to file Form 1042-S submitted on paper, electronically or magnetically to the IRS. Use a separate Form 8809 for each method of filing information returns you intend to use, i.e., electronically and/or magnetically.

.03 To be considered, an extension request must be postmarked or transmitted by the due date of the returns; otherwise, the request will be denied. (See Part A, Sec. 9.) 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, 2005.

.04 **As soon as it is apparent** that a 30-day extension of time to file is needed, an extension request should be submitted. It will take a minimum of 30 days for IRS/ECC-MTB to respond to an extension request. Generally, IRS/ECC-MTB does not begin processing extension requests until January. Extension requests received prior to January are input on a first come, first serve basis.

.05 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.

.06 Requesting an extension of time for multiple withholding agents (50 or less) may be done by submitting Form 8809 and attaching a list of the withholding agents names and associated TINs. **The listing must be attached 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 the pertinent information.

.07 Requests for an extension of time to file for more than 50 withholding agents are **required** to be submitted electronically or magnetically. IRS encourages requests for 10 to 50 withholding agents to be filed electronically or magnetically. (See Sec. 3, for the record layout.) The request may be filed electronically, on tape cartridges, and 3 1/2-inch diskettes.

.08 All requests for an extension of time filed on Form 8809 or magnetic media 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.

.09 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). See Part A, Sec. 9, for more information on PDSs. For requests delivered by a designated PDS, but through a non-designated service, the actual date of receipt by IRS/ECC-MTB will be used as the filing date.

.10 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.

.11 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 MCC’s response to your second extension request.**

.12 If an extension request is approved, the approval letter should be kept on file. **DO NOT** send the approval letter or copy of the approval letter to IRS/ECC-MTB with the magnetic media file or to the Philadelphia Service Center where the paper Forms 1042-S are filed.

.13 Request an extension for only one tax year.

.14 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.

.15 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.

.16 Form 8809 may be obtained by calling **1-800-TAX-FORM (1-800-829-3676)**. The form is also available on the **IRS Website at www.irs.gov**. A copy of Form 8809 is also provided in the back of Publication 1187.

Sec. 2. Specifications for Electronic Filing or Magnetic Media Extensions of Time

.01 The specifications in Sec. 3 include the required 200-byte record layout for extensions of time to file requests submitted electronically or magnetically. 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/Magnetically, **must** be submitted to obtain a TCC. This number **must** be used to submit an extension request electronically/magnetically. (See Part A, Sec. 6.)

.03 For extension requests filed on magnetic media, the transmitter must mail the completed, signed Form 8809, Application for Extension of Time To File Information Returns, in the same package as the corresponding media or fax it to 304-264-5602. For extension requests filed electronically, the transmitter must fax Form 8809 the same day the transmission is made.

.04 **Transmitters submitting an extension of time electronically or magnetically should not submit a list of withholding agents names and TINs with Form 8809 since this information is included on the electronic or magnetic file. However, Line 6 of Form 8809 must be completed with the total number of records included on the electronic file or magnetic media.**

.05 Do not submit extension requests filed on magnetic media before *January 1*, or electronically before *January 6*.

.06 Each piece of magnetic media **must** have an external media label containing the following information:

- (a) Transmitter name
- (b) Transmitter Control Code (TCC)
- (c) Tax year
- (d) The words "Extension of Time"
- (e) Record count

.07 Electronic Filing, Tape Cartridge, and 3 1/2-inch Diskette specifications for extensions are the same as the specifications for filing of information returns. (See Part B, or C for specific technical information.)

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	Required. Enter the five-digit Transmitter Control Code (TCC) issued by IRS. Only one TCC per file is acceptable.
6-14	Withholding Agent's TIN	9	Required. Must be the valid nine-digit TIN assigned to the withholding agent. Do not enter blanks, hyphens or alpha characters. 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, must be set to "X."
15-54	Withholding Agent's Name	40	Required. 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, enter blanks.
95-134	Withholding Agent's Address	40	Required. Enter the withholding agent's address. Street address should include number, street, apartment or suite number (or P.O. Box if mail is not delivered to a street address).
135-174	Withholding Agent's City	40	Required. Enter withholding agent's city, town, or post office.

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.

Record Layout for Extension of Time

Field Positions	Field Title	Length	Description and Remarks
175–176	Withholding Agent's State	2	Required. Enter the withholding agent's valid U.S. Postal Service state abbreviation. (Refer to Part A, Sec. 17.)
177–185	Withholding Agent's ZIP Code	9	Required. 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	Required. Enter the appropriate document code that indicates the form for which you are requesting an extension of time. <u>Code</u> <u>Document</u> 4 1042–S
187	Foreign Entity Indicator	1	Enter "X" if the withholding agent is a foreign entity.
Note: A foreign entity is not required to have a TIN.			
188	Recipient Request Indicator	1	Enter "X" if the extension request is to furnish statements to the recipients of the information return.
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.			
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. 1.08. 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 or magnetically, you must use the format specifications in Sec. 3.

.04 *Requests for a recipient extension of time to file for more than 50 withholding agents are required to be submitted electronically or magnetically. IRS encourages requests for 10 to 50 withholding agents to be filed electronically or magnetically. (See Sec. 3, for record layout.) The request may be filed electronically, on cartridges, or 3 1/2-inch diskettes.*

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

.01 If a withholding agent is required to file on magnetic media but fails to do so (or fails to file electronically in lieu of magnetic media filing) 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. (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 corrected returns on magnetic media, 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 Magnetically, to IRS/ECC-MTB. Form 8508 can be obtained on the IRS Website at www.irs.gov or by calling toll-free 1-800-829-3676.

.03 Even though a withholding agent may submit as many as 249 corrections on paper, IRS encourages electronic or magnetic filing of corrections. Once the 250 threshold has been met, filers are required to submit any returns of 250 or more electronically or magnetically. However, if a waiver for original documents is approved, any corrections 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 for the request to be processed.

.07 The waiver, if approved, will provide exemption from the magnetic media filing requirement for the current tax year only. Withholding agents may not apply for a waiver for more than one tax year at a time; application must be made each year a waiver is necessary. Waivers, after the first year, are granted only in cases of undue hardship or catastrophic events.

.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 serve basis.

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

IRS-Enterprise Computing Center at 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, keep the approval letter on file. **DO NOT** send a copy of the approved waiver to the Philadelphia Service Center.

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

Part IV. Items of General Interest

Archer Medical Savings Accounts — Trustees' Reports on the Number of Archer MSAs Established Between January 1, 2004, and June 30, 2004

Announcement 2004–82

Purpose

The purpose of this announcement is to notify trustees and custodians that they must report to the Internal Revenue Service (IRS) the number of Archer MSAs established between January 1, 2004, and June 30, 2004. Trustees must report this information to IRS on Form 8851, no later than January 3, 2005. Form 8851 will soon be available at www.irs.gov.

Archer Medical Savings Accounts (Archer MSAs)

Archer MSAs are a pilot project authorized by section 220 of the Internal Revenue Code. The Working Families Tax Relief Act of 2004 § 322, amends sections 220(j)(4), (5) of the Code to require that trustees of Archer MSAs report the number of Archer MSAs established between January 1, 2004, and June 30, 2004. Trustees must report this information to IRS by January 3, 2005. Trustees do not report Archer MSAs established in 2003. Archer MSAs will terminate if the number of individuals establishing Archer MSAs exceeds certain numerical limits. If these limitations are exceeded in 2004, 2004 will be a “cut-off year” after which, in general, no new Archer MSAs can be established. IRS will publish no later than February 1, 2005, the number of Archer MSAs established and whether 2004 is a cut-off year.

Suspension of Tax-Exempt Status of an Organization Identified With Terrorism

Announcement 2004–87

I. Purpose

This announcement is a public notice of the suspension under section 501(p) of the

Internal Revenue Code of the federal tax exemption of a certain organization that has been designated as supporting or engaging in terrorist activity or supporting terrorism. Contributions made to an organization during the period that the organization's tax-exempt status is suspended are not deductible for federal tax purposes.

II. Background

The federal government has designated a number of organizations as supporting or engaging in terrorist activity or supporting terrorism under the Immigration and Nationality Act, the International Emergency Economic Powers Act, and the United Nations Participation Act of 1945. Federal law prohibits most contributions to organizations that have been so designated.

Section 501(p) of the Code was enacted as part of the Military Family Tax Relief Act of 2003 (P.L. 108–121), effective November 11, 2003. Section 501(p)(1) suspends the exemption from tax under section 501(a) of any organization described in section 501(p)(2). An organization is described in section 501(p)(2) if the organization is designated or otherwise individually identified (1) under certain provisions of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization; (2) in or pursuant to an Executive Order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an Executive Order issued under the authority of any federal law, if the organization is designated or otherwise individually identified in or pursuant to the Executive Order as supporting or engaging in terrorist activity (as defined in the Immigration and Nationality Act) or supporting terrorism (as defined in the Foreign Relations Authorization Act) and the Executive Order refers to section 501(p)(2).

Under section 501(p)(3) of the Code, suspension of an organization's tax exemption begins on the date of the first publication of a designation or identification with respect to the organization, as de-

scribed above, or the date on which section 501(p) was enacted, whichever is later. This suspension continues until all designations and identifications of the organization are rescinded under the law or Executive Order under which such designation or identification was made.

Under section 501(p)(4) of the Code, no deduction is allowed under any provision of the Internal Revenue Code for any contribution to an organization during any period in which the organization's tax exemption is suspended under section 501(p). Thus, for example, no charitable contribution deduction is allowed under section 170 (relating to the income tax), section 545(b)(2) (relating to undistributed personal holding company income), section 556(b)(2) (relating to undistributed foreign personal holding company income), section 642(c) (relating to charitable set asides), section 2055 (relating to the estate tax), section 2106(a)(2) (relating to the estate tax for nonresident aliens) and section 2522 (relating to the gift tax) for contributions made to the organization during the suspension period.

On October 13, 2004, the organization listed below was designated under Executive Order 13224, entitled “Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.”

III. Notice of Suspension and Non-deductibility of Contributions

The organization whose tax exemption has been suspended under section 501(p) and the effective date of such suspension are listed below. Contributions made to this organization during the period of suspension are not deductible for federal tax purposes.

Islamic African Relief Agency – USA
a/k/a Islamic American Relief
Agency – USA
Columbia, MO
Effective date: 10–13–04

IV. Federal Tax Filings

An organization whose exempt status has been suspended under section 501(p) does not file Form 990 and is required to file the appropriate Federal income tax re-

turns for the taxable periods beginning on the date of the suspension. The organization must continue to file all other appropriate federal tax returns, including employment tax returns, and may also have to file federal unemployment tax returns.

V. Contact Information

For additional information regarding the designation or identification of an organization described in section 501(p)(2), contact the Compliance Division at the Office of Foreign Assets Control of the U.S. Treasury Department at 202-622-2490. Additional information is also available for download from the Office's Internet Home Page at www.treas.gov/offices/eotffc/ofac/index.html

For additional information regarding the suspension of the federal tax exemption of an organization under section 501(p), contact Ronald J. Shoemaker at (202) 283-9475 at the Internal Revenue Service.

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2004-89

The name of an organization that no longer qualifies as an organization described in section 170(c)(2) of the Internal Revenue Code of 1986 is listed below.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on November 8, 2004, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Michael & Laura Gallop
Family Foundation
Agoura Hills, CA

Notice of Disposition of Declaratory Judgment Proceedings Under Section 7428

Announcement 2004-90

This announcement serves notice to donors that on July 7, 2004, the United States Tax Court granted the Service's motion to dismiss the case. Thus, the organization listed below is not recognized as an organization described in section 501(c)(3) and is not exempt from taxation under section 501(a), effective November 17, 1995.

Julie Renee Phelan Foundation f.k.a.
Assured Nonprofit Services, Inc.
Seattle, WA

Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

Announcement 2004-91

This announcement serves notice to potential donors that the organization listed

below has recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section 170(c)(2), as more particularly set forth in section 7428(c)(1). In the case of individual contributors, the maximum amount of contributions protected during this period is limited to \$1,000.00, with a husband and wife being treated as one contributor. This protection is not extended to any individual who was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for the revocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

Open Classrooms Chartered
Baltimore, MD

Section 7428(c) Validation of Certain Contributions Made During Pendency of Declaratory Judgment Proceedings

Announcement 2004-92

This announcement serves notice to potential donors that the organization listed below has recently filed a timely declaratory judgment suit under section 7428 of the Code, challenging revocation of its status as an eligible donee under section 170(c)(2).

Protection under section 7428(c) of the Code begins on the date that the notice of revocation is published in the Internal Revenue Bulletin and ends on the date on which a court first determines that an organization is not described in section

170(c)(2), as more particularly set forth in section 7428(c)(1).

In the case of individual contributors, the maximum amount of contributions protected during this period is limited to \$1,000.00, with a husband and wife being treated as one contributor. This protection is not extended to any individual who

was responsible, in whole or in part, for the acts or omissions of the organization that were the basis for the revocation. This protection also applies (but without limitation as to amount) to organizations described in section 170(c)(2) which are exempt from tax under section 501(a). If the organization ultimately prevails in its

declaratory judgment suit, deductibility of contributions would be subject to the normal limitations set forth under section 170.

Michael & Laura Gallop
Family Foundation
Agoura Hills, CA

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.

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