

Operational Tax News

FATCA/QI Update - Instructions for 1042-S Form published

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On 8 January 2017, the IRS has released the [instructions](#) for the [Form 1042-S](#), published on 21 December 2016.

The changes on the form can be summarized as follows:

- **Unique form identifier:** Beginning in 2017, withholding agents will be required to assign a unique identifying number to each Form 1042-S they file. The unique identifying number cannot be the recipient's US or foreign TIN and must be numeric, exactly 10 digits. The identifying number must be unique to each original Form 1042-S filed for the current year and can be used on a new original form in a subsequent year.
- **Amended forms:** As from 2017, withholding agents filing an amended form must indicate the amendment number. Any amended form must have the same unique form identifier as the original form that is being amended. Each time a form is amended it must contain the amendment number in the box provided on the form (using "1" for the first amendment and increasing sequentially for each subsequent amendment).
- **Pro-rata reporting:** The "Pro-Rata Reporting" box was moved from the top of the form down to the new box 15.
- **Qualified derivatives dealers (QDDs):** To facilitate the implementation of the withholding requirements associated with QDDs, the instructions add a new chapter 3 exemption code that applies for payments to a QDD and a new chapter 3 status code for a QDD. The 2017 Form 1042-S includes new pooled reporting codes 36, 37, and 38 (related to dividend equivalent offsetting payments) as well as existing code 33 (for joint account withholding rate pools). Based on the final QI agreement applicable for 2017 ([Revenue Procedure 2017-15](#)), these codes are no longer valid and withholding agents should not use these codes for Form 1042-S reporting purposes. As mentioned in the instructions, the four codes in question will be removed from the 2018 form.

- **Other changes to codes:** Income code 54 has been changed from “Other income” to “Substitute payments - interest from certain actively traded or publicly offered securities.” Withholding agents should use code 54 to report payments of interest on actively traded or publicly offered securities if the interest is described in Treasury Regulations section 1.1441-6(c)(2) and the withholding agent reduced the rate of withholding under an income tax treaty. A chapter 4 exemption code has been added for payments that are not subject to chapter 4 withholding and for which no other chapter 4 exemption code applies. The chapter 4 exemption codes for excluded payments on offshore obligations and collateral have been removed as these exemptions do not apply after the 2016 calendar year. The chapter 4 status codes for limited FFIs and branches that are treated as nonparticipating FFIs have also been removed as these are not valid statuses for purposes of chapter 4 after the 2016 calendar year.
- **List of foreign country codes:** As of 2017, Form 1042-S filers will use the same list of country codes used on other IRS forms (for example, Forms 926, 1118, 3520, and 8805). This list of foreign country codes may be found at <http://www.irs.gov/countrycodes>.
- **Foreign taxpayer identifying number and date of birth:** Beginning in 2017, a financial institution that files a Form 1042-S with respect to a payment on an obligation that it maintains at its US office or US branch must report the recipient's foreign taxpayer identifying number (FTIN) and date of birth (if the recipient is an individual).
- **Amount repaid to recipient:** The instructions now clarify that a withholding agent that repays overwithheld tax to a recipient under the set-off procedure should report the repayment in box 11 if the repayment is made in the year following the calendar year of over withholding.

Should have any questions regarding the above, please do not hesitate to contact us.

Your contacts

Eric Centi

Partner - Tax - Global Financial Services

Industry

Tel/Direct: +352 451 452 162

ecenti@deloitte.lu

Pascal Eber

Partner – Operations Excellence

Tel/Direct: +352 451 452 649

peber@deloitte.lu

Nenad Ilic

Director - Tax - Global Financial Services

Industry

Tel/Direct: +352 451 452 046

neilic@deloitte.lu

Anthony Tremblier

Senior Manager - Tax - Global Financial
Services Industry

Tel/Direct: +352 451 452 203

atremblier@deloitte.lu

Alexandre Havard

Senior Manager – Operations Excellence

Tel/Direct: +352 451 453 148

ahavard@deloitte.lu

Deloitte Luxembourg

560, rue de Neudorf

L-2220 Luxembourg

Tel: +352 451 451

Fax: +352 451 452 401

www.deloitte.lu

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