

IRS releases 2015 Form 8966 and Instructions

Closing the distance

Global Financial Services Industry



IRS releases 2015 Form 8966 and Instructions for Form 8966

On December 24, 2015, the IRS released 2015 versions of **Form 8966** and **Instructions for Form 8966**. The new version of the form contains several new lines and checkboxes, as highlighted by the 2015 Instructions. A checkbox was added to the top of the form for the filer to check if it has no accounts to report. This box is optional for filers other than Direct Reporting NFFEs and Sponsoring Entities filing on behalf of a Sponsored Direct Reporting NFFE.

Part I, line 1b, requests a two-digit filer category code. The Instructions list the filer category codes on page nine, noting that these codes are optional for filers other than Direct Reporting NFFEs and Sponsored Entities filing on behalf of Sponsored Direct Reporting NFFEs. The categories and associated codes are the following:

- PFFI (other than a Reporting Model 2 FFI and including a U.S. branch of a PFFI not treated as an U.S. person) – Enter code 01.
- RDC FFI – Enter code 02.
- Limited Branch or Limited FFI – Enter code 03.
- Reporting Model 2 FFI – Enter code 04.
- QI, WP, or WT – Enter code 05.
- Direct Reporting NFFE – Enter code 06.
- Sponsoring Entity of a Sponsored FFI – Enter code 07.
- Sponsoring Entity of a Sponsored Direct Reporting NFFE – Enter code 08.
- Trustee of a Trustee-Documented Trust – Enter code 09.

- Withholding Agent (including a U.S. branch of a PFFI, Reporting Model 1 FFI, Reporting Model 2 FFI, or RDC FFI treated as a U.S. person and a U.S. branch of a Reporting Model 1 FFI (including any other RDC FFI) or Limited FFI that is not treated as a U.S. person) – Enter code 10.
- Territory Financial Institution treated as a U.S. person – Enter code 11.

The checkbox for Direct Reporting NFFE was removed from Line 5 of Part II as the filer category code captures that information.

Part II now includes line 1b for the filer to check whether the account holder is an individual or an entity.

Part IV now includes a checkbox for accounts closed during the year. The Instructions provide the following on page 11. You are required to check this box if the account reported in Part IV was closed or transferred in its entirety during the calendar year. For calendar year 2015, this line is optional.

Updates to the 2015 Instructions for Form 8966

In addition to the Instruction updates highlighted above related to the Form 8966 changes, there are a number of content clarifications, listed below:

- The Instructions include additional information regarding extensions of time to file using the filing Form 8809-I; requesting a waiver from electronic filing on Form 8508-I; and details on how to file electronically on page two. The 90-day extension of time to file is automatically granted on the first request, with a second request granted only under hardship. No extension is permitted for Model 2 FFIs reporting non-consenting US accounts or non-consenting non-participating FFIs. Electronic filing is required by all Foreign Financial Institutions (“FFIs”) and all other entities filing 250 or more Forms 8966. A waiver of this requirement must be requested at least 45 days before the due date of the returns. Electronic filing occurs through the International Data Exchange Service (“IDES”) in XML format; details on how to electronically file are provided in [Publication 5124, FATCA XML v1.1 User Guide](#), and [Publication 5190, IDES User Guide](#).
- The Instructions add language to the “Accounts to be reported” section regarding reporting of nonparticipating FFIs on page six, noting that accounts held by nonparticipating FFIs are only required to be reported if the account holder is classified as such at the end of the year or the date the account is closed. Also, if the account holder rolls over the amounts in one type of account into another type of account with the same FFI during the calendar year, the instructions state that the account should not be reported twice.
- The Instructions update the transitional account information reporting rules on page seven, removing the 2014 transitional rules and the reference to Participating FFI reporting, the details for which are included in the prior sections regarding accounts held by Owner-Documented FFIs and nonparticipating FFIs. For calendar year 2015, the transitional rule excludes from reporting aggregate gross proceeds from the sale or redemption of property paid or credited to the account.
- The Instructions also add information on withholding agent reporting of amounts paid to a passive NFFE to page seven, stating that a withholding agent is not required to report information on a passive NFFE that is otherwise being reported by a Participating FFI (including a Reporting Model 2 FFI) or a Reporting Model 1 FFI receiving the withholdable payment.

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