

EXTERNAL AUDITOR'S AUDIT PLAN SUBMISSION

WITHHOLDING FOREIGN PARTNERSHIP

Name:

WP-EIN:

Audit Year:

Date of Submission:

EXTERNAL AUDITOR

Firm/Company:

Representative:

Phone number of representative:

E-Mail address:

Fax number:

***If the external auditor wishes to apply these procedures based on a valid sample of accounts, please refer to Rev. Proc. 2002-55 (Audit Guidance for External Auditors of Qualified Intermediaries), Sec. 10.04. Any questions related to such sampling can be addressed to Analyst Nick Marino.*

Proposed Audit Plan: WP Audit Report

In accordance with Section 8 of the Withholding Partnership ("WP") Agreement ("Agreement") between the Internal Revenue Service and _____ (hereafter _____), _____ and its external auditor, _____, respectfully submit the following draft plan for consideration.

WP agreement step 8.05(1), test checks of direct partners and withholding amounts (corresponding to QI AG 10.03(A)(5);(C)(1) and (A)(4)-document validity (including treaty statements) and underwithholding computations)

Direct Partners (excluding passthrough partners treated as direct under WP agreement section 10)

Recommended audit steps:

Step 1(a) From the partnership records, identify the population of foreign direct partners who received a distributive share ("allocation") of U.S. source reportable income applicable to the prior year. From the partnership's records of distributions to partners, further identify and include in this population any foreign direct partners who received a distribution from WP of U.S. source reportable income during the audit year. Exclude any partners treated as direct partners under WP Agreement section 10.

(b) Identify all direct U.S. partners owning an interest at any time during the prior year from the partnership's records and obtain Forms W-9 associated with all such partners.

Perform the checks of Forms W-8BEN or Forms W-8IMY or Forms W-9 for each such partner, as applicable, following the guidelines below.

Step 2: Sort those partners according to whether they contain the following types of documentation Forms:

- (a) Form W-8BEN;
- (b) Form W-8EXP;
- (c) Form W-8ECI;
- (d) Form W-8IMY;
- (e) Form W-9; and
- (f) No Form.

Step 3: Review each Form as noted herein.

FORM W-8BEN: For partners documented with a Form W-8BEN, inspect Part I of the Form W-8BEN.

(a) Determine that the following lines are completed and consistent with each other:

- (1) Line 1 (name of individual or organization that is the beneficial owner);
- (2) Line 2 (country of incorporation or organization), for non-individuals;
- (3) Line 3 (type of beneficial owner);
- (4) Line 4 (permanent residence address, including country) A permanent residence address cannot be a P.O. Box, in-care-of address or an address at a financial institution, including a hold

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- mail instruction (except when the beneficial owner is a financial institution); and
- (5) Signature and date.
 - (i) Determine that December 31 of the audit year was within three full calendar years following the year of signature; and
 - (ii) Determine that the certifications attested under penalties of perjury have not been modified.
- (b) For a Form W-8BEN for which the beneficial owner has claimed treaty benefits, inspect Part II of the Form W-8BEN. Determine that the following lines are completed and consistent with each other and with Part I of the Form:
 - (1) Line 9a (residence certification, including name of country); and
 - (2) Line 9c (section 894 and LOB certification), but only for non-individuals.

FORM W-8EXP. For partners documented with Form W-8EXP, inspect Form W-8EXP.

Determine that the following lines are completed and consistent with each other:

- (a) Line 1 (name of organization);
- (b) Line 2 (country of incorporation or organization);
- (c) Line 3 (type of entity);
- (d) Line 4 (permanent residence address, including country), A permanent residence address cannot be a P.O. Box, in-care-of address or an address at a financial institution, including a hold mail instruction (except when the beneficial owner is a financial institution);
- (e) Either:
 - (1) Line 9a, and 9b or 9c; or
 - (2) Line 10 (and organization is designated by executive order under 22 U.S.C. 288 through 288(f)); or
 - (3) Line 11; or
 - (4) Line 12a (including date) or 12b (including attached opinion from U.S. counsel), and, for section 501(c)(3) organizations, Line 12c (including affidavit) or 12d, and Line 6; or
 - (5) Line 13;
- (f) Signature and date:
 - (1) Determine that the certifications attested under penalties of perjury have not been modified.

FORM W-8ECI. For partners documented with Form W-8ECI, inspect the Form W-8ECI.

Determine that the following lines are completed and consistent with each other:

- (a) Line 1 (name of organization);
- (b) Line 2 (country of incorporation or organization);
- (c) Line 3 (type of entity);
- (d) Line 4 (permanent residence address, including country), A permanent residence address cannot be a P.O. Box, in-care-of address or an address at a financial institution, including a hold mail instruction (except when the beneficial owner is a financial institution);
- (e) Line 5 (business address in the United States);
- (f) Line 6 (U.S. taxpayer identification number);
- (g) Line 9 (list of items of income that are effectively connected with the conduct of a trade or business in the United States);
- (h) Signature and date:
 - (1) Determine that December 31 of the audit year was within three full calendar years following the year of signature; and
 - (2) Determine that the certifications attested under penalties of

perjury have not been modified.

FORM W-8IMY. For partners documented with Form W-8IMY, inspect the Form W-8IMY. Determine that the following lines are completed and consistent with each other:

- (a) Line 1 (name of individual or organization);
- (b) Line 2 (country of incorporation or organization), for non-individuals;
- (c) Line 3 (type of entity) – only Withholding Foreign Partnership or Withholding Foreign Trust should be completed;
- (d) Line 4 (permanent residence address, including country). A permanent residence address cannot be a P.O. Box, in-care-of address or an address at a financial institution, including a hold mail instruction (except when the beneficial owner is a financial institution).
- (e) Line 6 is completed and EIN box is ticked.
- (f) Line 14 is checked.
- (g) Signature and date:
 - (1) Determine that the certifications attested under penalties of perjury have not been modified.

FORM W-9

For partners documented with Form W-9, inspect each Form W-9 to determine that the following lines are completed and consistent with each other:

- (a) Name;
- (b) U.S. taxpayer identification number;
- (c) Certification Section; and
- (d) Signature and date.
 - (1) Determine that the certifications attested under penalties of perjury have not been modified.

Step 4: For each partner determined to have an associated Form W-8, examine the most recently updated information for the audit year drawn from the partnership's documentation on its partners or memoranda and any correspondence associated with the partner (for purposes of this section, "the partner's file"). Determine whether:

- (a) The identifying information in the form matches the identifying information for the partner (taking into account any information that links the identifying information on the Form to the identifying information in the partner's file),
- (b) The documentation for the partner shows a U.S. mailing or residence address for the partner, and if so, whether:
 - (1) The beneficiary is a U.S. person, or
 - (2) WP has satisfied the additional requirements of Section 1.1441-7(b) (5) of the regulations.
- (c) For partners claiming treaty benefits, the W-8 or the partner's file shows a residence address or mailing address, or a P.O. Box, in-care-of address or an address at a financial institution, including a hold mail instruction (except when the financial institution is the beneficial owner), that is not in the applicable treaty country. If so, determine whether WP has satisfied the additional requirements of section 1.1441-7(b)(6) of the regulations.

Step 5: Include in the category of partners with no Forms , all those:

- (a) That are not properly documented with Forms W-8BEN, W-8EXP, W-8IMY, W-8ECI, or W-9 and

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- (b) Forms W-8 that are inadequate after applying the additional requirements identified in Step 4 noted above.

The auditor should report those instances in which such partners were not documented with either a W-8 or W-9 or were documented with incomplete or inconsistent certification forms, including partner population information, as outlined below.

Report 1:

- i. The number of foreign direct partners during any portion of the prior year.
- ii. The number of such foreign direct partners who were allocated any US source reportable income reportable in the audit year's Form 1042 (i.e. allocations attributable to the prior year).
- iii. The number of additional foreign direct partners (not reported in item 2) who received a partnership distribution during the audit year consisting of any US source reportable income.
- iv. The number of such partners that appear to be passthrough partners based on a Form W-8IMY review (indicating a non-qualified intermediary or flow through non-withholding entity) or the partner's failure to indicate on Form W-8BEN that it derived the income for section 894 purposes.
- v. The number of partners WP classified as US direct partners during the prior year.

Report 2: The number of Part I of Forms W-8BEN inspected and the number of Forms W-8BEN that did not satisfy the criteria under that section.

Report 3: The number of Part II of Forms W-8BEN inspected and the number of Forms W-8BEN that did not satisfy the criteria under that section.

Report 4: The number of Forms W-8EXP inspected and the number of Forms W-8EXP that did not satisfy the criteria under that section.

Report 5: The number of Forms W-8ECI inspected and the number of Forms W-8ECI that did not satisfy the criteria under that section.

Report 6: The number of Forms W-8IMY inspected and the number of Forms W-8IMY that did not satisfy the criteria under that section.

Report 7: The number of Forms W-9 that did not satisfy the criteria under that section.

Report 8: The number of partners:
(a) That did not satisfy the criteria of Step 4(a);
(b) Described in Step 4(b) and the number of accounts described in (b)(1) of that step, and the number of accounts that did not satisfy (b)(2) of that step; and
(c) Described in Step 4(c) and the number of accounts that did not satisfy additional the criteria of that step.

Report 9: The number of partners described in each of (a) and (b) of Step 5.

Withholding Verification

WP 8.05(B)(1) further requires that the auditor determine whether the WP's withholding amounts were correct. This determination is relevant for most categories of direct foreign partners.

Recommended audit steps

1. Determine from the partnership's records the amount and types of U.S. source reportable income allocated to each foreign direct partner for the prior year. In this determination, exclude partners treated as direct partners under WP agreement sec. 10. Further exclude from a review of Forms W-8IMY foreign partners properly documented in the above steps as withholding flow through entities under WP Agreement Sec. 2.05 or as qualified intermediaries assuming Chapter 3 withholding and reporting responsibilities.
2. Determine the amount of withholding tax to be properly applied to each partner's allocation, based on the documentation or lack thereof determined by the auditor for each such partner in the above steps. This step should be performed for each income category shown on Form 1042-S that subjects the partner to a different withholding rate. The allocation amounts subject to withholding should be reduced to the extent that the partnership had already withheld on distributions of such income allocated in the prior year. Such prior withholding should be determined from the partnership's records of distributions to partners for the prior year.
3. Compare the amounts determined in step 2 to the withholding applied by WP for each foreign partner. Record any differences.
4. Identify the partnership's records all direct foreign partners who received a partnership distribution during the audit year. Exclude any partners excluded in step 1. Determine the distribution amount to each such partner.
5. Further determine the amount of U.S. source reportable income that WP estimated was included in any such distributions to partners identified in step 4.
6. From the partnership's records, determine the amount of withheld tax WP effected for each type of U.S. source income that was distributed to each partner identified in step 4.
7. Compare such amounts to the auditor's determination of the withholding based on the review of each such partners certification forms and information on the type of income distributed to each partner. Record any differences.
8. Obtain a statement from the WP that its allocations of US source income were made to each partner in accordance with the partnership agreement. The WP should also state the last date such allocations were modified in the agreement, up to and including the audit year.
9. If any distributions were made to foreign direct partners during the audit year, obtain a further statement from the WP concerning how it determined the U.S. source reportable income included in the distribution or, if applicable, not included.

Report:

- 1.. The total amount of WP's US source reportable income shown on the current year's Form 1042, broken out between the amount attributable to partnership income allocations from the previous year and the amount reported resulting from current year distributions to foreign partners.
2. The amount of such income allocated to WP's direct foreign partners, after excluding the foreign partners excluded under step 1.

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3. As determined in step 4, The total amount of partnership distributions for the audit year to such foreign direct partners, with the amount of U.S. source reportable income included in the distribution shown separately.
4. Any amount of underwithholding the audit determined based on allocations of income to partners from the prior year.
5. Any amount of underwithholding the auditor determined as applicable to partnership distributions to such foreign direct partners..
6. The number of such direct partners for whom under withholding was determined by the auditor.
7. Attach the WP's statements obtained under the above steps. .

WP 8.05(B)(1) continued

Direct Partners resulting from WP's application of WP Agreement section 10

WPs may treat partners and beneficiaries of passthrough partners as its direct partners if they are owners in entities for whom the WP has properly implemented the **joint account or agency options**. See WP agreement sec. 10. This is similar to the procedure permitted for QIs in QI Agreement section 4A. In such cases, the WP can avoid forwarding withholding statements to its withholding agent for such indirect partners and may itself with respect to these partners document them and effect the required withholding and reporting.

Joint Account Option (Perform to extent applicable)

Treat these as direct partners but separate from the direct partner population described above. This is because these options require that additional audit steps be performed. The applicable passthrough partners should be segregated between those for whom the WP applies the joint account option and those for whom it applies the agency option. For those partners for whom the WP applied the joint account option:

Recommended Audit Steps

1. Verify that the QP has elected the Pooled Reporting (PR) option. See WP agreement sections. 10.01 and 10.02.
2. Identify the partners for whom the WP applied the joint account option.
3. Perform most of the steps of FAQ 3 (recently added to the QI webpage located at irs.gov), which should include:
 - a. inspecting WP's written agreement with each such partner for the required terms;
 - b. determining whether any of these passthrough partners had U.S. or passthrough owners, which would invalidate the use of this option,
 - c. inspecting the documentation for each owner in each such passthrough partner and identifying any documentation failures for any owners (applying the procedures in the above steps).
 - d. for each such passthrough partner, determining whether WP properly applied withholding at the rate of withholding applicable for the highest withholding rate of any owner. Incorporate any documentation failures in this determination.
 - e. quantifying any withholding discrepancies between what the WP determined for each such passthrough partner and the auditor's own determination.

Report:

1. The number of passthrough partners for whom the WP applied the joint account option
2. The total amount of US source reportable income allocated to such partners that was reportable on the audit year's Form 1042. Further report the amount of US source reportable income that WP distributed to such partners during the audit year. Also report any such amounts that were not shown on the Form 1042 for the audit year.

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3. The withholding amount as determined by the WP with respect to all such partners
4. The withholding amount as determined by the auditor for all such partners, considering the documentation checks performed and the amounts of U.S source reportable income either allocated or distributed to each such passthrough partner.
5. The number of any partners for whom any of the requirements for WP's use of the joint account option was failed. For each such partner, state which specific requirement(s) was failed.
6. A statement from the WP, signed by a general partner of WP, that its allocations of US source income were made to each partner in accordance with the partnership agreement. The WP should further note the last date such allocations were modified in the agreement.

Agency Option (Perform to extent applicable)

Steps should be taken to ensure compliance with the requirements outlined in WP agreement 10.02, (1) through (3).

Suggested Audit Steps

1. Verify that the WP elected the pooled reporting (PR) option. See WP agreement sections 10.01 and 10.02
2. Identify the partners for whom WP applied the agency option.
3. Verify that W-8IMYs were provided by such partners indicating themselves as either a foreign flow through entity or as a non-qualified intermediary.
3. Review WP's applicable agreement with each such partner for the required terms.
4. Obtain documentation from WP showing that it has the requisite ownership interest in each passthrough partner for whom it applied this option.
5. Obtain documentation for each of the owners of each such passthrough partner;
6. Review the documentation for each owner in each such partner and determine any that are not properly documented, noting the types of documentation failures
7. Review each such passthrough partner's allocation information (i.e. withholding statements) and reconcile it to its allocable share of U.S. source reportable income from the WP;
8. Verify whether any such partners later provided amended allocation information to the WP;
9. Determine from such records the amount of withholding with respect to each such passthrough partner and apply the presumption rules of Treas. Reg. 1.1441-1(b)(3) to any unallocated amount of U.S. source reportable income.
10. Note the total withholdings as had been determined by the WP for each passthrough partner. Record any differences. .

Report:

1. The number of passthrough partners for whom the WP applied the agency option
2. The total amount of US source reportable income required to be shown on the audit year's Form 1042 that was allocated by WP to such passthrough partners and the amount of withholding applied by WP to such amount.
3. The number of such partners who failed to provide complete partner documentation and/or allocation information to the auditor
4. The number of such partners who failed to provide any allocation information to the WP
5. The number of such partners for whom the WP did not satisfy any requirement applicable to its use of the agency option. For each partner, state each such requirement that was failed.
6. The withholding applicable to them as computed by the auditor.
7. The number of such partners for whom the auditor determined an amount of withholding different than that determined by the WP.

WP 8.05(B)(2), Verification of Timely Deposits (corresponding to QI AG 10.03(C)(7))

Recommended audit steps:

1. Identify again all direct foreign partners who received distributions during the year of any U.S. source reportable income. Further identify the WP's tax withheld on such distributions. Exclude distributions to passthrough partners for whom the WP does not apply WP agreement section 10.
2. Again identify all foreign direct partners who received an allocation of U.S. source reportable income, the applicable allocation amounts, and the amount of withholding applied by WP in total with respect to the allocations. Reduce such allocated amounts to the extent the WP already effected withholding on distributions of such income.
3. Obtain the Form 1042 instructions for the audit year covering the Deposit Requirements.
4. Obtain partnership records on tax deposits made as a result of the partnership distributions and as a result of allocations of U.S. source reportable income allocated to partners from the prior year. This may include EFTPS confirmations and/or Tax deposit coupons.
5. Using these instructions, determine any deposits of withheld tax made after the required dates. With respect to distributions of U.S source reportable income, use each distribution date as the reference point. For income allocations, use the due date for filing the Schedule K-1 unless WP shows IRS' granting of any filing extension. Additional withholding determined by the auditor under WP agreement 8.05(B)(1) should be excluded in this determination.

Report:

1. If any deposits were made after the required dates with respect to distributions. If so, state the deposit amount at issue, the date required for depositing the tax, and the date actually deposited.
2. If any deposits were made after the required dates with respect to partnership allocations. If so, state the deposit amount at issue, the date required for depositing the tax, and the date actually deposited.

WP 8.05(C)(ii) Review of W-8IMYs and withholding statements WP provides to withholding agents (corresponding to QI AG 10.03(B)(4) (withholding statements provided by WP to upstream withholding agents and to AG 10.03(A)(6) (Forms W-9-transmittal to withholding agents))

Suggested audit steps

1. Review the Forms W-8IMY provided by partners in WP during the audit year.
2. Identify from the Forms the population of partners who reported themselves as non-withholding intermediaries or as non-withholding flow through entities under WP Agreement Sec. 2.06.
3. Identify and include in the population identified in 2 above all partners reclassified as non-withholding intermediaries or non-withholding flow through entities as a result of audit step 8.05(B)(1).
4. Exclude from that population those partners for whom the WP applied either the agency or joint account options.
5. Obtain WP's records of U.S. source reportable income paid to it in the prior year. For each withholding agent that paid any such income to the WP, verify that the WP provided it with a withholding statement identifying such partners and allocating all amounts among them.
6. From each withholding statement, reconcile the allocations indicated on them to WP's income allocation records.
7. From each withholding statement, determine whether any of the indirect partners are identified as U.S. persons. If so, verify that the WP forwarded to the withholding agent a Form W-9 or the name, address and U.S. Tin of each such indirect partner.

Report Items

1. From step 5, report the number of withholding statements that failed to allocate the entire payment among the partners determined in steps 2-4.
2. From step 6, report the number of withholding statements that failed to agree to WP's allocation records.
3. From step 7, the number of U.S. indirect partners.
4. The number of such U.S. partners for who WP did not indicate the required information with the withholding statement or provide the Form W-9.

WP8.05(C)2(i) Review of Form 1042-S (corresponding to QI AG 10.03(D)(1).1-review of Forms 1042

Recommended steps:

- (1) Obtain all of the Forms 1042-S issued by the WP for the audit year.
- (2) Reconcile the income and withholding tax show on the Forms 1042-S in total to the amounts reported on the Form 1042.
- (3) For Forms filed on a pooled basis, the auditor should:
 - a. verify that the WP made the pooled reporting election on its WP agreement (Already verified if the WP applied either the joint account or agency options-see above steps).
 - b. identify any foreign tax exempt partners based on a review of Forms W-8BEN and determine whether the WP applied specific payee reporting to each such partner. Further identify any other partner for whom the WP provide a Form 1042-S.
 - c. From the WP's records of the types of U.S. source reportable income paid to it in the prior year, together with the income allocations and withholding rates to be properly applied to each direct foreign partner (incorporating WP agreement section 10), reconcile the Forms 1042-S filed on a pooled basis to the amount and type of income and the withholding amount reported.
 - d. Perform the same check in c for each foreign tax exempt partner and any other partners to whom the WP issued a Form 1042-S.
- (4) If WP did not make a PR election, verify that WP issued a Form 1042-S to each direct foreign partner who was allocated any U.S. source reportable income for the prior year or who received a distribution of U.S. source reportable income during the audit year.
 - a. For a sample of such partners, reconcile the amounts shown on their Forms 1042-S to the WP's allocation and distribution records and its records of taxes withheld for each partner.

Recommended Report Items

1. Whether the Form 1042 for the audit year was reconciled to the total of all amounts shown on Forms 1042-S.
2. If WP made the PR election:
 - a. report any discrepancy between the Forms 1042-S to WP's records of U.S. source reportable income allocated and distributed to foreign direct partners.
 - b. The number of foreign tax exempt partners for whom WP failed to issue a Form 1042-S.
3. If WP did not make a PR election:
 - a. report the number of foreign direct partners for whom WP failed to issue a Form 1042-S.
 - b. report any discrepancies in the reconciliation from step 4a.

WP 8.05(C)(2)(ii) (no Qi AG counterpart)-review of Form 1065

Recommended Audit Steps:

- (1) Identify from Forms W-9 all U.S. direct partners in WP during the prior year.
- (2) Obtain the WP's records of each passthrough partner and the withholding statements (or a sample thereof) applicable to each such partner for the prior year.
- (3) From the records obtained in step 2, identify each passthrough partner with one or more U.S. partners holding interests in them. Record the name of each such passthrough partner and the names and U.S. Tins of each such indirect partner.
- (4) Obtain any Form 1065 filed by the WP for the prior year, including the Schedules K-1 filed with such return.
- (5) Verify from the WP's records that the Form 1065 was filed and includes an EIN for the WP.
- (6) For each U.S. direct partner identified in step 1, determine that a Schedule K-1 was issued by the WP that includes the partner's U.S. TIN.
- (7) For each passthrough partner identified in step 3, verify that a Schedule K-1 was issued by WP.
- (8) Obtain a statement from the WP whether its Form 1065 was examined or is being examined by IRS for any year covered by the current WP agreement.

Suggested Reporting:

1. If any U.S. partners were identified in either step 1 and 3 and the WP did not file a Form 1065, report that failure.
2. As a result of step 6, report the name and TINs of any direct U.S. partners for whom the WP did not provide a Schedule K-1 that failed to include the partner's U.S. TIN..
3. As a result of step 7, report the name of each passthrough partner for whom the WP did not issue a Schedule K-1. Further report the name and TIN of each U.S. partner in each of those passthrough partners.
4. Attach the WP's statement.

WP 8.05(E) corresponding to QI AG 10.03(E)-Changes in Circumstances

Step

1. Obtain a letter from a general partner of the WP indicating whether any changes in circumstance occurred within the meaning of WP Agreement Sec. 9.05

Report Items:

1. Attach the WP's letter
2. Indicate any other facts otherwise discovered by the auditor in performing any of the above steps that suggest that a change in circumstance occurred not identified on the letter. Describe such facts and the identify the potential change.

WP Collective Refunds 8.05(C)(4), counterpart in QI AG 10.03(D)(4)

Suggested audit steps:

(1) obtain any amended Forms 1042 filed by WP under which the WP requested a refund of tax. Include only those Forms 1042 that were filed for years following the most recent audit year or all years to date if this is WP's initial audit report. If no such Forms were filed, skip the remaining steps and report items.

(2) obtain WP's workpapers or other records that show the partners who were included in each collective refund claim.

(3) Verify that:

- a. The WP made a pooled reporting (PR) election on its WP agreement.
- b. The WP has records substantiating that the full refund amount claimed was repaid to WP's applicable direct partners before the claim was filed with IRS
- c. That all of the partners for whom a refund were sought were foreign direct partners for whom the joint account option was not applied (i.e. exclude foreign partners for whom WP applied the joint account option and further exclude U.S. partners). Further verify that no such partners were issued a Form 1042-S for the applicable year (as already identified in 8.05(c)(2)(i), step 3(b)).
- d. The WP provides a reason for its reduced withholding obligation, which it can substantiate from its records. This may require a review of the amended return workpapers or a discussion with relevant WP personnel.

Report

- 1. Identified by year, each collective refund claim filed by WP as determined in step 1.
- 2. If any such filings, report if WP failed to make a PR election.
- 3. Report if WP filed any such claim with respect to any of the prohibited partner noted in step 3(c).
- 4. Report if WP cannot show that it repaid all of its applicable partners before filing its collective refund claim.
- 5. Report WP's reasons for filing each such collective refund claim.