



# GMS Flash Alert



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## United States - Expect More Penalty Notices for Form 1042-S Errors

The U.S. Internal Revenue Service (IRS) is planning on using a data-integrity tool created for withholding agents to identify errors on Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding* to assess penalties and to send out notices for incorrectly filed Forms 1042-S.<sup>1</sup>

### WHY THIS MATTERS

Employers with global mobility programs are often required to issue Forms 1042-S to report certain payments to non-U.S. employees subject to U.S. withholding. However, according to the IRS, this form is often prepared incorrectly.

The IRS plans to use a data-integrity tool to look for mistakes and expects to issue more penalty notices as a result. Global mobility programs will want to work with their tax service providers to make sure they are reporting payments and withholdings correctly on Form 1042-S to avoid penalties and examination.

### Background

Announced last fall, the data integrity tool is designed to help withholding agents with reporting and withholding compliance for Form 1042-S.<sup>2</sup> The tool is freely available for withholding agents to perform quality reviews of data before submitting forms to the IRS.

Using the same tool, Kimberly Schoenbacher, a director of field operations at the IRS, reportedly said that the IRS has been seeing "a lot of errors" in Form 1042-S data and considers them to be "low-hanging fruit" for which they will begin issuing more penalty notices, according to the news coverage cited in footnote 1.

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## KPMG NOTE

This announcement seems to be part of the IRS's stepped-up enforcement activities resulting from the funding increase through the Inflation Reduction Act.<sup>3</sup> The new law provides additional funding to the IRS, including \$45.6 billion designated for tax enforcement activities. As noted in [GMS Flash Alert 2022-144](#) (July 29, 2022), this highlights the importance of tax compliance for global mobility programs seeking to avoid potential monetary penalties.

The identification of errors could lead to examination as the IRS has an active campaign looking into form 1042-S compliance issues.<sup>4</sup>

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## FOOTNOTES:

1 See news coverage of IRS Director of Field Operations (Foreign Payments Practice and Automatic Exchange of Information) Kimberly Schoenbacher comments at a September 21 Tax Executives Institute conference reported by Tax Analysts, see by K. Strocko, "IRS Hopes to Solve Identity Assurance Challenges for Foreign Filers," in *TaxNotesToday* (September 22, 2022); also see I. Gottlieb, "IRS Catching 'Low-Hanging Fruit' Mistakes on Withholding Form," Bloomberg *Daily Tax Report* (International) (September 21, 2022).

2 [IR-2021-223](#), November 15, 2021.

3 For prior coverage see, [GMS Flash Alert 2022-150](#), August 22, 2022.

4 IRS, "Large Business and International Active Campaigns" at: <https://www.irs.gov/businesses/corporations/lbi-active-campaigns>.

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