Actions	Compliance	Procedures
(3) If the results of the inspection are equal to or greater than 41.5% IACS but less than or equal to 46% IACS using the eddy current conductivity test, or equal to or greater than 79 but less than or equal to 87 using the Rockwell hardness test, replace the MLG radius rod with an FAA-approved MLG radius rod that meets the conductivity or hardness requirements specified in the referenced service information.	Within the next 180 calendar days after the inspection required in paragraph (d)(1) of this AD.	In accordance with the Accomplishment Instructions section of British Aerospace Alert Service Bulletin 32–A–JA010740, Revision 2, Issued: July 23, 2001, APPH Ltd. Service Bulletin 1847–32–08, dated July 2001, APPH Ltd. Service Bulletin 1862–32–08, dated July 2001, and the applicable maintenance manual.
(4) If the results of the inspection are greater than 36.5% IACS and less than 41.5% IACS using the eddy current conductivity test, or greater than 87 and less than 90 using the Rockwell hardness test, no replacement of the MLG radius rod is required.	Not applicable	In accordance with the Accomplishment Instructions section of British Aerospace Alert Service Bulletin 32–A–JA010740, Revision 2, Issued: July 23, 2001, APPH Ltd. Service Bulletin 1847–32–08, dated July 2001, APPH Ltd. Service Bulletin 1862–32–08, dated July 2001.
(5) Do not install, on any affected airplane, a P/N 1847–A through 1847–L, 1848–A through 1848–F, or 1862–A through 1862–L MLG radius rod, unless it has been inspected and is found to meet the conductivity or hardness standard specified in the referenced service information.	As of February 11, 2002 (the effective date of this AD).	In accordance with British Aerospace Alert Service Bulletin 32–A–JA010740, Revision 2, Issued: July 23, 2001.

Note 1: The compliance time of this AD differs from that specified in British Aerospace Alert Service Bulletin 32–A–JA–010740, Revision 2, Issued July 23, 2001. This AD takes precedence over any other information.

Note 2: British Aerospace Alert Service Bulletin 32–JA010740, Revision 2, Issued: July 23, 2001, specifies reporting the results of the inspections to British Aerospace Regional Aircraft. The FAA highly recommends that each owner/operator submit this information. British Aerospace and the British Civil Airworthiness Authority (CAA) will use this information to determine whether further action is necessary. The FAA will evaluate the information from the British CAA and may initiate further rulemaking action.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with British Aerospace Alert Service Bulletin 32–A–JA010740, Revision 2, Issued: July 23, 2001, APPH Ltd. Service Bulletin 1847–32–08, dated July 2001, and APPH Ltd. Service Bulletin 1862–32–08, dated July 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British AD Number 005–07–2001, not dated.

(i) *When does this amendment become effective?* This amendment becomes effective on February 11, 2002.

Issued in Kansas City, Missouri, on January 4, 2002.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–797 Filed 1–16–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–33–AD; Amendment 39–12600; AD 2002–01–09]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–7, PC–12, and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Pilatus Aircraft Ltd. Models PC–7, PC–12, and PC–12/45 airplanes that incorporate a certain engine-driven pump. This AD requires you to inspect the joints between the engine-driven pump housing, relief valve housing, and the relief-valve cover for signs of fuel leakage or extruding gasket material; replace any engine-driven pump with signs of fuel leakage or extruding gasket material; and inspect to ensure that the relief valve attachment screws are adequately

torqued and re-torque as necessary. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by this AD are intended to detect and correct gasket material extruding from the engine-driven pump housing and detect and correct relief valve attachment screws with inadequate torque. Such conditions could lead to fuel leakage and result in a fire in the engine compartment.

DATES: This AD becomes effective on February 28, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of February 28, 2002.

ADDRESSES: You may get the service information referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–33–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA of an unsafe condition that may exist on Pilatus Models PC–7, PC–12, and PC–12/45 airplanes. The FOCA reports instances of fuel leaking from the engine-driven pump on the referenced airplanes. The compression set of the gasket and diaphragm after thermal cycling could cause the gasket of the engine-driven pump to extrude between the relief valve housing and the engine-driven pump housing. This in turn relieves the torque of the relief-valve cover screws of the engine-driven pump, which could result in fuel leakage.

Information on the affected pumps follows:

—The affected engine-driven pumps are Lear Romec part number RG9570R1 (Pilatus part number 968.84.51.106) as installed on Models PC–12 and PC–12/45 airplanes or Lear Romec part number RG9570M1 (Pilatus part number 968.84.51.105) as installed on Model PC–7 airplanes;

—Pilatus installed these engine-driven pumps on manufacturer serial number (MSN) 101 through MSN 400 of the Models PC–12 and PC–12/45 airplanes and MSN 101 through MSN 618 of the Model PC–7 airplanes; and

—These engine-driven pumps could be installed through field approval on any MSN of the Models PC–7, PC–12, and PC–12/45 airplanes.

What Is the Potential Impact if FAA Took No Action?

Gasket material extruding from the engine-driven pump housing and relief valve attachment screws with inadequate torque, if not detected and corrected, could lead to fuel leakage and result in a fire in the engine compartment.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus Aircraft Ltd. Models PC–7, PC–12, and PC–12/45 airplanes that incorporate a certain engine-driven pump. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 24, 2001 (66 FR 53738). The NPRM proposed to require you to inspect the joints between the engine-driven pump housing, relief valve housing, and the relief-valve cover for signs of fuel leakage or extruding gasket material; replace any engine-driven pump with signs of fuel leakage or extruding gasket material; and inspect to ensure that the relief valve attachment screws are adequately torqued and re-torque as necessary.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 278 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the inspections and re-torque:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $60 per hour = $120	Not Applicable	$120	$120 × 278 = $33,360.

We estimate the following costs to accomplish any necessary replacements that will be required based on the results of the inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
1 workhour X $60 per hour = $60	$3,900 per new pump	$3,960 per airplane.

Compliance Time of This AD

What Is the Compliance Time of This AD?

The compliance time of the inspections that will be required by this AD is ''within 20 hours time-in-service (TIS) after the effective date of this AD or within the next 30 days after the effective date of this AD, whichever occurs first.''

Why Is the Compliance Time of This AD Presented in Both Hours TIS and Calendar Time?

The deterioration and potential extrusion of the gasket occurs over time and is not a condition of repetitive airplane operation. However, the relief valve attachment screws becoming inadequately torqued occurs as a result of airplane usage if the compression set of the gasket and diaphragm after thermal cycling causes the gasket of the engine-driven pump to extrude between the relief valve housing and the engine-driven pump housing.

Therefore, to ensure that the unsafe condition defined in this document is detected and corrected in a timely manner, we are stating the compliance in both calendar time and hours TIS.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2002–01–09 Pilatus Aircraft Ltd.: Amendment 39–12600; Docket No. 2001–CE–33–AD.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial numbers
PC–7	All manufacturer serial numbers (MSN) with a Lear Romec part number RG9570M1 (Pilatus part number 968.84.51.105) engine-driven pump.
PC–12 and PC–12/45	All MSN with a Lear Romec part number RG9570R1 (Pilatus part number 968.84.51.106) engine-driven pump.

Note 1: Pilatus installed these engine-driven pumps on manufacturer serial number (MSN) 101 through MSN 400 of the Models PC–12 and PC–12/45 airplanes and MSN 101 through MSN 618 of the Model PC–7 airplanes. These engine-driven pumps could be installed through field approval on any MSN of the Models PC–7, PC–12, and PC–12/45 airplanes.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct gasket material extruding from the engine-driven pump housing and detect and correct relief valve attachment screws with inadequate torque. Such conditions could lead to fuel leakage and result in a fire in the engine compartment.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) For all airplanes: inspect the joints between the engine-driven pump housing, relief valve housing, and the relief-valve cover for signs of fuel leakage or extruding gasket material.	Initially inspect within the next 20 hours time-in-service (TIS) after February 28, 2002 (the effective date the of this AD) or within the next 30 days after February 28, 2002 (the effective date of this AD), whichever occurs first.	In accordance with the Accomplishment Instructions section of either Pilatus PC–7 Service Bulletin No. 28–006 or Pilatus PC–12 Service Bulletin No. 28–009, both dated August 10, 2001, as applicable.
(2) For the Model PC–7 airplanes: if you find signs of fuel leakage or extruding gasket material during the inspection required by paragraph (d)(1) of this AD, replace the engine-driven pump with a Lear Romec part number RG9570M1/M engine-driven pump.	Replace prior to further flight after the inspection required by paragraph (d)(1) of this AD.	In accordance with the Accomplishment Instructions section of Pilatus PC–7 Service Bulletin No. 28–006, dated August 10, 2001; and the appropriate maintenance manual.

Actions	Compliance	Procedures
(3) For the Models PC–12 and PC–12/45 airplanes: if you find signs of fuel leakage or extruding gasket material during the inspection required by paragraph (d)(1) of this AD, replace the engine-driven pump with one of the following and accomplish any specified follow-on action:. (i) a Lear Romec part number RG95701R1/M (Pilatus part number 968.84.51.106/M) engine-driven pump; or. (ii) a Lear Romec part number RG9570R1 (Pilatus part number 968.84.51.106) engine-driven pump. Installation of this part requires you to accomplish the inspection and replacement, if necessary, specified in paragraphs (d)(1) and (d)(3) of this AD, respectively. This inspection is to ensure that the compression set of the gasket and diaphragm after thermal cycling does not cause the gasket of the engine-driven pump to extrude between the relief valve housing and the pump housing.	Replace prior to further flight after the inspection required by paragraph (d)(1) of this AD. Accomplish the inspection at least 20 hours TIS after the installation, but not to exceed 30 hours TIS after the installation.	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 28–009, dated August 10, 2001; and the appropriate maintenance manual.
(4) For all affected airplanes: inspect to ensure that the relief valve attachment screws are adequately torqued and re-torque as necessary.	Prior to further flight after the inspection required by paragraph (d)(1) of this AD.	In accordance with the Accomplishment Instructions section of either Pilatus PC–7 Service Bulletin No. 28–006 or Pilatus PC–12 Service Bulletin No. 28–009, both dated August 10, 2001, as applicable.
(5) Do not install, on any affected Model PC–7 airplane, a replacement Lear Romec part number RG9570M1 (Pilatus part number 968.84.51.105) engine-driven pump.	As of February 28, 2002 (the effective date of this AD).	Not Applicable.
(6) If you install, on any Model PC–12 or PC–12/45 airplane, a part number RG9570R1 (Pilatus part number 968.84.51.106) engine-driven pump, you must accomplish the inspection and replacement, if necessary, as specified in paragraphs (d)(1) and (d)(3) of this AD, respectively. This inspection is to ensure that the compression set of the gasket and diaphragm after thermal cycling does not cause the gasket of the engine-driven pump to extrude between the relief valve housing and the pump housing.	Accomplish the inspection at least 20 hours TIS after the installation, but not to exceed 30 hours TIS after the installation.	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 28–009, dated August 10, 2001.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Pilatus PC–7 Service Bulletin No. 28–006 or Pilatus PC–12 Service Bulletin No. 28–009, both dated August 10, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on February 28, 2002.

Note 3: The subject of this AD is addressed in Swiss AD HB 2001–500 (PC–12 and PC–12/45) and Swiss AD HB–505 (PC–7), both dated August 24, 2001.

Issued in Kansas City, Missouri, on January 8, 2002.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–899 Filed 1–16–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 8977]

RIN 1545–BA39

Taxpayer Identification Number Rule Where Taxpayer Claims Treaty Rate and Is Entitled to an Unexpected Payment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations that provide additional guidance needed to comply with the withholding rules under section 1441 and conforming changes to the regulations under section 6109. Specifically, these temporary regulations provide rules that facilitate compliance by withholding agents where foreign individuals who are claiming reduced rates of withholding under an income tax treaty receive an unexpected payment from the withholding agent, yet do not possess the required individual taxpayer identification number. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the cross-referenced notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These temporary regulations are effective January 17, 2002.

Applicability Date: For dates of applicability, *see* § 1.1441–6T(h)(6).

FOR FURTHER INFORMATION CONTACT: Jonathan A. Sambur (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Payments of U.S. source income to foreign persons create a number of withholding and information reporting obligations for both the payor and the recipient of these payments under the Internal Revenue Code and associated Treasury regulations. Specifically, under section 871(a), nonresident alien individuals are subject to a 30 percent tax on certain items of income they receive from sources within the United States that are not effectively connected with the conduct of a trade or business in the United States. Those items of income include interest, dividends, royalties, compensation, and other fixed or determinable annual or periodical income. The tax liability imposed under section 871(a) on the payment of such items of income is generally collected by way of withholding at the source pursuant to section 1441(a). Withholding agents are generally required to report payments of such income to the IRS on Form 1042–S.

The 30 percent rate of tax can be reduced under an income tax treaty. Under current Treasury regulations, a withholding agent may generally rely on a Form W–8BEN, ''Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding,'' or Form 8233, ''Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual,'' provided by, or for, the foreign individual certifying eligibility for a reduced rate of tax under an income tax treaty.

Section 1.1441–1(e)(4)(vii) generally provides that a taxpayer identifying number (TIN) must be furnished on a Form W–8BEN or Form 8233 in order for a foreign individual to obtain the benefit of reduced withholding under an income tax treaty. *See* § 1.1441–6(b)(2)(ii). Treasury and the IRS have recently become aware, however, of certain unusual cases where an unexpected payment to a nonresident alien individual claiming treaty benefits arises on short notice. In general, a foreign individual receiving such an unexpected payment currently may be unable to obtain a TIN prior to payment. In such a case, unless the foreign individual already has a TIN, the withholding agent would be required to withhold tax at the 30 percent rate, rather than the treaty rate, and the foreign individual would be required to file for a refund in order to obtain the benefits of the income tax treaty.

To alleviate this filing burden on foreign individuals, IRS is putting in place administrative procedures that will allow certain withholding agents, who also are acceptance agents (as defined in § 301.6109–1(d)(3)(iv)) and who make unexpected payments to foreign individuals, to apply for and obtain an individual taxpayer identification number (ITIN) for such individuals on an expedited basis. However, Treasury and IRS recognize that, in certain circumstances, these expedited ITIN procedures will not be sufficient to ensure that foreign individuals receiving an unexpected payment can obtain the benefits of a reduced rate of withholding under an income tax treaty at the time of payment. Accordingly, these temporary regulations will allow, in limited circumstances, withholding agents to rely on a Form W–8BEN or Form 8233 that does not include a TIN for purposes of withholding at the reduced treaty rate.

The proposed rules are published elsewhere in this issue of the **Federal Register**.

Explanation of Provisions

These temporary regulations amend § 1.1441–1(b)(7) and § 1.1441–6(b)(1) and add new § 1.1441–6T(h) to provide a limited exception to the requirement that a foreign individual provide a TIN to its withholding agent before obtaining a reduced rate of withholding tax under an income tax treaty. As noted above, under the current regulatory framework, a foreign individual generally is required to put the individual's TIN on the Form W–8BEN or Form 8233 in order to claim a reduced rate of withholding based upon a tax treaty. If a foreign individual does not have a TIN, a withholding agent who is an acceptance agent, as defined in § 301.6109–1(d)(3)(iv), can aid the foreign individual in obtaining an ITIN.

In order to lessen the administrative burden on foreign individuals receiving unexpected payments, the IRS has decided to permit certain withholding agents to enter into special acceptance agent agreements with the IRS that will allow those withholding agents, in their capacity as acceptance agents, to seek ITINs through an expedited process for these foreign individuals claiming treaty benefits. It is anticipated that any withholding agent who qualifies as an acceptance agent under § 301.6109–1(d)(3)(iv) and who anticipates making unexpected payments will be allowed to enter into such an agreement. However, the IRS intends to allow the use of the expedited process only when an application for an ITIN using the standard process will not generate an ITIN in time for the payment.

These temporary regulations provide that, in limited circumstances, a withholding agent who has entered into such a special acceptance agent agreement may rely on a beneficial owner withholding certificate without regard to the requirement that it include a TIN. Generally, these temporary regulations provide that, in order for a withholding agent to rely on a beneficial owner withholding certificate that does