

**Publication 1281**

# **BACKUP WITHHOLDING FOR MISSING AND INCORRECT NAME/TIN(S)**

**(Including instructions for reading tape  
cartridges and CD/DVD Formats)**

**Volume 3 of 5**



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## **Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)Cat. No. 10231X
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)

- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.**

Partnerships that conduct a trade or business

in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).



**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a “saving clause.” Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the

Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## **Backup Withholding**

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties,

nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## **What is FATCA Reporting?**

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## **Updating Your Information**

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the

account; for example, if the grantor of a grantor trust dies.

## **Penalties**

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.



# Specific Instructions

## Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

- a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security

card, and your new last name. **Note:**  
**ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

- b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or “doing business as” (DBA) name on line 2.
- c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.
- d. **Other entities.** Enter your name as shown on required U.S. federal tax

documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

- e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a “disregarded entity.” See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be

provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

## **Line 2**

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

## **Line 3**

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

<b>IF the entity/person on line 1 is a(n) . . .</b>	<b>THEN check the box for . . .</b>
<ul style="list-style-type: none"> <li>• Corporation</li> </ul>	Corporation
<ul style="list-style-type: none"> <li>• Individual</li> <li>• Sole proprietorship, or</li> <li>• Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.</li> </ul>	Individual/sole proprietor or singlemember LLC

<ul style="list-style-type: none"> <li>• LLC treated as a partnership for U.S. federal tax purposes,</li> <li>• LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or</li> <li>• LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.</li> </ul>	<p>Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)</p>
<ul style="list-style-type: none"> <li>• Partnership</li> </ul>	<p>Partnership</p>

• Trust/estate	Trust/estate
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## **Line 4, Exemptions**

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

### **Exempt payee code.**

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.



The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the

Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

<b>IF the payment is for . . .</b>	<b>THEN the payment is exempt for . . .</b>
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.

Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

1. See Form 1099-MISC, Miscellaneous Income, and its instructions.
2. reportable on Form 1099-MISC are not exempt from backupHowever, the following payments made to a corporation and withholding: medical and health care payments, attorneys'

fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.**

The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## **Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## **Line 6**

Enter your city, state, and ZIP code.

## **Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security



number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately.

To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7,

## Application for IRS Individual Taxpayer Identification

Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification

Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/Businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. Go to *www.irs.gov/Forms* to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to *www.irs.gov/OrderForms* to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN

and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering “Applied For” means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## **Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when

required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross

out item 2 in the certification before signing the form.

3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds

paid to attorneys (including payments to corporations).

5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons  (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>

5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup> The actual owner <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i) (A))	The grantor*
<b>For this type of account:</b>	<b>Give name and EIN of:</b>



8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other taxexempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

<b>For this type of account:</b>	<b>Give name and EIN of:</b>
<p>14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments</p>	<p>The public entity</p>

15. Grantor trust filing  
under the Form

1041 Filing Method or  
the Optional

Form 1099 Filing  
Method 2 (see

Regulations section  
1.671-4(b)(2)(i)(B))

The trust

- 
1. List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.
  2. Circle the minor's name and furnish the minor's SSN.
  3. You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line.

You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

4. List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

**\*Note:** The grantor also must provide a Form W-9 to trustee of trust.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## **Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without

your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts. If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov*. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at *spam@uce.gov* or report them at *www.ftc.gov/complaint*. You can contact the FTC at *www.ftc.gov/idtheft* or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see *www.IdentityTheft.gov* and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## **Privacy Act Notice**

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of

Justice for civil and criminal litigation and to cities, states, the District of Columbia, and



U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

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# Instructions for the Requester of Forms W- 8BEN, W-8BEN-E, W-8ECI, W- 8EXP, and W-8IMY

**(Rev. June 2022)**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to the Forms W-8 and their instructions for requesters, such as legislation enacted after they were published, go to [IRS.gov/UAC/AboutForm-W8](https://www.irs.gov/UAC/AboutForm-W8).

## What's New

**Guidance under section 1446(f).** The Tax Cuts and Jobs Act (TCJA) added section 1446(f), which generally requires that if any portion of a gain on any disposition of an interest in a partnership would be treated

under section 864(c)(8) as effectively connected gain, the transferee purchasing an interest in such a partnership from a non-U.S. transferor must withhold a tax equal to 10% of the amount realized on the disposition unless an exception to withholding applies. Section 1446(f) generally applies to transfers occurring on or after January 1, 2018. T.D. 9926 (84 FR 76910), published on

November 30, 2020, contains final regulations (section 1446(f) regulations) relating to the withholding and reporting requirements under section 1446(f), including those that apply to brokers effecting transfers of interests in publicly traded partnerships (PTPs). The section 1446(f) regulations also revise certain requirements under section 1446(a) relating to withholding and reporting on distributions made by PTPs, and expand the entities permitted to act as nominees for PTP distributions to include certain qualified intermediaries (QIs) and certain U.S.

branches. Withholding on transfers of interests in PTPs and the revisions included in the section 1446(f) regulations relating to withholding on PTP distributions under section 1446(a) apply to transfers and distributions that occur on or after January 1, 2023. See Notice 2021-51, 2021-36 I.R.B. 361. The provisions of the section 1446(f) regulations relating to withholding and reporting on transfers of interests in partnerships that are not PTPs generally apply to transfers occurring after January 29, 2021. Forms W-8 and their accompanying instructions (excluding Form W-8EXP) were updated (Rev. October 2021) to incorporate the use of those forms by brokers and transferors of partnership interests receiving payments of amounts realized for purposes of section 1446(f) and by partners and brokers receiving PTP distributions. These instructions address certain requirements of brokers and other withholding agents that make those payments

in connection with their reliance on Forms W-8.

**Section 871(m) regulations and qualified securities lenders (QSLs).** *Notice 2020-2*, 2020-3 I.R.B. 327, further extended the transition relief provided in Notice 2018-72, 2018-40 I.R.B. 522, for certain provisions of the section 871(m) regulations, generally for 2021 and 2022. Notice 2020-2 also further extended the period that a withholding agent may apply the transition rules to act as a QSL described in obsoleted Notice 2010-46, 2010-24 I.R.B. 757, Part III, for substitute dividend payments made in 2021 and 2022. As a result, the updated Form W-8IMY (Rev. October 2021) includes chapter 3 status certifications for entities acting as QSLs (applicable to either a QI or other entity acting as a QSL). The updated Instructions for Form W-8IMY also clarify when a QI may continue to claim status as a QSL in a case in which it is also a qualified derivatives dealer

(QDD) (as provided in the QI agreement) and include certain other clarifying changes relevant to section 871(m) and QSL status.

**FTIN not legally required.** Certain Forms W-8 were updated (Rev. October 2021) to include a new line, “FTIN not legally required,” for account holders otherwise required to provide a foreign taxpayer identification number (FTIN) on the form to indicate that they are not legally required to obtain an FTIN from their jurisdiction of residence.

**Nonqualified intermediary (NQI) that provides an alternative withholding statement.** The Form W-8IMY and its instructions were updated (Rev. October 2021) to allow an NQI that is to provide alternative withholding statements and beneficial owner withholding certificates for payments associated with this form to represent on the form that the information on the withholding certificates will be verified for

consistency as required under Regulations section 1.1441-1(e)(3)(iv)(C)(3) (added in T.D. 9890). A similar allowance applies to a nonwithholding foreign partnership or a nonwithholding foreign trust that provides an alternative withholding statement.

**Electronic signature.** The accompanying instructions for certain Forms W-8 were updated (Rev. October 2021) to reference additional guidance included in final regulations issued under chapter 3 (T.D. 9890) concerning reliance on withholding certificates with electronic signatures. See Regulations section 1.1441-1(e)(4)(i)(B) (added in T.D. 9890).

**Section 6050Y reporting.** The accompanying instructions for certain Forms W-8 were updated (Rev. October 2021) to reference the use of the forms by a foreign person that is a seller of a life insurance contract (or interest therein) or a foreign person that is a recipient of a reportable



death benefit for purposes of reporting under section 6050Y.

## **Purpose of Instructions**

These instructions supplement the instructions for the forms listed below and provide notes to assist withholding agents and foreign financial institutions (FFIs) in validating the forms for chapters 3 and 4 purposes. These instructions also outline the due diligence requirements applicable to withholding agents for establishing a beneficial owner's foreign status and claim for reduced withholding under an income tax treaty. These instructions are not inclusive of all requirements that may apply to a withholding agent for validating Forms W-8. A withholding agent should also reference the applicable regulations under chapters 3 and 4 and the instructions for each Form W-8 listed below.

- Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals).
- Form W-8BEN-E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities).
- Form W-8ECI, Certificate of Foreign Person's Claim That Income Is Effectively Connected With the Conduct of a Trade or Business in the United States.
- Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding and Reporting.
- Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for

## United States Tax Withholding and Reporting.

For definitions of terms not defined in these instructions, see the Forms W-8 and their accompanying instructions.



*Throughout these instructions, a reference to or mention of "Form W-8" includes Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY. References to "chapter 3" in the Forms W-8 and their accompanying instructions were generally updated to exclude sections 1445 and 1446 (which those instructions addressed separately as applicable). Thus, references to "chapter 3" in these instructions similarly exclude sections 1445 and 1446.*

These instructions reflect the regulatory changes described earlier and the updates to Forms W-8 and their

instructions and certain other changes reflected on the most current revisions to the

Form W-8 series published as of the date of publication of these instructions. Thus, different rules may apply to withholding agents with respect to prior revisions of Forms W-8 for which these regulatory changes did not yet apply, and different requirements may apply to future revisions of these forms. See *Requesting Prior Versions of Form W-8*, later, including the limitations on such use.

# **Who Is a Withholding Agent?**

Any person, U.S. or foreign, in whatever capacity acting, that has control, receipt, custody, disposal, or payment of an amount subject to withholding for chapter 3 purposes or a withholdable payment for chapter 4 purposes is a withholding agent. See Regulations section 1.1441-2(e) for what constitutes a payment, which in limited circumstances may include when there is no actual transfer of cash or property (for example, dividend equivalents). The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity, including (but not limited to) any foreign intermediary, foreign partnership, or U.S. branch of certain foreign banks and insurance companies. If several persons qualify as withholding agents for a single payment, the tax required to be withheld must only be withheld once. Generally, the person who pays (or causes to be paid) an

amount subject to withholding under chapter 3 or a withholdable payment to the foreign person (or to its agent) must withhold. See the Instructions for Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, and Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, for return filing and information reporting obligations with respect to payments made to foreign persons.

For effectively connected taxable income (ECTI) allocable to a foreign partner, the partnership (other than a PTP) is generally the withholding agent and must file Form 8804, Annual Return for Partnership Withholding Tax (section 1446); Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax; and Form 8813, Partnership Withholding Tax Payment Voucher (section 1446). For ECTI allocable to a foreign partner in a PTP, a nominee is

generally the withholding agent and must file Form 1042 and 1042-S.

On the transfer of a partnership interest (other than an interest in a PTP) to which withholding under section 1446(f) applies, the transferee is the withholding agent and must withhold 10% of the amount realized. The transferee of a non-PTP interest must file Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests; and Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests. A broker for a transfer of an interest in a PTP to which withholding applies under section 1446(f) is a withholding agent for the amount realized on the transfer and must withhold 10% of the amount realized and file Forms 1042 and 1042-S.

# **Responsibilities of a Withholding Agent To Obtain Form W-8**

## **Chapter 3 Responsibilities**

Generally, an amount is subject to withholding for purposes of chapter 3 if it is an amount from sources within the United States that is fixed or determinable annual or periodical (FDAP) income. FDAP income is in general all income included in gross income, including

interest (and original issue discount (OID)), dividends (including dividend equivalents), rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums) or items of income excluded from gross income without regard to the U.S. or foreign status of the owner of the income, such as interest under section 103(a). Amounts subject to chapter 3 withholding do not include amounts that are



not FDAP income as well as other specific items of income described in Regulations section 1.1441-2 (such as interest on bank deposits and short-term OID).

For purposes of sections 1441 and 1442, if you are a withholding agent, you must withhold 30% of any payment of an amount subject to chapter 3 withholding made to a payee that is a foreign person unless you can reliably associate the payment with documentation (for example, Form W-8 or Form W-9, Request for Taxpayer Identification Number and Certification) upon which you can rely to treat the payment as made to (a) a payee that is a U.S. person, or (b) a beneficial owner that is a foreign person entitled to a reduced rate of, or exemption from, withholding. In certain circumstances, however, you may be allowed to associate a payment with documentary evidence rather than a Form W-8 for a payment made outside the United States with respect to an offshore

obligation under Regulations section 1.6049-5(c)(1). A withholding agent must also withhold under section 1443 on certain payments to foreign tax-exempt organizations that are unrelated business taxable income or subject to the 4% excise tax imposed by section 4948.

However, a withholding agent making a payment to a foreign person need not withhold under chapter 3 if the foreign person assumes responsibility for withholding on the payment as a QI (other than a QI that is acting as a QDD, in which case withholding is not required only for a payment with respect to a section 871(m) transaction that is not an underlying security or a dividend equivalent), or if the foreign person is a withholding foreign partnership (WP), or a withholding foreign trust (WT) that has provided a valid Form W-8IMY certifying to such status. A withholding agent is not required to withhold on dividends paid in 2022 to a QI acting as a

QDD in its equity derivatives dealer capacity. The QDD's withholding statement should contain the information necessary for determining the dividends subject to withholding. See the

Instructions for Form W-8IMY for the requirements for a QDD withholding statement. Withholding under chapter 3 is also not required if the payment is made to a U.S. branch of a foreign insurance company or foreign bank or a territory financial institution that agrees to be treated as a U.S. person under the requirements of Regulations section 1.1441-1(b)(2)(iv)(A) and provides a valid Form W-8IMY certifying to such status.

## **Chapter 4 Responsibilities**

For purposes of chapter 4, if you are a withholding agent, you must withhold 30% of any payment that is a withholdable payment (as defined in Regulations section 1.1473-1(a)) made to a nonparticipating FFI that is

not an exempt beneficial owner or to a non-financial foreign entity (NFFE) that is not an excepted NFFE and does not disclose its substantial U.S. owners (or certify that it has no substantial U.S. owners). In addition, if you are a withholding agent and also a participating FFI, you must withhold to the extent required under Regulations section 1.1471-4(b) and the FFI agreement, which, in addition to the requirements described in the previous sentence, require withholding on withholdable payments made to recalcitrant account holders.

You must determine if a payment is a withholdable payment without regard to any exceptions from withholding applicable under chapter 3. For each such withholdable payment, you must obtain a Form W-8 (or other documentation permitted under Regulations section 1.1471-3(d)) upon which you are permitted to rely under chapter 4 to determine the chapter 4 status of a payee

that is a foreign person for purposes of whether withholding applies under chapter 4. Thus, a determination of whether a Form W-8 is valid for purposes of providing an exemption from chapter 4 withholding is a separate determination from whether the Form W-8 may be relied upon to provide an exemption from (or reduction in) withholding under chapter 3. For purposes of determining whether withholding under chapter 4 applies to a payment to a QI, WP, or WT, the exceptions in chapter 3 for QIs, WPs, and WTs will apply, provided the entity includes its chapter 4 status on Form W-8IMY. See also *Notes for Validating Form W-8IMY* under *Form W-8IMY*, later, for the requirements for withholdable payments made to certain U.S. branches that act as intermediaries.

## **Section 1446(a) and (f) Responsibilities**

Section 1446(a) requires a partnership conducting a trade or business in the United

States to withhold tax on a foreign partner's allocable share of the partnership's ECTI at the highest tax rate applicable to that person for the type of income allocated (for example, ordinary income or capital gains) in accordance with the provisions of Regulations sections 1.1446-1 through 1.1446-6. For a partnership that is not a PTP, the partnership must withhold in the year the ECTI is allocable to the foreign partner, whether or not there is a distribution. In contrast, if the partnership is a PTP, the partnership withholds in the year in the ECTI is distributed to the foreign partner, not in the year the ECTI is allocable to the foreign partner.

Section 1446(f) generally requires a transferee of a partnership interest (or a broker in the case of a transfer of a PTP interest) to withhold on the amount realized from the transfer by a foreign person when any portion of the gain from the transfer

would be treated as effectively connected gain under section 864(c)(8).

To avoid being subject to the default withholding rules under section 1446(a) or (f), a partner must provide a certification to the partnership or transferee, respectively. A U.S. person that submits a valid Form W-9 generally will not be subject to withholding under section 1446(a) or (f). Generally, a foreign person that is a partner in a partnership that submits a Form W-8 for purposes of section 1441 or 1442 will satisfy the documentation requirements under section 1446(a) or (f) as well. However, in some cases the documentation requirements of sections 1441 and 1442 do not match the documentation requirements of section 1446(a) or (f). See Regulations sections 1.1446-1 through 1.1446-6 (for documentation requirements under section 1446(a)) and Regulations sections 1.1446(f)-2 and 1.1446(f)-4 (for documentation

requirements under section 1446(f)). For example, a Form W-8 provided by a partner (including a partner that is a partnership or trust) for section 1446(a) or (f) purposes must include the partner's U.S. TIN to be a valid form to qualify for a preferential rate of withholding (to the extent applicable), which you may also rely upon when included on a separate statement associated with an otherwise valid Form W-8. This statement may be provided by a partner that obtains a partnership interest after providing to you an otherwise valid Form W-8. A separate statement for providing a U.S. TIN must indicate that it relates to the applicable Form W-8. See, however, Regulation section 1.1441-1(e)(4)(vii) for when a U.S. TIN is required on a Form W-8 to be a valid form for chapter 3 purposes. See also Regulations section 1.1446(f)-4(a)(5) for when you may rely on a Form W-8 or Form W-9 furnished by a U.S. clearing organization for a member of the clearing organization for purposes of your



requirement (as a broker) to withhold on the transfer of a PTP interest. A requirement to withhold under section 1446(f) will not apply if you are a broker paying an amount realized on the sale of a PTP interest regardless of whether you obtain a valid Form W-8 when the PTP publishes a qualified notice representing that the “10%” exception to withholding under section 1446(f) applies (when applicable to the period in which the sale is made). See Regulations section 1.1446(f)-4(b)(3).

## **Other Uses of Form W-8**

**Chapter 61 and section 3406.** The Form W-8 you collect may also be used to establish a person's status for purposes of domestic information reporting under chapter 61 and backup withholding under section 3406, including for a payment settlement entity to determine whether a participating payee is a foreign person for purposes of section 6050W and whether a reportable policy sale recipient

or reportable death benefits recipient is a foreign person for purposes of the reporting required under section 6050Y. In general, if you receive a Form W-8 that you can reliably associate with the payment and are permitted to rely upon (generally under the standards for foreign status claims for chapter 3 purposes), you are exempt from reporting the payment on a Form 1099 and withholding under section 3406.

**FFI documenting account holders.** If you are an FFI maintaining a financial account, you may be required to perform due diligence procedures to identify and document the account holder under the chapter 4 regulations or an applicable intergovernmental agreement (IGA) even if you are not making a payment to the account holder that is subject to withholding. You may use Form W-8 to document the chapter 4 status of an account holder and to validate a claim of foreign status made by the account

holder, such as when the account has certain U.S. indicia. For example, a participating FFI may treat an individual account holder claiming foreign status that has U.S. indicia (as described in Regulations section 1.1471-4(c)(5)(iv)(B)) as a foreign person for purposes of the FFI's U.S. account reporting requirements (that is, Form 8966) when the individual provides a Form W-8BEN and certain documentary evidence establishing foreign status.

If you are an FFI documenting an account holder of an account that you determine is excepted as a financial account under Regulations section 1.1471-5(b)(2), a Form W-8 (or other permitted documentation for chapter 4 purposes) is not required unless the form is associated with amounts subject to withholding under chapter 3. In such a case, a valid chapter 4 status (including that the account is not a financial account) is not required to be provided on the form.

## Requesting Form W-8

Generally, if you are making a payment of an amount subject to chapter 3 withholding or a withholdable payment, you must withhold as required at the 30% rate under chapter 3 or 4 unless you can reliably associate the payment with a Form W-8 or other permitted documentation to permit withholding at a reduced rate or an exemption from withholding. You can reliably associate a payment with a Form W-8 if you hold a valid form that contains the information required for purposes of chapter 3 or 4 (as applicable), you can reliably determine how much of the payment relates to the form, and you may rely upon the form under the due diligence requirements. See *Due Diligence Requirements in General*, later.

You should request a Form W-8 from any person to whom you are making a payment that you believe to be a foreign person. You should request the form before making a

payment so that you have the form when you make the payment. See, however, Regulations sections 1.1441-1(b)(7)(ii) and 1.1471-3(c)(7)(ii) for when you may be able to rely on a Form W-8 obtained after the date of a payment to support reduced withholding for chapter 3 or 4 purposes.

A withholding agent or payor that fails to obtain a valid Form W-8 or Form W-9 and fails to withhold as required under the presumption rules may be assessed tax at the 30% rate under chapter 3 or 4 or the 24% backup withholding rate under section 3406 (as of the revision date of these instructions), as well as interest and penalties for lack of compliance. If you are a partnership that fails to withhold on ECTI allocable to a foreign partner as required under section 1446(a) or are a broker or transferee that fails to withhold as required under section 1446(f), you will be liable for the tax required to be withheld. A nominee for a PTP distribution

may also be liable for failing to withhold to the extent required on the distribution under Regulations section 1.1446-4. In addition under applicable regulations to section 1446(a) or (f), you may in certain cases be liable for interest, penalties, and additions to the tax even if there is no underlying tax liability due from a foreign partner on its allocable share of the partnership's ECTI or from the transferor on the transfer of a partnership interest.

If you are a withholding agent making a payment of an amount subject to chapter 3 withholding or a withholdable payment and you make the payment to an intermediary, you must obtain documentation from such intermediary (including the intermediary's chapter 4 status if the payment is a withholdable payment), as well as any required documentation for the beneficial owner(s) of the payment to the extent required under the chapter 3 or 4 regulations.

Do not send Forms W-8 to the IRS. Instead, keep the forms in your records for as long as they may be relevant to the determination of your liability under section 1461 (for amounts subject to chapter 3 withholding), section 1474 (for withholdable payments), or Regulations section 1.1471-4(c)(2)(iv) (for an FFI documenting account holders). See, however, section 1.1446(f)-2(b)(7) for the requirement to furnish a certification for claiming treaty benefits to the IRS on the transfer of an interest in a partnership (other than a PTP) subject to section 1446(f).

**Form W-8 provided or signed electronically.** You may rely on a valid Form W-8 received by facsimile or scanned and furnished to you by email unless you know that the person transmitting the Form W-8 is not authorized to do so.

You may also rely on an otherwise valid Form W-8 received electronically from a third-party repository if the form was uploaded or

provided to the third-party repository and there are processes in place to ensure that the withholding certificate can be reliably associated with a specific request from you and a specific authorization from the person providing the form (or an agent of the person providing the form) for you to receive the withholding certificate. Notwithstanding the preceding sentence, you do not need a specific authorization for each payment to be associated with the withholding certificate when you are permitted to rely on the withholding certificate on an obligation-by-obligation basis or as otherwise permitted under Regulations section 1.1441-1(e)(4)(ix). You may also rely on a withholding statement received from a third-party repository if the intermediary provides a Form W-8IMY and withholding statement through the repository, provides an updated withholding statement to you in the event of any change in the information previously provided, and ensures there are processes in place to update you



when there is a new withholding statement (and Forms W-8, as necessary) in the event of any change that would affect the validity of the prior forms or withholding statement. For purposes of this paragraph, a third-party repository is an entity that maintains withholding certificates but is not an agent of the applicable withholding agent or the person providing the certificate. See Regulations section 1.1441-1(e)(4)(iv) (E) for the complete requirements for relying on a withholding certificate from a third-party repository.

If you are a withholding agent that maintains a system for furnishing Forms W-8 electronically, you must satisfy the requirements of Regulations section 1.1441-1(e)(4)(iv) (B). You may otherwise accept a Form W-8 with an electronic signature, provided the electronic signature meets the requirements of Regulations section 1.1441-1(e)(4)(iv)(B)(3)(ii). The withholding

certificate must reasonably demonstrate that the form has been electronically signed by the recipient identified on the form (or a person authorized to sign for the recipient). For example, a withholding agent may treat as signed for purposes of the requirements of a valid withholding certificate, a withholding certificate that has in the signature block the name of the person authorized to sign, a time and date stamp, and a statement that the certificate has been electronically signed. You may not treat a Form W-8 with a typed name in the signature line as validly signed without further information supporting that the signature is an electronic signature. You may also rely on an electronically signed withholding certificate based on additional information or documentation that you have no actual knowledge to be incorrect. See Regulations section 1.1441-1(e)(4)(i)(B).

## **Requesting Prior Versions of Form W-8**

If the IRS issues an updated version of a Form W-8, you may accept the prior version of the form until the later of 6 full months after the revision date shown on the form or the end of the calendar year the updated form is issued (based on the revision date shown on the form), unless the IRS has issued guidance that affects the period for acceptance of the prior version (for example, if a new payee status is required under revised regulations that is not in the prior version and is relevant to the payee's claim).

# **Due Diligence Requirements for Reliance on Forms W-8**

When you receive a completed Form W-8, you must review it for completeness and accuracy with respect to the claims made on the form, as well as any information attached to the form, such as withholding statements and beneficial owner withholding certificates associated with a Form W-8IMY. In general, you may rely on the information and certifications provided on the form unless you have actual knowledge or reason to know that the information is unreliable or incorrect. If you know or have reason to know that any information is unreliable or incorrect, you must obtain a new Form W-8 or other appropriate documentation. You may accept a valid Form W-8 for chapter 3 or 61 purposes (or for backup withholding purposes) that does not contain a valid chapter 4 status with respect to payments that are not withholdable payments.

**Reason to know.** In general, you have reason to know that a Form W-8 is unreliable or incorrect if:

- The form is incomplete with respect to any item that is relevant to the claims made;
- The form contains any information that is inconsistent with the claims made;
- The form lacks information necessary to establish that the beneficial owner is entitled to a reduced rate of withholding; or
- You have other account information that is inconsistent with the claims made, or you have knowledge of relevant facts or statements contained in the withholding certificate or other documentation that would cause a reasonably prudent person in your position to question the claims made. For example, if you have information

in your records that contradicts information provided on the form, you may not rely on the form.

With respect to a claim for benefits under an income tax treaty, your reason-to-know requirement that the treaty claim is unreliable or incorrect includes when the beneficial owner claims benefits under a treaty that does not exist or is not in force. For this purpose, you may use the list maintained at [IRS.gov/businesses/internationalbusinesses/united-states-income-tax-treaties-a-to-z](https://www.irs.gov/businesses/internationalbusinesses/united-states-income-tax-treaties-a-to-z) to check whether a treaty exists and is in force.

***Limitations on reason to know for certain entities.*** If you are a financial institution (as defined in Regulations section 1.1471-5(e)), insurance company, or broker or dealer in securities maintaining an account for a direct account holder that is the beneficial owner of the payment, and you make a payment of U.S. source FDAP income to the direct account holder, you have reason to know that

a Form W-8 that is a beneficial owner withholding certificate (excluding Form W-8ECI) is unreliable or incorrect for establishing foreign status (or residency in a treaty country in item 4, directly below) only if one or more of the following circumstances exist. See also Regulations section 1.1441-7(b)(3)(ii) for special rules that apply to preexisting obligations (as defined for such purpose).

1. You have classified the account holder claiming foreign status as a U.S. person in your account information, the Form W-8 has a current permanent residence address or a current mailing address in the United States, you have a current residence or current mailing address in the United States as part of the account information, the direct account holder notifies you of a new residence or mailing address in the United States, or, only to the extent described in Regulations section 1.1441-7(b)(5), you have a U.S. telephone

number as the sole telephone number for the account holder. However:

a. An individual who has provided a Form W-8BEN may be treated as a foreign person if:

- i. You have in your possession or obtain documentary evidence establishing foreign status (as described in Regulations section 1.1471-3(c)(5)(i)) that does not contain a U.S. address, and the individual provides you with a reasonable explanation, in writing, supporting his or her claim of foreign status;
- ii. For a payment made outside the United States with respect to an offshore obligation (as defined in Regulations section 1.6049-5(c)(1)), you have in your possession or obtain documentary evidence establishing foreign status (as described in Regulations section 1.1471-3(c)(5)(i)) that does not contain a U.S. address;
- iii.



For a payment made with respect to an offshore obligation (as defined in Regulations section 1.6049-5(c) (1)), you classify the individual as a resident of the country where the obligation is maintained, you are required to report payments made to the individual annually on a tax information statement that is filed with the tax authority of the country in which the obligation is maintained, and that country has an income tax treaty or information exchange agreement in effect with the United States; or

iv. For a case in which you have classified the account holder as a U.S. person in your account information, you have in your possession or obtain documentary evidence (as described in Regulations section 1.1471-3(c)(5)(i)(B)) demonstrating citizenship in a country other than the United States.

b. You may treat an entity that has provided you with a Form W-8BEN-E as a foreign person if you do not know or have reason to know that the entity is a flow-through entity and:

- i. You have in your possession or obtain documentation establishing foreign status that substantiates that the entity is actually organized or created under the laws of a foreign country; or
- ii. For a payment made with respect to an offshore obligation (as defined in Regulations section 1.6049-5(c) (1)), you classify the entity as a resident of the country in which the account is maintained, you are required to report a payment made to the entity annually on a tax information statement that is filed with the tax authority of the country in which the obligation is maintained, and that country has an income tax treaty or tax information

exchange agreement in effect with the United States.

2. The form is provided with respect to an offshore obligation (as defined in Regulations section 1.6049-5(c) (1)) and the direct account holder has provided standing instructions directing you to pay amounts from its account to an address in, or an account maintained in, the United States, unless the account holder provides either a reasonable explanation in writing that supports its foreign status or documentary evidence establishing its foreign status (as described in Regulations section 1.1471-3(c)(5)(i)).

3. The Form W-8BEN is provided by an individual that is a direct account holder and is used to establish foreign status and you have, either on accompanying documentation or as part of your account information, an unambiguous indication of a place of birth for the individual in the

United States, unless you have in your possession or obtain documentary evidence (described in Regulations section 1.1471-3(c)(5)(i)(B)) demonstrating citizenship in a country other than the United States and either:

- a. A copy of the individual's Certificate of Loss of Nationality of the United States, or
- b. A reasonable written explanation of the account holder's renunciation of U.S. citizenship or the reason the account holder did not obtain U.S. citizenship at birth.

4. The Form W-8 is provided by a direct account holder and is used to establish residence in a treaty country and:

- a. The permanent residence address on the form is not in the treaty country or the direct account holder notifies you of a new permanent residence address that is not in the treaty country, unless the direct

account holder provides a reasonable explanation for the permanent residence address outside the treaty country or you have in your possession, or obtain, documentary evidence (described in Regulations section 1.1471-3(c)(5)(i)) that establishes residency in the treaty country.

b. The permanent residence address is in the treaty country, but the mailing address on the form is not in the treaty country or you have a current mailing address that is not in the treaty country as part of your account information for the direct account holder, unless:

i. You have in your possession, or obtain, documentary evidence (as described in Regulations section 1.1471-3(c)(5)(i)) supporting the claim of residence in the treaty country and the additional documentation does not contain an address outside the treaty country;

- ii. You have in your possession, or obtain, documentation that establishes that the direct account holder is an entity organized in a treaty country (or an entity managed and controlled in a treaty country, if required by the applicable treaty);
  - iii. You know that the address outside the treaty country (other than a P.O. box or in-care-of address) is a branch of the direct account holder that is a resident of the treaty country; or
  - iv. The direct account holder provides a written statement that reasonably establishes entitlement to treaty benefits.
- c. The direct account holder has standing instructions for you to pay amounts from the account to an address or account outside the treaty country unless the account holder provides a reasonable explanation, in writing, establishing the account holder's residence in the applicable treaty country or you have in your possession or obtain documentary

evidence (described in Regulations section 1.1471-3(c)(5)(i)) establishing the account holder's residence in the applicable treaty country.

Where required, a reasonable explanation supporting an individual's claim of foreign status means a written statement prepared by the individual, or, in the alternative, a checklist provided by you and completed by the individual stating that the individual meets one of the requirements listed in Regulations section 1.1441-7(b) (12)(i) through (iv).

For additional information on the standards of knowledge for chapter 3 purposes for relying on a claim of foreign status or a claim of residency in a treaty country and limitations on reason to know, see Regulations sections 1.1441-6(b)(1) and 1.1441-7(b). For additional information on the standards of knowledge for Forms W-8 provided for

chapter 4 purposes, see Regulations section 1.1471-3(e).

**Hold mail instruction.** An address that is provided subject to an instruction to hold all mail to that address is not a permanent residence address, such that you may not rely upon the Form W-8. However, the address can be used as a permanent residence address if the person has provided you with the documentary evidence required for this purpose, which differs depending on whether the Form W-8 includes a treaty claim but which need not include a permanent residence address. See Regulations section 1.1441-1(c)(38)(ii). If, after a Form W-8 is provided, a person's permanent residence address is subsequently subject to a hold mail instruction, this is a change in circumstances requiring the person to provide the documentary evidence described in the preceding sentence in order to use the address as a permanent residence address.



**Dual claims under a tax treaty.** If you are making payments to a foreign entity that is simultaneously claiming a reduced rate of tax under a tax treaty on its own behalf and a separate treaty claim on behalf of its interest holders for different payments or for different portions of the same payment, you may accept the dual claims even though you hold different withholding certificates that require you to treat the entity inconsistently.

Alternatively, you may choose to apply only the claim made by the entity, provided that the entity may be treated as the beneficial owner of the income. If, however, inconsistent claims are made for the same portion of a payment, you may either reject both claims and request consistent claims for that portion of the payment, or you may choose which reduction in rate to apply.

# **Requirements for Obtaining and Verifying a Global Intermediary Identification Number (GIIN)**

If you receive a Form W-8BEN-E, W-8IMY, or W-8EXP from an entity payee claiming certain chapter 4 statuses, you must obtain and verify the entity's GIIN against the published IRS FFI list. See Regulations section 1.1471-3(e)(3). You must obtain and verify the GIIN for the following chapter 4 statuses.

- Participating FFIs (including reporting Model 2 FFIs).
- Registered deemed-compliant FFIs (including reporting Model 1 FFIs).
- Direct reporting NFFEs.
- Sponsored direct reporting NFFEs.
- Certain nonreporting IGA FFIs (as described below).

If you receive a Form W-8BEN-E or Form W-8IMY from a nonreporting IGA FFI that is a trustee-documented trust that indicates its trustee is foreign, you must obtain a GIIN of the trustee on the form.

If you receive a Form W-8 from a nonreporting IGA FFI that checks Model 2 IGA in Part XII of Form W-8BEN-E, Part XIX of Form W-8IMY, or Part III, line 15, of Form W-8EXP (as applicable), and identifies a category of entity that is a registered deemed-compliant FFI under Annex II of an applicable Model 2 IGA, you must obtain and verify the GIIN of the nonreporting IGA FFI against the published IRS FFI list.

Additionally, if you receive a Form W-8BEN-E or Form W-8IMY from a nonreporting IGA FFI that provides a citation to a section of the Regulations for its registered deemed-compliant status in Part XII of Form W-8BEN-E or Part XIX of Form W-8IMY (as applicable) or the FFI identifies itself as a registered

deemed-complaint FFI in Part I, line 4, of Form W-8EXP, you must obtain and verify the GIIN of the nonreporting IGA FFI against the published IRS FFI list. See Regulations section 1.1471-1(b)(83) for the definition of nonreporting IGA FFI and Regulations section 1.1471-3(d)(7)(i) for the documentation requirements for nonreporting IGA FFIs