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This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information as a courtesy. **Do not file draft forms.** Also, do not rely on draft instructions and publications for filing. We generally do not release drafts of forms until we believe we have incorporated all changes. However, unexpected issues sometimes arise, or legislation is passed, necessitating a change to a draft form. In addition, forms generally are subject to OMB approval before they can be officially released. Drafts of instructions and publications usually have at least some changes before being officially released.

Early releases of draft forms and instructions are at IRS.gov/draftforms. Please note that drafts may remain on IRS.gov even after the final release is posted at IRS.gov/downloadforms, and thus may not be removed until there is a new draft for the subsequent revision. All information about all revisions of all forms, instructions, and publications is at IRS.gov/formspubs.

Almost every form and publication also has its own easily accessible information page on IRS.gov. For example, the Form 1040 page is at IRS.gov/form1040; the Form W-2 page is at IRS.gov/w2; the Publication 17 page is at IRS.gov/pub17; the Form W-4 page is at IRS.gov/w4; the Form 8863 page is at IRS.gov/form8863; and the Schedule A (Form 1040) page is at IRS.gov/schedulea. If typing in the links above instead of clicking on them: type the link into the address bar of your browser, not in a Search box; the text after the slash must be lowercase; and your browser may require the link to begin with “www.”. Note that these are shortcut links that will automatically go to the actual link for the page.

If you wish, you can submit comments about draft or final forms, instructions, or publications on the Comment on Tax Forms and Publications page on IRS.gov. We cannot respond to all comments due to the high volume we receive, but we will carefully consider each one. Please note that we may not be able to consider many suggestions until the subsequent revision of the product.

2017

Instructions for Form 1042-S

Department of the Treasury
Internal Revenue Service

Foreign Person's U.S. Source Income Subject to Withholding

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

Future Developments

For the latest information about developments related to Form 1042-S, and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form1042-S*.

General Instructions

CAUTION *Except as otherwise provided in these instructions, use the 2017 Form 1042-S only for amounts paid during 2017. Do not use the 2017 Form 1042-S for amounts paid during 2016.*

What's New

Unique form identifier. Beginning in 2017, withholding agents will be required to assign a unique identifying number to each Form 1042-S they file. This identifying number is used, for example, to identify which information return is being corrected or amended when multiple information returns are filed by a withholding agent with respect to the same recipient. The unique identifying number cannot be the recipient's U.S. or foreign TIN. The unique identifying number must be numeric. The length of a given identifying number must be exactly 10 digits.

Amended returns. Beginning in 2017, withholding agents filing an amended return must indicate the amendment number (see top of form below title, to the right of the "Amended return" checkbox).

Pro-rata reporting. The "Pro-Rata Reporting" box was moved from the top of the form (below the title) down to new box 15.

Qualified derivatives dealers (QDDs). To facilitate implementation of the withholding requirements associated with QDDs, the instructions add (i) a new chapter 3 exemption code that applies for payments to a QDD; (ii) a new chapter 3 status code for a QDD; and (iii) new pooled reporting codes that QDDs should use to report certain dividend equivalent offsetting payments. For more information on the use of these codes, see *Boxes 3a and 4a, Chapter 3 and Chapter 4 Exemption Codes,* and *Boxes 13f and 13g, Recipient's Chapter 3 and Chapter 4 Status Codes,* later. For more information on the withholding and reporting requirements associated with payments made to and by QDDs, see Revenue Procedure 201X-XX.

Other changes to codes. Income code 54 has been changed from "Other income" to "Substitute payments - interest from certain actively traded or publicly offered securities." Withholding agents should use income code 23 (Gross income - Other) to report payments of income for which no other income code applies. Withholding agents should use code 54 to report payments of interest on actively traded or publicly offered securities if the interest is described in Treasury Regulations section 1.1441-6(c)(2) and the withholding agent reduced the rate of withholding under an income tax treaty.

A chapter 4 exemption code has been added for payments that are not subject to chapter 4 withholding and for which no other chapter 4 exemption code applies. For more information on using this exemption code, see *Boxes 3a and 4a, Chapter 3 and Chapter 4 Exemption Codes,* later. The chapter 4 exemption codes for excluded payments on offshore obligations and collateral have been removed as these exemptions do not apply after the 2016 calendar year. See Treasury Regulations section 1.1473-1(a)(4)(vi) and (vii). The chapter 4 status codes for limited FFIs and branches that are treated as nonparticipating FFIs have also been removed as these are not valid statuses for purposes of chapter 4 after the 2016 calendar year. See Notice 2015-66.

List of foreign country codes. Beginning in 2017, Form 1042-S filers will use the same list of country codes used on other IRS forms (for example, Forms 926, 1118, 3520, and 8805). This list of foreign country codes may be found at *www.irs.gov/countrycodes*.

Note. Although the list of country codes is maintained by Modernized e-File, Form 1042-S filers who file electronically will continue to use the FIRE system. Also, if applicable, the option to file Form 1042-S by paper is still available.

Foreign taxpayer identifying number and date of birth. Beginning in 2017, a financial institution that files a Form 1042-S with respect to a payment on an obligation that it maintains at its U.S. office or U.S. branch must collect and report the recipient's foreign taxpayer identifying number (FTIN) and date of birth (if the recipient is an individual). See *Box 13i, Recipient's Foreign Taxpayer Identifying Number,* and *Box 13l, Recipient's Date of Birth,* later for additional information on this requirement.

Amount repaid to recipient. The instructions now clarify that a withholding agent that repays overwithheld tax to a recipient under the set-off procedure should report the repayment in box 11 if the repayment is made in the year following the calendar year of overwithholding. See *Box 11, Amount Repaid to Recipient,* later, and the instructions to Form 1042 for more information.

Combined reporting procedures. For special procedures for using combined information reporting by successor entities in certain situations following a merger or acquisition, see *Combined reporting procedures,* later.

Reminders

Foreign Account Tax Compliance Act (FATCA). Beginning in 2014, the Form 1042-S was modified to accommodate reporting of payments and amounts withheld under the provisions commonly known as FATCA or Chapter 4 of the Internal Revenue Code (chapter 4) in addition to those amounts required to be reported under Chapter 3 of the Internal Revenue Code (chapter 3). Form 1042-S requires the reporting of an applicable exemption to the extent withholding under chapter 4 did not apply to a payment of U.S source fixed or determinable annual or periodical (FDAP) income (including

deposit interest) that is reportable on Form 1042-S. For withholding agents, intermediaries, flow-through entities, and recipients, Form 1042-S requires that the chapter 3 status (or classification) and, when the payment reported is a withholdable payment, the chapter 4 status, be reported on the form according to the codes provided in these instructions. For the requirement of a withholding agent to file a Form 1042-S for chapter 4 purposes, see Regulations section 1.1474-1(d).

Interest on deposits. Beginning January 1, 2013, deposit interest described in section 871(i)(2)(A) aggregating $10 or more paid to certain nonresident alien individuals with respect to a deposit maintained at an office within the United States and held by a resident of certain countries must be reported on Form 1042-S. For more information, see *Interest on deposits*, later.

Substitute forms. A substitute form furnished to a recipient must conform in format and size to the official IRS form and contain the exact same information as the copy filed with the IRS. However, the size of the form may be adjusted if the substitute form is presented on a landscape oriented page instead of portrait. Only one Form 1042-S may be submitted per page, regardless of orientation. Withholding agents that furnish a substitute Form 1042-S (Copy B, C, or D) to the recipient must furnish a separate substitute Form 1042-S for each type of payment of income (as determined by the income code in box 1). Withholding agents are no longer permitted to combine all payments of income on a single substitute Form 1042-S. For more information, see *Substitute Forms,* later.

Account-by-account reporting by U.S. financial institutions. For amounts paid on or after January 1, 2016, a U.S. financial institution or a U.S. branch of a foreign financial institution maintaining an account within the U.S. is required to report payments of the same type of income (as determined by the income code in box 1) made to multiple financial accounts held by the same beneficial owner on separate Forms 1042-S for each account. See *Account-by-Account Reporting by Certain Financial Institutions,* later.

Withholding agent's status codes. Beginning in 2016, withholding agents must enter both a chapter 3 and chapter 4 status code regardless of the type of payment being made. Also, new status codes have been added under chapter 3 (code 34) and chapter 4 (code 50) for payments made by a foreign branch of a U.S. financial institution. See *Boxes 12b and 12c, Withholding Agent's Chapter 3 and Chapter 4 Status Code,* later.

Recipient country code. Beginning in 2016, if the recipient is unknown, leave box 13b, Recipient's Country Code, blank and enter "Unknown Recipient" in box 13a, Recipient's name.

Treaty claims and limitation on benefits articles. Beginning in 2016, withholding agents that are withholding at a reduced rate based on a treaty claim by an entity must include a limitation on benefits code (LOB code) in box 13j for the recipient when they receive documentation establishing the applicable limitation on benefits provision of the treaty. Withholding agents are not, however, required to obtain new documentation unless they are otherwise required to renew such documentation. See *Box 13j, LOB Code,* later.

FIRE System. For files submitted on the FIRE System, it is the responsibility of the filer to check the status within 5 business days to verify the results of the transmission. The IRS will not mail error reports for files that are bad.

Purpose of Form

Use Form 1042-S to report income described under *Amounts Subject to Reporting on Form 1042-S,* later, and to report amounts withheld under chapter 3 or chapter 4.

Use Form 1042-S to report specified Federal procurement payments paid to foreign persons that are subject to withholding under section 5000C.

Use Form 1042-S to report payments of eligible deferred compensation items or distributions from nongrantor trusts to covered expatriates that are subject to withholding under section 877A. See *Box 1, Income Code,* later.

Use Form 1042-S to report certain distributions that are made by publicly traded trusts and qualified investment entities (as defined under section 897(h)(4)). See *Distributions Attributable to the Disposition of a U.S. Real Property Interest (Section 1445 Withholding Tax),* later.

Also use Form 1042-S to report distributions of effectively connected income by a publicly traded partnership or nominee. See *Publicly Traded Partnerships (Section 1446 Withholding Tax),* later.

CAUTION *Every person required to deduct and withhold any tax under chapter 3 or chapter 4 is liable for such tax.*

Do not use Form 1042-S to report an item required to be reported on any of the following forms.

- Form W-2 (wages and other compensation made to employees (other than compensation for dependent personal services for which the beneficial owner is claiming treaty benefits), including wages in the form of group-term life insurance).
- Form 1099.
- Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests, or Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax. Withholding agents otherwise required to report a distribution partly on a Form 8288-A or Form 8805 and partly on a Form 1042-S may instead report the entire amount on Form 8288-A or Form 8805.
- Form 8966, FATCA Report. Foreign financial institutions (FFIs), sponsoring entities of certain FFIs and other foreign entities, and withholding agents are required to report on Form 8966 certain account holders and payees. An FFI or withholding agent may also be required to file Form 1042-S to report payments of U.S. source FDAP income made to such persons and to report tax deducted and withheld, if any.

Who Must File

Every withholding agent (defined in *Definitions*, later) must file an information return on Form 1042-S to report amounts paid during the preceding calendar year that are described under *Amounts Subject to Reporting on Form 1042-S*, later. However, withholding agents who are individuals are not required to report a payment on Form 1042-S if they are not making the payment as part of their trade or business and no withholding is required to be made on the payment. For example, an individual making a payment of interest that qualifies for the portfolio interest exception from withholding is not required to report the payment if the portfolio interest is paid on a loan that is not connected to the individual's trade or business. However, an individual who is a withholding agent paying an amount that actually has been subject to withholding is required to report the payment. Also, an individual

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paying an amount on which withholding is required must report the payment, whether or not the individual actually withholds. See *Multiple Withholding Agent Rule*, later, for exceptions to reporting when another person has reported the same payment to the recipient.

You must file a Form 1042-S even if you did not withhold tax under chapter 3 because the income was exempt from tax under a U.S. tax treaty or the Code, including the exemption for income that is effectively connected with the conduct of a trade or business in the United States, or you released the tax withheld to the recipient. For exceptions, see *Amounts That Are Not Subject to Reporting on Form 1042-S*, later.

Amounts paid to an individual that is a bona fide resident of a U.S. possession or territory are not subject to reporting on Form 1042-S if the beneficial owner of the income is a U.S. citizen, national, or resident alien (such amounts may be subject to Form 1099 reporting).

CAUTION *If you file Form 1042-S, you also must file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons. See Form 1042 and instructions for more information.*

Where, When, and How To File

Forms 1042-S, whether filed on paper or electronically, must be filed with the Internal Revenue Service by March 15, 2018. You also are required to furnish Form 1042-S to the recipient of the income by March 15, 2018.

Copy A is filed with the Internal Revenue Service. Send all paper Forms 1042-S with Form 1042-T, Annual Summary and Transmittal of Forms 1042-S, to the address in the Form 1042-T instructions. You must use Form 1042-T to transmit paper Forms 1042-S. Use a separate Form 1042-T to transmit each type of Form 1042-S. See *Payments by U.S. Withholding Agents*, later, and the Form 1042-T instructions for more information. If you are a financial institution or you have 250 or more Forms 1042-S to file (irrespective of whether you are a financial institution or not), follow the instructions under *Electronic Reporting*, later.

TIP *Attach only Copy A to Form 1042-T. Copies B, C, and D should be provided to the recipient of the income. Copy E should be retained by the withholding agent. All copies must match the copy filed with the IRS. Any differences between the copy of the form issued to recipients and the copy filed with the IRS will lead to delays in processing the recipient's tax return. The IRS may disallow claims for refund or credit for amounts withheld reported on Form 1042-S if the form attached to such claims differs from the copy that was filed with the IRS.*

With respect to a withholdable payment, the recipient copy should be provided to the intermediary or flow-through entity named as a recipient with respect to a chapter 4 reporting pool, if applicable.

Extension of time to file. To request an extension of time to file Forms 1042-S, file Form 8809, Application for Extension of Time To File Information Returns. See the Form 8809 instructions for where to file that form. You should request an extension as soon as you are aware that an extension is necessary, but no later than the due date for filing Form 1042-S. By filing Form 8809, you will get an automatic 30-day extension to file Form 1042-S. If you need more time, a second Form 8809 may be submitted before the end of the initial extended due date. See Form 8809 for more information.

Recipient copies. You may request an extension of time to provide the statements to recipients by sending a letter to:

Internal Revenue Service
Information Returns Branch
Attn: Extension of Time Coordinator
240 Murall Drive Mail Stop 4360
Kearneysville, WV 25430

See *Extension to provide statements to recipients* in Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

CAUTION *See Pub. 1187, Specifications for Filing Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, Electronically, for more information about filing extension requests electronically instead of on Form 8809.*

Electronic Reporting

If you are either a person (including a corporation, partnership, individual, trust, or estate) that is required to file 250 or more Forms 1042-S, or a financial institution, whether U.S. or foreign, you are required to submit Forms 1042-S electronically.

Electronic submissions are filed using the Filing Information Returns Electronically (FIRE) System. The FIRE System operates 24 hours a day, 7 days a week, at *fire.irs.gov*. For more information, see Pub. 1187.

The electronic filing requirement applies separately to original and amended returns. For a withholding agent other than a financial institution, the filing requirement applies individually to each reporting entity as defined by its separate taxpayer identification number (TIN). For example, if you have 300 original Forms 1042-S, they must be filed electronically. However, if 200 of those forms contained erroneous information, the amended returns may be filed on paper forms because the number of amended Forms 1042-S is less than the 250-or-more filing requirement.

CAUTION *If you file electronically, do not file the same returns on paper. Duplicate filing may cause penalty notices to be generated.*

Note. Even though as many as 249 Forms 1042-S may be submitted on paper to the IRS by a filer other than a financial institution, the IRS encourages filers to transmit forms electronically.

Hardship waiver. To receive a hardship waiver from the required filing of Forms 1042-S electronically, submit Form 8508, Request for Waiver From Filing Information Returns Electronically. Waiver requests should be filed at least 45 days before the due date of the returns. See Form 8508 for more information.

Truncation TIN (TTIN) Rules

Withholding agents may truncate the recipient's taxpayer identification number (social security number (SSN), individual taxpayer identification number (ITIN), or employee identification number (EIN)) on the recipient's copy of Form 1042-S (that is, copies B, C, and D), including a substitute form. To truncate the recipient's taxpayer identification number, only the last four digits of a taxpayer identification number must be displayed and the first five digits of the nine-digit number must be replaced with either asterisks (*) or Xs. For example, an SSN or ITIN must be truncated on the recipient's copy as XXX-XX-nnnn. An EIN must be truncated as XX-XXXnnnn.

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Note. The recipient's taxpayer identification number must not be truncated on Copy A filed with the IRS. The withholding agent's EIN cannot be truncated on any copy.

Need assistance? For additional information and instructions on filing Forms 1042-S electronically, extensions of time to file (Form 8809), and hardship waivers (Form 8508), see Pub. 1187. You also can call the Information Reporting Program at 866-455-7438 (toll free) or 304-263-8700 (not a toll-free number). Do not call the Information Reporting Program to answer tax law questions. The Information Reporting Program also can be reached by fax at 877-477-0572 (toll free) and international fax at 304-579-4105 (not a toll-free number).

Additional Information

For more information on the withholding of tax, see Pub. 515. To order this publication and other publications and forms, call 1-800-TAX-FORM (1-800-829-3676). You also can download forms and publications from IRS.gov.

Record Retention

Withholding agents should retain a copy of the information returns filed with the IRS, or have the ability to reconstruct the data, for at least 3 years after the reporting due date.

Substitute Forms

The official Form 1042-S is the standard for substitute forms. All substitute forms must comply with the rules set forth in Pub. 1179, General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, W-2G, and 1042-S. A substitute of Form 1042-S that is furnished to the recipient (Copy B, C, or D) must conform in format and size to the official IRS form and must contain the exact same information as the copy filed with the IRS. However, the size of the form may be adjusted if the substitute form is presented on a landscape oriented page instead of portrait. Only one Form 1042-S may be submitted per page, regardless of orientation. You may be subject to a penalty for failure to furnish a correct information return. See *Penalties,* later.

Note. Beginning in 2015, a withholding agent is required to provide a recipient with a separate substitute Form 1042-S for each type of payment of income (as determined by the income code in box 1).

CAUTION *All of the fields on the substitute form must match the copy filed with the IRS and must comply with IRS Standards (see Pub. 1179). Any differences between the substitute form issued to recipients and the copy filed with the IRS will lead to delays in processing the recipient's tax return. The IRS may disallow claims for refund or credit for amounts withheld reported on Form 1042-S if the substitute form attached to such claims differs from the copy that was filed with the IRS.*

Penalty for filing incorrect substitute form. Privately printed substitute Forms 1042-S must be exact copies of both the format and content of the official Form 1042-S. If you file a substitute for Form 1042-S, Copy A, with the IRS that is not an exact copy of the official Form 1042-S, Copy A, you may be subject to a penalty for failure to file a correct information return. See *Penalties*, later.

Account-by-Account Reporting by Certain Financial Institutions

For amounts paid on or after January 1, 2016, a U.S. financial institution or U.S. branch of a foreign financial institution maintaining an account within the United States is required to report payments of the same type of income (as determined by the income code in box 1) made to multiple financial accounts held by the same recipient on a separate Form 1042-S for each account. For this purpose, a financial account is an account described in Treasury Regulations section 1.1471-5(b)(1). See instructions for box 13k for information on designating each account with a separate account number.

Combined Reporting Procedures

Revenue Procedure 99-50 provides special procedures for successor entities to use combined information reporting under chapter 3 in certain situations following a merger or acquisition. A withholding agent may also use these procedures for purposes of reporting under chapter 4.

Deposit Requirements

For information and rules concerning Federal tax deposits, see *Depositing Withheld Taxes* in Pub. 515 or *Deposit Requirements* in the Instructions for Form 1042.

Definitions

Withholding agent. A withholding agent is any person, U.S. or foreign, that has control, receipt, or custody of an amount subject to withholding under chapter 3, who can disburse or make payments of an amount subject to withholding, or who makes a withholdable payment under chapter 4. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity. The term withholding agent also includes, but is not limited to, a qualified intermediary (QI), a nonqualified intermediary (NQI), a withholding foreign partnership (WP), a withholding foreign trust (WT), a flow-through entity, a U.S. branch that is treated as a U.S. person under Regulations section 1.1441-1(b)(2)(iv)(A), a territory FI, a nominee under section 1446, and an authorized agent. A person may be a withholding agent even if there is no requirement to withhold from a payment or if another person has already withheld the required amount from a payment.

In most cases, the U.S. person who pays (or causes to be paid) the item of U.S. source income to a foreign person (or to its agent) must withhold. However, other persons may be required to withhold. For example, if a payment is made by a QI (whether or not it assumes primary withholding responsibility) and the QI knows that withholding was not done by the person from which it received the payment, then that QI is required to do the appropriate withholding. In addition, withholding must be done by any QI that assumes primary withholding responsibility under chapters 3 and 4, a WP, a WT, a U.S. branch that agrees to be treated as a U.S. person under Regulations section 1.1441-1(b)(2)(iv)(A), or an authorized agent. Finally, if a payment is made by an NQI or a flow-through entity that knows, or has reason to know, that withholding was not done, that NQI or flow-through entity is required to withhold since it also falls within the definition of a withholding agent.

Account holder. Generally, the account holder is the person that holds the account. See Regulations section 1.1471-5(a).

Authorized agent. An agent is an authorized agent for purposes of filing Form 1042 or making tax deposits and payments on behalf of its principal

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(payer) only if all five of the following conditions apply.

1. There is a written agreement between the payer and the person acting as agent.

2. A Form 8655, Reporting Agent Authorization, is filed with the IRS if the agent is filing Form 1042 (in its own name) on behalf of the payer.

3. The books and records and relevant personnel of the agent are available to the payer.

4. The payer remains fully liable for the acts of its agent and does not assert any of the defenses that otherwise may be available, and

5. If the agent is filing Form 1042 (in its own name) on behalf of the payer, the agent is reported as the withholding agent in boxes 12a through 12i and information about the payer is reported in boxes 16a through 16e of the Form 1042-S.

A sponsoring entity is a reporting agent with respect to withholdable payments and must fulfill the above conditions to be an authorized agent.

For more information on these conditions, see Regulations sections 1.1441-7(c) and 1.1474-1(a)(3)(ii).

Beneficial owner. For payments other than those for which a reduced rate of withholding is claimed under an income tax treaty, the beneficial owner of income in most cases is the person who is required under U.S. tax principles to include the income in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership in most cases are the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee, or other agent. The beneficial owner of income paid to a foreign simple trust (a foreign trust that is described in section 651(a)) in most cases is the beneficiary of the trust, if the beneficiary is not a foreign partnership, foreign simple or grantor trust, nominee, or other agent. The beneficial owner of a foreign grantor trust (a foreign trust to the extent that all or a part of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) is the person treated as the owner of the trust. The beneficial owner of income paid to a foreign complex trust (a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

The beneficial owner of income paid to a foreign estate is the estate itself.

A payment to a U.S. partnership, U.S. trust, or U.S. estate is not subject to withholding under chapter 3 or 4. A U.S. partnership, trust, or estate should provide the withholding agent with a Form W-9, Request for Taxpayer Identification Number and Certification. In most cases, these beneficial owner rules apply for purposes of section 1446; however, there are exceptions.

1. Chapter 3 withholding rate pool. A payment of a single type of income, determined in accordance with the income codes used to file Form 1042-S, that is subject to a single rate of withholding and a single chapter 4 exemption code.

2. Chapter 4 withholding rate pool. A pool of account holders or payees provided on an FFI withholding statement (or a chapter 4 withholding statement) that is described in Regulations section 1.1471-1(b)(20).

Disregarded entity. A business entity that has a single owner and is not a corporation under Regulations section 301.7701-2(b) is disregarded as an entity separate from its owner.

Dividend equivalent. To the extent specified in section 871(m), and the regulations thereunder, a dividend equivalent is a payment that, directly or indirectly, is contingent on, or determined by reference to, the payment of a dividend from U.S. sources. Dividend equivalent payments include the following payments.

1. A substitute dividend made under a securities lending or sale-repurchase transaction involving a U.S. stock, and

2. A payment made under a specified notional principal contract, a specified equity-linked instrument, or any other contract or transaction described in the regulations under section 871(m).

Exempt recipient. An exempt recipient is any payee that is exempt from the Form 1099 reporting requirements.

Expatriate. A person is considered an expatriate if he or she relinquishes U.S. citizenship or, in the case of a long-term resident of the United States, ceases to be a lawful permanent resident as defined in section 7701(b)(6).

Fiscally transparent entity. An entity is treated as fiscally transparent with respect to an item of income for which treaty benefits are claimed to the extent that the interest holders in the entity must, on a current basis, take into account separately their shares of an item of income paid to the entity, whether or not distributed, and must determine the character of the items of income as if they were realized directly from the sources from which realized by the entity. For example, partnerships, common trust funds, and simple trusts or grantor trusts in most cases are considered to be fiscally transparent with respect to items of income received by them.

Flow-through entity. A flow-through entity is a foreign partnership (other than a withholding foreign partnership), a foreign simple or grantor trust (other than a withholding foreign trust), or, for any payments for which a reduced rate of withholding under an income tax treaty is claimed, any entity to the extent the entity is considered to be fiscally transparent under section 894 with respect to the payment by an interest holder's jurisdiction.

Financial institution. A financial institution (FI) is an entity described in Regulations section 1.1471-5(e).

Foreign financial institution (FFI). A foreign financial institution (FFI) is an entity described in Regulations section 1.1471-5(d) or as a financial institution under an Intergovernmental Agreement (IGA).

Deemed-compliant FFI. A deemed-compliant FFI is a foreign financial institution that is deemed to satisfy the requirements of section 1471(b) and is either a certified deemed-compliant FFI or registered deemed-compliant FFI (including a reporting Model 1 FFI). See Regulations sections 1.1471-1(b)(12), (105), and (107) for the definition of certified deemed-compliant FFI, registered deemed-compliant FFI, and reporting Model 1 FFI.

Nonparticipating FFI. A nonparticipating FFI is a foreign

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financial institution that is not a participating FFI, deemed-compliant FFI, or exempt beneficial owner.

Participating FFI. A participating FFI is a foreign financial institution that has agreed to satisfy the obligations of an FFI agreement under chapter 4, including an FFI described in a Model 2 IGA that has agreed to comply with the requirements of an FFI agreement (reporting Model 2 FFI). See Regulations section 1.1471-1(b)(73) for the definition of a Model 2 IGA.

Foreign person. A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person. The term also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization if the foreign branch is a QI. A payment to a U.S. branch of a foreign person is treated as a payment to a foreign person for purposes of Form 1042-S.

Global intermediary identification number. The global intermediary identification number (GIIN) is the identification number that is assigned to a participating FFI (including a reporting Model 2 FFI), registered deemed-compliant FFI (including a reporting Model 1 FFI), or other entity for chapter 4 reporting purposes.

Intermediary. An intermediary is a person that acts as a custodian, broker, nominee, or otherwise as an agent for another person, regardless of whether that other person is the beneficial owner of the amount paid, a flow-through entity, or another intermediary.

Qualified intermediary (QI). A QI is an intermediary that is a party to a withholding agreement with the IRS. A QI that is a financial institution must have a chapter 4 status described in Regulations section 1.1441-1(e)(5)(ii). An entity must indicate its status as a QI on a Form W-8IMY submitted to a withholding agent. For information on a QI withholding agreement, see Revenue Procedure 2014-39 (or any superseding revenue procedure) and *www.irs.gov/Businesses/Corporations/Qualified-Intermediaries-(QI)*.

A branch of a financial institution may not act as a QI in a country that does not have approved know-your-customer (KYC) rules. Countries having approved KYC rules are listed on IRS.gov. Branches that operate in non-KYC approved jurisdictions as intermediaries are required to act as nonqualified intermediaries.

Nonqualified intermediary (NQI). An NQI is any intermediary that is not a U.S. person and that is not a QI.

Private arrangement intermediary (PAI). A QI that is an FFI may enter into a contractual agreement with another intermediary under which the other intermediary generally agrees to perform all of the obligations of the QI with respect to the accounts maintained directly by the other intermediary. See the QI Agreement for the requirements of a PAI and a QI's agreement with a PAI.

Nonfinancial foreign entity. A nonfinancial foreign entity (NFFE) is a foreign entity or an entity incorporated or organized under the laws of any U.S. territory that is not a financial institution.

Excepted nonfinancial foreign entity. The term excepted NFFE means an NFFE that is described in Regulations section 1.1472-1(c)(1) and generally includes a publicly traded corporation, certain affiliated entities related to a publicly traded corporation, certain territory entities, active NFFEs, and entities excluded from the definition of foreign financial institution (excluded FFIs) described in Regulations section 1.1471-5(e)(5).

Non-exempt recipient. A non-exempt recipient is any person who is not an exempt recipient under chapter 61 of the Code.

Nonresident alien individual. Any individual who is not a citizen or resident of the United States is a nonresident alien individual. An alien individual meeting either the green card test or the substantial presence test for the calendar year is a resident alien. Any person not meeting either test is a nonresident alien individual. Additionally, an alien individual not otherwise a citizen of the U.S. who is a resident of a foreign country under the residence article of an income tax treaty, or an alien individual who is a bona fide resident of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa is a nonresident alien individual. An individual will not be treated as a U.S. person for a taxable year or any portion of a taxable year that the individual is a dual resident taxpayer who is treated as a nonresident alien for purposes of computing his or her U.S. tax liability. See Pub. 519, U.S. Tax Guide for Aliens, for more information on resident and nonresident alien status.

CAUTION *Even though a nonresident alien individual married to a U.S. citizen or resident alien may choose to be treated as a resident alien for certain purposes (for example, filing a joint income tax return), such individual is still treated as a nonresident alien for withholding tax purposes.*

Payee. Except as otherwise provided, the payee is the person to whom a payment is made, regardless of whether such person is the beneficial owner of the amount or treated as the recipient of the payment for purposes of reporting on Form 1042-S. See Regulations section 1.1471-3(a).

Presumption rules. For withholdable payments and for amounts subject to withholding under chapter 3, the presumption rules are those rules that a withholding agent must follow to determine the status of a beneficial owner or payee (for example, as a U.S. person or a foreign person) when it cannot reliably associate a payment with valid documentation. See, for example, Regulations sections 1.1441-1(b)(3), 1.1441-4(a), 1.1441-5(d) and (e), 1.1441-9(b)(3), 1.1446-1(c)(3), and 1.6049-5(d). Also see Pub. 515. For a withholdable payment (defined in Regulations section 1.1473-1(a)), the withholding agent must also follow the presumption rules under Regulations sections 1.1471-3(f) and, for an FFI, 1.1471-4(c)(4)(i) to determine the chapter 4 status of the payee when it cannot reliably associate a payment with valid documentation.

Publicly traded partnership (PTP). A PTP is any partnership in which interests are regularly traded on an established securities market or are readily tradable on a secondary market (regardless of the number of its partners). However, it does not include a PTP treated as a corporation under section 7704.

Qualified derivatives dealer (QDD). A QDD is a qualified intermediary (QI) that is an eligible entity that agrees to assume the requirements of a QDD. A QDD must document itself to a withholding agent with a Form W-8IMY indicating that it is acting as a QDD for payments with respect to potential section 871(m) transactions and underlying securities that it receives in a principal capacity, and must indicate on the form that it will assume primary chapters 3 and 4 withholding

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responsibilities and primary Form 1099 reporting and backup withholding responsibilities for certain payments it makes and receives as a QDD. See Regulations section 1.1441-1(e)(6) and Revenue Procedure 201X-XX for more information.

Qualified securities lender (QSL). A QSL is a foreign financial institution that satisfies **all** of the following.

- It is a bank, custodian, broker-dealer, or clearing organization that is regulated by the government in its home jurisdiction and that regularly borrows and lends the securities of U.S. corporations to unrelated customers.
- It is subject to audit by the IRS under section 7602 or by an external auditor if it is a QI.
- It provides to the withholding agent an annual certification of its QSL status.
- It meets the requirements to qualify as a QSL provided in Notice 2010-46 for the transition period and until additional published guidance is issued. See Notice 2010-46, 2010-24 I.R.B. 757, available at www.irs.gov/irb/2010-24_IRB/ar09.html.

Recalcitrant account holder. Generally, a recalcitrant account holder is an account holder of a participating or deemed-compliant FFI that failed to provide the documentation required under chapter 4 to determine the account holder's status or to report the account as a U.S. account. See Regulations section 1.1471-5(g).

Recipient. For chapter 3 purposes, a recipient includes any of the following.

- A beneficial owner of income.
- A QI.
- A WP or WT.
- A U.S. branch that is treated as a U.S. person under Regulations section 1.1441-1(b)(2)(iv)(A).
- A foreign partnership or a foreign trust (other than a WP or WT), but only to the extent the income is effectively connected with its conduct of a trade or business in the United States.
- A payee who is not known to be the beneficial owner, but who is presumed to be a foreign person under the presumption rules.
- A PAI.
- A partner receiving a distribution of effectively connected income from a PTP or nominee.
- A QSL.

For chapter 3 purposes, a recipient does not include any of the following.

- An NQI.
- A nonwithholding foreign partnership, if the income is not effectively connected with its conduct of a trade or business in the United States.
- A disregarded entity, other than a hybrid entity claiming treaty benefits.
- A foreign trust that is described in section 651(a) (a foreign simple trust) if the income is not effectively connected with the conduct of a trade or business in the United States.
- A foreign trust to the extent that all or a part of the trust is treated as owned by the grantor or other person under sections 671 through 679 (a foreign grantor trust).
- A U.S. branch that is not treated as a U.S. person unless the income is, or is treated as, effectively connected with the conduct of a trade or business in the United States.

For chapter 4 purposes, a recipient also includes any of the following.

- A recalcitrant account holder not included in a chapter 4 reporting pool.
- A QI.
- A WP or WT.
- A PAI.
- A participating FFI or deemed-compliant FFI that is an NQI, NWP, or NWT and provides chapter 4 withholding rate pool information to the extent permissible.
- A participating FFI or deemed-compliant FFI that is the beneficial owner, including a nonreporting FFI under a Model 1 or 2 IGA.
- A U.S. branch or territory FI treated as a U.S. person under Regulations section 1.1441-1(b)(2)(iv)(A).
- An NFFE that is not a flow-through entity or acting as an intermediary.
- A foreign partnership or a foreign trust (other than a WP or WT), but only to the extent the income is effectively connected with its conduct of a trade or business in the United States.
- A partner or beneficiary of a flow-through entity that is an NFFE (other than a WP or WT).
- A nonparticipating FFI that is a beneficial owner.
- An exempt beneficial owner that is not a flow-through entity or acting as an intermediary.

For chapter 4 purposes, a recipient is generally the same person that is a recipient for chapter 3 purposes.

Specified notional principal contract (SNPC). An SNPC is any notional principal contract that satisfies **one** or more of the following.

- In connection with entering into the contract, any long party to the contract transfers the underlying security to any short party to the contract.
- In connection with the termination of the contract, any short party to the contract transfers the underlying security to any long party to the contract.
- The underlying security is not readily tradable on an established securities market.
- In connection with entering into the contract, the underlying security is posted as collateral by any short party to the contract with any long party to the contract.
- The IRS identifies the contract as an SNPC.

Territory FI. A territory FI is a financial institution that is incorporated or organized under the laws of any U.S. territory and is not an investment entity. See Regulations section 1.1471-5(e)(1)(iii) for the definition of investment entity.

U.S. branch treated as a U.S. person. A U.S. branch may agree to be treated as a U.S. person if it meets the requirements described in the regulations under chapter 3. See Regulations section 1.1441-1(b)(2)(iv)(A). Additionally, a territory FI may agree to be treated as a U.S. person.

The U.S. branch or territory FI must provide a Form W-8IMY evidencing that it is agreeing to be treated as a U.S. person.

CAUTION *A U.S. branch that is treated as a U.S. person is treated as such solely for purposes of determining whether a payment is subject to withholding. The branch is, for purposes of information reporting, a foreign person, and payments to such a branch must be reported on Form 1042-S.*

Withholdable payment. A withholdable payment is a payment described in Regulations section 1.1473-1(a).

Withholding certificate. The term "withholding certificate" refers to Form W-8 or Form W-9 in most cases.

Note. Throughout these instructions, a reference to or mention of "Form W-8" is a reference to Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and/or W-8IMY.

Withholding foreign partnership (WP) or withholding foreign trust (WT). A WP or WT is a foreign partnership or trust that has entered into a withholding agreement with the IRS in which it agrees to assume primary withholding responsibility for all payments that are made to it for its

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partners, beneficiaries, or owners under chapter 3 (except for sections 1445 and 1446) and under chapter 4. For information on these withholding agreements, see Revenue Procedure 2014-47 (and any superseding revenue procedure) and Regulations section 1.1441-5.

Nonwithholding foreign partnership (NWP) or nonwithholding foreign trust (NWT). An NWP or NWT is any partnership or trust (other than a complex trust) that is not a U.S. person and that is not a WP or WT.

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Amounts Subject to Reporting on Form 1042-S

Amounts subject to reporting on Form 1042-S are amounts from U.S. sources paid to foreign persons (including persons presumed to be foreign) or included in a U.S. payee pool that are reportable under chapters 3 and 4, even if no amount is deducted and withheld from the payment because of a treaty or Code exception to taxation or if any amount withheld was repaid to the payee. Amounts subject to reporting are amounts from sources within the United States that constitute (a) fixed or determinable annual or periodical (FDAP) income (including deposit interest); (b) certain gains from the disposal of timber, coal, or domestic iron ore with a retained economic interest; and (c) gains relating to contingent payments received from the sale or exchange of patents, copyrights, and similar intangible property. A payment is also subject to reporting if withholding under chapter 4 is applied (or required to be applied) to the payment. Amounts subject to reporting on Form 1042-S include, but are not limited to, the following amounts to the extent from U.S. sources.

- **Interest on deposits paid to certain nonresident aliens.** Interest described in section 871(i)(2)(A) aggregating $10 or more paid with respect to a deposit maintained at an office within the United States if such interest is paid to a nonresident alien individual who is a resident of a country identified in Revenue Procedure 2016-18 (or superseding Revenue Procedure) as of December 31 of the year prior to the calendar year in which the interest is paid. A payor may elect to report interest described above paid to any nonresident alien individual by reporting all such interest. See Revenue Procedure 2016-18 (or superseding Revenue Procedure) for the current list of countries with which the United States has in effect an income tax or other convention or bilateral agreement relating to exchange of information within the meaning of section 6103(k)(4).

When completing Form 1042-S, use income code 29 in box 1 and exemption code 02 in box 3a for chapter 3 purposes and the applicable chapter 4 exemption code in box 4a (see the instructions for boxes 3a and 4a, later).

If you issue a substitute Form 1042-S to the recipient, the substitute form must include a statement that the information on the form is being furnished to the U.S. Internal Revenue Service.

- **Interest on deposits subject to chapter 4 withholding.** Interest on deposits from U.S. sources are withholdable payments and, therefore, may be subject to withholding under chapter 4 and, if withheld upon, reporting is required.
- **Corporate distributions.** The entire amount of a corporate distribution (whether actual or deemed) must be reported, regardless of any estimate of the part of the distribution that represents a taxable dividend. Any distribution, however, that is treated as gain from the redemption of stock is not an amount subject to withholding. For information on distributions attributable to the disposition of a U.S. real property interest paid by a publicly traded trust or a qualified investment entity (QIE), see *Distributions Attributable to Dispositions of U.S. Real Property Interests by Publicly Traded Trusts and Qualified Investment Entities (QIEs),* later.
- **Interest.** This includes the part of a notional principal contract payment that is characterized as interest.
- **Rents.**
- **Royalties.**
- **Compensation for independent personal services performed in the United States.**
- **Compensation for dependent personal services performed in the United States (but only if the beneficial owner is claiming treaty benefits).**
- **Annuities.**
- **Pension distributions and other deferred income.**
- **Most gambling winnings.** However, proceeds from a wager placed in blackjack, baccarat, craps, roulette, or big-6 wheel are not amounts subject to reporting.
- **Cancellation of indebtedness.** Income from the cancellation of indebtedness must be reported unless the withholding agent is unrelated to the debtor and does not have knowledge of the facts that give rise to the payment.
- **Effectively connected income (ECI).** ECI includes amounts that are (or are presumed to be) effectively connected with the conduct of a trade or business in the United States even if no withholding certificate is required. Note that bank deposit interest is subject to Form 1042-S reporting if it is ECI or otherwise reportable on Form 1042-S (see interest on deposits, earlier). ECI of a PTP distributed to a foreign partner must be reported on Form 1042-S.
- **Notional principal contract income.** Income from notional principal contracts that the payer knows, or must presume, is effectively connected with the conduct of a U.S. trade or business is subject to reporting using income code 32. The amount to be reported is the amount of cash paid on the contract during the calendar year. Any amount of interest determined under the provisions of Regulations section 1.446-3(g)(4) (dealing with interest in the case of a significant non-periodic payment) is reportable as interest and not as notional principal contract income. See, however, the separate reporting for U.S.-source dividend equivalent payments.
- **Insurance premiums.** Insurance premiums from U.S. sources (regardless of whether or not the premium payments are subject to the section 4371 excise tax) are withholdable payments under chapter 4 and, if the payment is actually withheld upon or should have been withheld upon (but the withholding agent failed to withhold), such amount must be reported on Form 1042-S. Insurance premiums from U.S. sources are amounts subject to chapter 3 withholding (excluding amounts subject to the section 4371 excise tax) that must be reported on Form 1042-S.
- **REMIC excess inclusions.** Excess inclusions from REMICs (income code 02) and withheld tax must be reported on Form 1042-S. A domestic partnership must separately state a partner's allocable share of REMIC taxable income or net loss and the excess inclusion amount on Schedule K-1 (Form 1065). If the partnership allocates all or some part of its allocable share of REMIC taxable income to a foreign partner, the partner must include the partner's allocated amount in income as if that amount was received on the earliest to occur of (1) the date of distribution by the partnership; (2) the date the foreign partner disposes of its indirect interest in

the REMIC residual interest; or (3) the last day of the partnership's tax year.

The partnership must withhold tax on the part of the REMIC amount that is an excess inclusion.

An excess inclusion allocated to the following foreign persons must be included in that person's income at the same time as other income from the entity is included in income.

- Shareholder of a real estate investment trust.
- Shareholder of a regulated investment company.
- Participant in a common trust fund.
- Patron of a subchapter T cooperative organization.
- **Students, teachers, and researchers.** Amounts paid to foreign students, trainees, teachers, or researchers as scholarship or fellowship income, and compensation for personal services (whether or not exempt from tax under an income tax treaty), must be reported. However, amounts that are exempt from tax under section 117 are not subject to reporting.
- **Amounts paid to foreign governments, foreign central banks of issue, and international organizations.** These amounts are subject to reporting even if they are exempt from chapter 3 withholding under section 892 or 895.
- **Foreign targeted registered obligations.** Interest paid on registered obligations targeted to foreign markets paid by a U.S. person to a foreign person other than a financial institution or a member of a clearing organization is an amount subject to reporting.
- **Original Issue Discount (OID) from the redemption of an OID obligation.** The amount subject to reporting is the amount of OID actually includible in the gross income of the foreign beneficial owner of the income, if known. Otherwise, the withholding agent should report the entire amount of OID as if the recipient held the instrument from the date of original issuance. See Pub. 1212, Guide to Original Issue Discount (OID) Instruments.
- **Certain distributions attributable to dispositions of U.S. real property interests.** See *Distributions Attributable to Dispositions of U.S. Real Property Interests by Publicly Traded Trusts and Qualified Investment Entities (QIEs)*, later.
- **Other U.S.-source dividend equivalent payments.** Other U.S.-source dividend equivalent payments are payments other than substitute dividends that qualify as U.S.-source dividends under section 871(m) and the regulations thereunder. Report these amounts using income code 40 or 53.
- **Guarantee of indebtedness.** This includes amounts paid, directly or indirectly, for the provision of a guarantee of indebtedness issued after September 27, 2010. They must be paid by a non-corporate resident or U.S. corporation or by any foreign person if the amounts are effectively connected with the conduct of a U.S. trade or business. Report these amounts using income code 41.
- **Specified Federal procurement payments.** Specified Federal procurement payments subject to withholding under section 5000C.

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Amounts That Are Not Subject to Reporting on Form 1042-S

Interest and OID from short-term obligations. Interest and OID from any obligation payable 183 days or less from the date of original issue is generally not required to be reported on Form 1042-S. See, however, the reporting requirements for deposit interest described earlier in *Interest on deposits paid to certain nonresident aliens* under Amounts Subject to Reporting on Form 1042-S.

Registered obligations targeted to foreign markets. Interest on a registered obligation that is targeted to foreign markets and that qualifies as portfolio interest is not subject to reporting if it is paid to a registered owner that is a financial institution or member of a clearing organization and you have received the required certifications.

CAUTION *Reporting will be required on interest paid on any registered obligation (regardless of whether targeted to foreign markets) if the registered obligation is issued after December 31, 2015.*

Bearer obligations targeted to foreign markets. Do not file Form 1042-S to report interest not subject to withholding on bearer obligations if a Form W-8 is not required.

CAUTION *Withholding is required on interest paid on any bearer obligations targeted to foreign markets if the obligation is issued after March 18, 2012. You must file Form 1042-S to report this interest paid on an obligation issued after that date.*

Notional principal contract payments that are not ECI. Amounts paid on a notional principal contract other than a specified notional principal contract (SNPC) other than income that is not effectively connected with the conduct of a trade or business in the United States should not be reported on Form 1042-S. All amounts paid on an SNPC that are treated as dividend equivalent payments should be reported as such on Form 1042-S.

Accrued interest and OID. Interest paid on obligations sold between interest payment dates and the part of the purchase price of an OID obligation that is sold or exchanged in a transaction other than a redemption is not subject to reporting unless the sale or exchange is part of a plan, the principal purpose of which is to avoid tax, and the withholding agent has actual knowledge or reason to know of such plan.

Certain withholdable payments. Withholdable payments not subject to reporting for chapter 3 purposes (other than bank deposit interest paid to certain nonresident aliens) are not required to be reported if withholding is not applied (or required to be applied) under chapter 4.

Distributions Attributable to Dispositions of U.S. Real Property Interests by Publicly Traded Trusts and Qualified Investment Entities (QIEs)

Publicly traded trusts. In general, when a publicly traded trust makes a distribution to a foreign person attributable to the disposition of a U.S. real property interest, it must withhold tax under section 1445. However, this withholding liability is shifted to the person who pays the distribution to a foreign person (or to the account of the foreign person) if the special notice requirement of Regulations section 1.1445-8(f) and other requirements of Regulations section 1.1445-8(b)(1) are satisfied.

The amount subject to withholding for a distribution by a publicly traded trust is determined under the rules of Regulations section 1.1445-5(c)(3).

Qualified investment entities. Special rules apply to qualified investment entities (QIEs). A QIE is one of the following.

- A real estate investment trust (REIT).

• A regulated investment company (RIC) that is treated as a U.S. real property holding corporation (after applying certain rules in section 897(h)(4)(A)(ii)).

Look-through rule for QIEs. In most cases, any distribution from a QIE to a nonresident alien, foreign corporation, or other QIE that is attributable to the QIE's gain from the sale or exchange of a U.S. real property interest is treated as gain recognized by the nonresident alien, foreign corporation, or other QIE from the sale or exchange of a U.S. real property interest.

A distribution by a QIE to a nonresident alien or foreign corporation that is treated as gain from the sale or exchange of a U.S. real property interest by the shareholder is subject to withholding at 35%.

Certain exceptions apply to the look-through rule for distributions by QIEs. Any distribution by a QIE with respect to stock regularly traded on an established securities market in the United States is not treated as gain from the sale or exchange of a U.S. real property interest if the shareholder did not own more than 5% of that stock (or 10% of that stock in the case of REITs) at any time during the 1-year period ending on the date of the distribution. A distribution by a REIT generally is not treated as gain from the sale or exchange of a U.S. real property interest if the shareholder is a qualified shareholder (as described in section 897(k)(3)). These distributions may be included in the shareholder's gross income as a dividend (income code 06) from the QIE, not as long-term capital gain.

In addition, a qualified foreign pension fund or an entity all of the interests of which are held by a qualified foreign pension fund generally is not subject to the look-through rule for distributions by REITs. See section 897(l).

Use Forms 1042-S and 1042 to report and pay over the withheld amounts. All other withholding required under section 1445 is reported and paid over using 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.

For more information on reporting income from real property interests, see *U.S. Real Property Interest* in Pub. 515.

Publicly Traded Partnerships (Section 1446 Withholding Tax)

A publicly traded partnership (PTP) (defined earlier in *Definitions*) that has effectively connected income must pay a withholding tax under section 1446 on distributions of that income made to its foreign partners and file Form 1042-S using income code 27 and chapter 4 exemption code 14. A nominee that receives a distribution of effectively connected income from a PTP is treated as the withholding agent to the extent of the amount specified in the qualified notice received by the nominee. For this purpose, a nominee is a domestic person that holds an interest in a PTP on behalf of a foreign person. See Regulations section 1.1446-4 and Pub. 515 for details.

TIP *If you are a nominee that is the withholding agent under section 1446, enter the PTP's name and other required information in boxes 15a through 15i on Form 1042-S.*

Partnerships (other than publicly traded partnerships) that have effectively connected gross income allocable to foreign partners must file Form 8804, Annual Return for Partnership Withholding Tax (Section 1446). If these partnerships have effectively connected taxable income allocable to foreign partners, they must also pay a withholding tax under section 1446 and report these amounts on Form 8804 and the partners' allocable shares of these amounts on Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax.

Payments by U.S. Withholding Agents

In general. U.S. withholding agents making payments described under *Amounts Subject to Reporting on Form 1042-S,* earlier, must file a separate Form 1042-S for each recipient who receives the income. Furthermore, withholding agents are not permitted to report multiple types of income on a Form 1042-S (or substitute form 1042-S) furnished to a recipient or on Copy A filed with the IRS. These filers must use a separate Form 1042-S (or substitute form) for information reportable on a single type of income.

See *Payments Made to Persons Who Are Not Recipients*, later, if the payment is made to a foreign person that is not a recipient.

Payments to Recipients

Payments directly to beneficial owners. A U.S. withholding agent making a payment directly to a beneficial owner must complete Form 1042-S and treat the beneficial owner as the recipient. Boxes 15a through 15i should be left blank. The Form 1042-S must also include the appropriate chapter 3 and chapter 4 exemption codes, if applicable, in boxes 3a and 4a, as well as the appropriate recipient codes for the chapter 3 and chapter 4 status codes for a payment that is a withholdable payment and an amount subject to chapter 3 withholding. A U.S. withholding agent should complete boxes 16a through 16e only if it is completing Form 1042-S as a paying agent acting pursuant to an agreement to act as an authorized agent for filing and reporting Form 1042 and 1042-S.

In the case of foreign joint owners, you may provide a single Form 1042-S made out to the owner whose status you relied upon to determine the applicable rate of withholding (the owner subject to the highest rate of withholding). If, however, any one of the owners requests its own Form 1042-S, you must furnish a Form 1042-S to the person who requests it. If the request is made after a Form 1042-S was filed reporting the payment and tax withheld to only one of the joint owners, you should amend the originally filed Form 1042-S to allocate the payment and tax withheld among the joint owners accordingly and provide copies of the Amended forms to each recipient. If more than one Form 1042-S is issued for a single payment, the aggregate amount paid and tax withheld that is reported on all Forms 1042-S cannot exceed the total amounts paid to joint owners and the tax withheld on those payments. In any event, each Form 1042-S can only include the recipient information (boxes 13a through 13d) for one of the beneficial owners. Form 1042-S must not be completed with more than one of the joint owners as the recipient.

CAUTION *In the case of joint owners, Form 1042-S can only list one of the owners as the recipient in box 13a. Form 1042-S must not be completed with more than one of the joint owners as the recipient.*

Example 1. WA, a U.S. withholding agent, makes a withholdable payment of U.S. source dividends to A, a foreign individual from whom it has received a Form W-8BEN and who is not eligible

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for a reduced rate of chapter 3 withholding under a treaty. WA must file a Form 1042-S for A, enter “3” in box 3, “06” in box 1 (income code), “00” in box 3a (chapter 3 exemption code), “30.00” in box 3b (chapter 3 tax rate), “15” in box 4a (payee not subject to chapter 4 withholding), “00.00” in box 4b (chapter 4 tax rate), “16” in box 13f (individual), and “23” in box 13g (individual).

Payments to a qualified intermediary, withholding foreign partnership, or withholding foreign trust. A U.S. withholding agent that makes payments to a QI (whether or not the QI assumes primary withholding responsibility), a withholding foreign partnership (WP), or a withholding foreign trust (WT) should complete Form 1042-S in most cases, treating the QI, WP, or WT as the recipient. See *Payments allocated, or presumed made, to U.S. non-exempt recipients*, later, for exceptions. A QI that does not assume primary withholding responsibility is required to provide information regarding the allocations of income subject to a particular withholding rate to the withholding agent on the withholding statement associated with its Form W-8IMY. In such a case, the U.S. withholding agent must complete a separate Form 1042-S for each withholding rate pool associated with the QI. For purposes of chapter 4, a QI may provide a single pool of recalcitrant account holders (rather than separate pools for each class). In such a case, the withholding agent may use chapter 4 pooled reporting code 49 (QI-Recalcitrant Pool-General). A QI that assumes primary withholding responsibility, a WP, or a WT is not required to provide withholding rate pool information to a withholding agent but will report such information directly to the IRS.

A U.S. withholding agent making a withholdable payment to an FFI that is a QI (that assumes primary withholding responsibility), a WP, or a WT must use recipient code 12 (qualified intermediary), 09 (withholding foreign partnership), or 11 (withholding foreign trust) as the chapter 3 status code and must use recipient code 05 (participating FFI- other), 06 (participating FFI- reporting Model 2 FFI), 07 (registered deemed-compliant FFI- reporting Model 1 FFI), 09 (registered deemed-compliant FFI-other) for an FFI treated as deemed-compliant under an IGA, 31 (nonreporting IGA FFI) or, for a payment to a QI, 27 (exempt beneficial owner) as the chapter 4 status code. A U.S. withholding agent must use chapter 4 recipient code 48 (U.S. Payees Pool) when reporting a reportable amount allocated to a chapter 4 withholding rate pool of U.S. payees of a QI and report the chapter 3 recipient code 12 (qualified intermediary). A U.S. withholding agent must not use any chapter 3 pooled reporting code (codes 27 through 33 and 36 through 38) as such codes are only to be used by a withholding agent that is a QI (including a QI acting as a QDD), QSL, WP, or WT. Use of an inappropriate recipient code may cause a notice to be generated.

CAUTION *A QI is required to act in such capacity only for designated accounts. Therefore, such an entity also may provide a Form W-8IMY in which it certifies that it is acting as an NQI for other accounts and, if it is an FFI that is receiving a withholdable payment, that it is a participating FFI, registered deemed-compliant FFI, or FFI treated as deemed-compliant under an IGA. A U.S. withholding agent that receives a Form W-8IMY on which the foreign person providing the form indicates that it is not acting as a QI may not treat the foreign person as a recipient except as otherwise provided in these instructions. A withholding agent must not use the EIN that a QI provides in its capacity as such to report payments that are treated as made to an entity in its capacity as an NQI. In that case, use the GIIN, if any, and EIN that is provided by the entity on its Form W-8IMY in which it claims that it is acting as an NQI or flow-through entity.*

Note. A withholding agent is required to use chapter 4 reporting pool codes as the chapter 4 status code in the case of withholdable payments made to:

- A QI that does not assume primary withholding responsibility;
- A participating FFI or registered deemed-compliant FFI that is an NQI, NWP, or NWT; or
- An NQI, NWP, or NWT (other than a nonparticipating FFI) that provides a pool of nonparticipating FFIs,

if the QI, NQI, NWP, or NWT provides chapter 4 withholding rate pool information in the withholding statement associated with its Form W-8IMY. See *Amounts paid to a nonqualified intermediary or flow-through entity,* later, and the presumption rules under Regulations section 1.1471-3(f) for when if such information is not provided for a withholdable payment made to an entity.

Example 2. WA, a U.S. withholding agent, makes a withholdable payment of U.S. source dividends to QI, a qualified intermediary that does not assume primary chapters 3 and 4 withholding responsibility and that is a participating FFI. QI provides WA with a valid Form W-8IMY with which it associates a withholding statement that allocates 95% of the payment to a chapter 3, 15% withholding rate pool with a single chapter 4 exemption code, and 5% of the payment to a chapter 4, 30% withholding rate pool of recalcitrant account holders. WA must complete a Form 1042-S for the dividends allocated to the chapter 3, 15% withholding rate pool, showing “3” in box 3, “00” in box 3a (chapter 3 exemption code), “15.00” in box 3b (chapter 3 tax rate), chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) in box 4a, “00.00” in box 4b (chapter 4 tax rate) and QI as the recipient in box 13a along with recipient code 12 (qualified intermediary) as the chapter 3 status code and recipient code 05 (participating FFI-other) as the chapter 4 status code. WA must also complete a Form 1042-S, for the dividends allocated to the chapter 4, 30% withholding rate pool, showing “4” in box 3, chapter 3 exemption code 12 (payee subjected to chapter 4 withholding) in box 3a, “00.00” in box 3b (chapter 3 tax rate), “00” in box 4a (chapter 4 exemption code), and “30.00” in box 4b with QI as the recipient in box 13a and recipient code 12 (qualified intermediary) as the chapter 3 status code and recipient code 49 (QI-Recalcitrant Pool-General) as the chapter 4 status code.

Payments allocated, or presumed made, to U.S. non-exempt recipients. A QI may provide Forms W-9 or other information regarding U.S. non-exempt recipients that the QI (or other entity maintaining the account) is required to report under chapter 61 and for which the QI does not assume primary Form 1099 reporting responsibility. QI may also provide information regarding U.S. non-exempt recipients that QI elects to backup withhold under section 3406 instead of withholding under chapter 4 on payments made to an account holder. If Forms W-9 or other information is provided together with information allocating all or a part of the payment to U.S. non-exempt recipients, you must report income allocable to the U.S. non-exempt recipients on the appropriate Form 1099 and not on Form 1042-S even though you are paying that income to a QI. QI may also provide

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information regarding U.S. non-exempt recipients in a chapter 4 withholding rate pool that the withholding agent must report on Form 1042-S.

You also may be required under the presumption rules to treat a payment made to a QI as made to a payee that is a U.S. non-exempt recipient from which you must withhold on the payment under the backup withholding provisions of the Code. In this case, you must report the payment on the appropriate Form 1099. See the *General Instructions for Certain Information Returns.*

Example 3. WA, a U.S. withholding agent, makes a withholdable payment of U.S. source dividends to QI, a qualified intermediary and registered deemed-compliant FFI that is a local FFI described in Regulations section 1.1471-5(f)(1)(i)(A). QI provides WA with a valid Form W-8IMY certifying that it is transmitting Forms W-9 for U.S. non-exempt recipients and with which it associates a withholding statement that allocates 95% of the payment to a chapter 3, 15% withholding rate pool with a single chapter 4 exemption code, and 5% of the payment to C, a U.S. individual. QI also provides WA with C's Form W-9. C is a direct account holder of QI and a U.S. citizen that is a resident of QI's local jurisdiction that QI is not required to report under chapter 4 (see Regulations section 1.1471-5(f)(1)(i)(A)) and thus cannot be included in a chapter 4 withholding rate pool of U.S. payees. See Regulations section 1.6049-4(c)(4). WA must complete a Form 1042-S, showing QI as the recipient in box 13a, and WA should use recipient code 12 (qualified intermediary) as the chapter 3 status code and recipient code 09 (registered deemed-compliant FFI – other) as the chapter 4 status code for the dividends allocated to the 15% withholding rate pool. WA also must complete a Form 1099-DIV issued to C reporting the part of the dividend allocated to C.

Example 4. WA, a withholding agent, makes a withholdable payment of U.S. source dividends to QI, a qualified intermediary that is a reporting Model 1 FFI. QI provides WA with a valid Form W-8IMY with which it associates a withholding statement that allocates 40% of the payment to a chapter 3, 15% withholding rate pool and 40% to a chapter 3, 30% withholding rate pool. QI does not provide any withholding rate pool information regarding the remaining 20% of the payment. WA must apply the presumption rule to the part of the payment (20%) that has not been allocated. Under the presumption rules of Regulations section 1.1471-3(f) for a withholdable payment made to an entity, 20% of the payment is treated as paid to a nonparticipating FFI. WA must complete three Forms 1042-S. First, a Form 1042-S for dividends subject to 15% withholding, showing “3” in box 3, “00” in box 3a (chapter 3 exemption code), “15.00” in box 3b (chapter 3 tax rate), chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) in box 4a, “00.00” in box 4b (chapter 4 tax rate), QI as the recipient in box 13a, recipient code 12 (qualified intermediary) as the chapter 3 status code, and recipient code 07 (registered deemed-compliant FFI-reporting Model 1 FFI) as the chapter 4 status code (because the payment is a withholdable payment). Second, a Form 1042-S for dividends subject to 30% withholding, showing “3” in box 3, “00” in box 3a (chapter 3 exemption code), “30.00” in box 3b (chapter 3 tax rate), chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) in box 4a, “00.00” in box 4b (chapter 4 tax rate), QI as the recipient in box 13a, recipient code 12 (qualified intermediary) as the chapter 3 status code, and recipient code 07 (registered deemed-compliant FFI – reporting Model 1 FFI) as the chapter 4 status code. Third, a Form 1042-S for dividends subject to 30% withholding, showing “4” in box 3, chapter 3 exemption code 12 (payee subjected to chapter 4 withholding) in box 3a, “00.00” in box 3b (chapter 3 tax rate),“00” in box 4a (chapter 4 exemption code),“30.00” in box 4b (chapter 4 tax rate), “Unknown Recipient” as the recipient name in box 13a, recipient code 21 (unknown recipient) as the chapter 3 status code, and recipient code 29 (unknown recipient) as the chapter 4 status code. Also, QI's name, status codes, country code, address, GIIN, and QI-EIN must be entered in boxes 15a through 15i.

Substitute dividends paid to qualified securities lenders. A withholding agent that makes payments of substitute dividends to a qualified securities lender (QSL) should complete Form 1042-S treating the QSL as the recipient. Use income code 34. Use recipient code 13 or 14 (qualified securities lender – qualified intermediary or qualified securities lender – other) as the chapter 3 status code and include the applicable chapter 4 status code of the QSL.

The withholding agent is not required to withhold on a substitute dividend payment if it receives, at least annually, a certificate from the QSL that includes a statement with the following information:

- The recipient of the substitute dividend is a QSL, and
- With respect to the substitute dividend it receives from the withholding agent, the QSL states that it will withhold and remit or pay the proper amount of U.S. gross-basis tax.

If the withholding agent receives a certificate from the QSL that includes a statement that contains the above information, use chapter 3 exemption code 11.

If the QSL is also a QI with primary withholding responsibility, use chapter 3 exemption code 11 and not exemption code 06 for chapter 3 purposes.

Amounts paid to certain U.S. branches. A U.S. withholding agent making a payment to a U.S. branch of an FFI or NFFE completes Form 1042-S as follows:

- If a withholding agent makes a payment to a U.S. branch that has provided the withholding agent with a Form W-8IMY stating that it has agreed to be treated as a U.S. person, the U.S. withholding agent treats the U.S. branch as the recipient.
- If a withholding agent makes a payment to a U.S. branch that has provided a Form W-8IMY to transmit information regarding its chapter 4 reporting pools when the payment is a withholdable payment or the branch provides a chapter 4 withholding rate pool of U.S. payees and, to the extent applicable, recipient specific information for chapter 3 purposes, the U.S. withholding agent must complete a separate Form 1042-S for each chapter 4 reporting pool treating the U.S. branch as the recipient or, for chapter 3 purposes, for each recipient that is a foreign person whose documentation is associated with the U.S. branch's Form W-8IMY. If a payment cannot be reliably associated with recipient documentation, the U.S. withholding agent must complete Form 1042-S in accordance with the presumption rules.
- If a withholding agent cannot reliably associate a payment with a Form W-8IMY from a U.S. branch, and if a withholding agent has an EIN for the branch, then the payment may be reported on a single Form 1042-S treating the U.S. branch as the recipient

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and reporting the income as effectively connected income.

Amounts paid to a foreign estate. If a U.S. withholding agent makes a payment to a foreign estate, a Form 1042-S must be completed showing the estate as the recipient. Use recipient code 17 (estate) as the chapter 3 status code and the applicable recipient code for the chapter 4 status code.

Dual claims. A U.S. withholding agent may make a payment to a foreign entity (for example, a hybrid entity) that is simultaneously claiming an exemption from chapter 4 withholding and a reduced rate of tax under chapter 3 on its own behalf for a part of the payment and an exemption from chapter 4 withholding and a reduced rate of tax under chapter 3 on behalf of persons in their capacity as interest holders in that entity on the remaining part. If the claims are consistent and the withholding agent has accepted the multiple claims, a separate Form 1042-S must be filed for the entity for those payments for which the entity is treated as claiming a reduced rate of withholding and separate Forms 1042-S must be filed for each of the interest holders for those payments for which the interest holders are claiming a reduced rate of withholding. The Forms 1042-S must include the chapter 4 status of the payee (including the applicable chapter 4 exemption). If the claims are consistent but the withholding agent has not chosen to accept the multiple claims, or if the claims are inconsistent, a separate Form 1042-S must be filed for the person(s) being treated as the recipient(s).

Special instructions for U.S. trusts and estates. Report the entire amount of income subject to reporting, regardless of estimates of distributable net income.

Payments Made to Persons Who Are Not Recipients

Disregarded entities and hybrid entities. If a U.S. withholding agent makes a payment to a disregarded entity (other than a limited branch of an FFI) that is not a hybrid entity making a treaty claim, and receives a valid Form W-8BEN-E or W-8ECI from a foreign person that is the single owner of the disregarded entity, the withholding agent must file a Form 1042-S in the name of the foreign single owner. The taxpayer identifying number (TIN) on the Form 1042-S, if required, must be the foreign single owner's TIN. However, in box 13h include the GIIN of the disregarded entity provided in Part II of Form W-8BEN-E if the owner is an FFI.

Example 5. WA, a withholding agent, makes a withholdable payment of interest to LLC, a foreign limited liability company that is not an FFI. LLC is wholly owned by FC, a foreign corporation that is an excepted non-financial foreign entity. LLC is treated as a disregarded entity. WA has a Form W-8BEN-E from FC on which it states that it is the beneficial owner of the income paid to LLC. WA reports the interest payment on Form 1042-S showing FC as the recipient. The result would be the same if LLC was a domestic entity.

A disregarded entity can, however, claim to be the beneficial owner of a payment if it is a hybrid entity claiming treaty benefits. See Form W-8BEN-E and its instructions for more information. If a disregarded entity claims on a valid Form W-8BEN-E to be the beneficial owner, the U.S. withholding agent must complete a Form 1042-S treating the disregarded entity as a recipient and using recipient code 26 (hybrid entity making a treaty claim) as the chapter 3 status code and the applicable recipient code for the chapter 4 status code of the single owner when the payment is a withholdable payment and chapter 4 withholding does not apply.

A hybrid entity with multiple owners may also claim treaty benefits. See Form W-8BEN-E and its instructions for more information on documentation requirements that apply in such cases. If a hybrid entity treated as a resident of a treaty country claims treaty benefits on a valid Form W-8BEN-E associated with a withholdable payment (and chapter 4 withholding does not apply with respect to any of its owners to such payment or portion of such payment), the U.S. withholding agent should complete a Form 1042-S treating the hybrid entity as a recipient, use code 26 (hybrid entity making a treaty claim) as the chapter 3 recipient status code, and leave blank the chapter 4 recipient status code. To the extent, however, that a portion of a withholdable payment is allocated to an owner of the hybrid entity for which chapter 4 withholding must be applied, the U.S. withholding agent must issue a separate Form 1042-S to such owner using the applicable recipient codes for the owner's chapters 3 and 4 status codes and report the hybrid entity as the intermediary. The withholding agent must do so for each such owner for which chapter 4 withholding applies and must exclude amounts allocable to such owners from the Form 1042-S issued to the hybrid entity.

If an owner of a reverse hybrid entity claims treaty benefits on a valid Form W-8BEN-E or W-8BEN (and chapter 4 withholding does not apply with respect to the payment to the reverse hybrid entity), the U.S. withholding agent should issue a Form 1042-S for the portion of the payment allocable to each such owner treating the owner as the recipient, using the applicable recipient codes for the chapter 3 and 4 status codes, and report the reverse hybrid entity as the intermediary in boxes 15a through 15i. In such a case, the U.S. withholding agent must issue a Form 1042-S to the reverse hybrid entity for the remainder of the payment treating such entity as the recipient and using the applicable chapters 3 and 4 status codes. However, if chapter 4 withholding applies with respect to the payment to the reverse hybrid entity, the U.S. withholding agent must instead issue a Form 1042-S to the reverse hybrid entity for the entire payment and withhold accordingly.

Example 6. WA, a withholding agent, makes a withholdable payment of interest to FP, a hybrid entity organized in Country X. FP is treated as a partnership under the Code but is treated as a company resident in Country X for Country X purposes. WA has a Form W-8BEN-E from FP on which it claims treaty benefits. WA also has a Form W-8IMY from FP that includes its chapters 3 and 4 statuses and a W-8BEN-E from each of FP's owners, FC1 and FC2, which certify that FC1 is a PFFI and FC2 is an NPFFI. The attached withholding statement allocates 80% of the payment to FC1 and 20% of the payment to FC2. WA must issue a Form 1042-S for 80% of the payment to FP as the recipient using recipient code 26 (hybrid entity making a treaty claim) as the chapter 3 status code and leaving blank the recipient code for the chapter 4 status code. WA must withhold under chapter 4 on the remaining 20% of the payment allocated to FC2 and issue a Form 1042-S to FC2 as the recipient using recipient code 15 (corporation) as the chapter 3 status code and recipient code 15 (nonparticipating FFI) as the chapter 4 status code and must report FP as the intermediary in boxes 15a through 15i.

Amounts paid to a nonqualified intermediary or flow-through entity. If a U.S. withholding agent makes a

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payment to an NQI or a flow-through entity (other than a nonparticipating FFI) with respect to a withholdable payment, it must complete a separate Form 1042-S for each recipient on whose behalf the NQI or flow-through entity acts as indicated by its withholding statement and the documentation associated with its Form W-8IMY. If a payment is made through tiers of NQIs or flow-through entities, the withholding agent must nevertheless complete Form 1042-S for the recipients to which the payments are remitted. A withholding agent completing Form 1042-S for a recipient that receives a payment through an NQI or a flow-through entity must include in boxes 15a through 15i of Form 1042-S the name, country code, address, TIN, if any, GIIN, if any, and status codes of the NQI or flow-through entity from whom the recipient directly receives the payment.

If, however, a U.S. withholding agent makes withholdable payments to an NQI or a flow-through entity that is a participating FFI or registered deemed-compliant FFI that is allocable to a chapter 4 withholding rate pool as indicated by the FFI's withholding statement, the U.S. withholding agent should complete a separate Form 1042-S for each chapter 4 reporting pool (that is, pool of recalcitrant account holders, pool of nonparticipating FFIs, pool of payees that are U.S. persons) treating the participating FFI or registered deemed-compliant FFI as the recipient and must include the GIIN and chapter 3 status code of the FFI and the applicable chapter 4 reporting pool code as the chapter 4 status code. If a payment is made through tiers of NQIs or flow-through entities that are participating FFIs or registered deemed-compliant FFIs, the withholding agent must nevertheless complete Form 1042-S for each chapter 4 reporting pool to which the payments are allocated and must report, as the recipient, the FFI from whom the recipients included in the chapter 4 reporting pool directly receive the payment.

Example 7. WA, a withholding agent, makes a withholdable payment of interest to FFI 1, a reporting Model 1 FFI. FFI 1 provides WA with a valid Form W-8IMY with which it associates a withholding statement that allocates 80% of the payment to FFI 2, a participating FFI, and 20% of the payment to a pool of nonparticipating FFIs. FFI 1 also provides WA with FFI 2's Form W-8IMY with which it associates a withholding statement that allocates 100% of the payment to recalcitrant pool-no U.S. indicia. WA must complete a Form 1042-S for the interest allocated to a pool of nonparticipating FFIs with FFI 1 as the recipient and must complete another Form 1042-S for the interest allocated to a pool of recalcitrant account holders-no U.S. indicia with FFI 2 as the recipient.

If a U.S. withholding agent makes a withholdable payment to an NQI or flow-through entity that is a participating FFI or deemed-compliant FFI, and cannot reliably associate the payment, or any part of the payment, with a withholding statement, or to the extent required, a valid withholding certificate (Forms W-8 or W-9) or other valid appropriate documentation from a recipient, the withholding agent must follow the appropriate presumption rules for that payment which, if the payment is a withholdable payment, will generally require the withholding agent to withhold 30% under chapter 4 because such payment is presumed made to a nonparticipating FFI. See Regulations section 1.1471-3(f)(5). For this purpose, if the allocation information provided to the withholding agent indicates an allocation of more than 100% of the payment, then no part of the payment should be considered to be associated with a Form W-8, Form W-9, or other appropriate documentation. The Form 1042-S should be completed by entering "Unknown Recipient" in box 13a and recipient code 21 (unknown recipient) as the chapter 3 status code and recipient code 29 (unknown recipient) as the chapter 4 status code. Also, the name, country code, address, TIN, if any, GIIN, if any, and status codes of the FFI should be entered in boxes 15a through 15i.

If a U.S. withholding agent makes a withholdable payment to an NQI or flow-through entity that is a nonparticipating FFI, the withholding agent must treat the payments as made to an unknown recipient regardless of whether it can reliably associate the payment, or any part of the payment, with a valid withholding certificate (Forms W-8 or W-9) or other valid appropriate documentation from a recipient (see Regulations section 1.1471-3(d)(8)). The withholding agent should complete a Form 1042-S showing "Unknown Recipient" in box 13a and recipient code 21 (unknown recipient) as the chapter 3 status code and recipient code 29 (unknown recipient) as the chapter 4 status code. Also, the name, country code, address, chapter 4 status code, and TIN, if any, of the nonparticipating FFI should be entered on Form 1042-S in boxes 15a through 15i.

If, however, an NQI or flow-through entity that is a nonparticipating FFI provides documentation described in Regulations section 1.1471-3(d)(8)(ii) to establish that the withholdable payment or a portion of the payment is beneficially owned by an exempt beneficial owner, then the withholding agent should complete a Form 1042-S for each exempt beneficial owner showing the chapter 4 exemption code 15 (payee not subject to chapter 4 withholding), the exempt beneficial owner as the recipient in box 13a, and the name, country code, address, chapter 4 status code, and TIN, if any, of the nonparticipating FFI in boxes 15a through 15i. For any remaining portion of the payment, the withholding agent should complete a Form 1042-S to an unknown recipient as described directly above.

Pro-rata reporting. If the withholding agent has agreed that an NQI (other than a nonparticipating FFI) may provide information allocating a payment to its account holders under the alternative procedure of Regulations section 1.1441-1(e)(3)(iv)(D) (no later than February 17, 2017) and the NQI fails to allocate more than 10% of the payment in a withholding rate pool to the specific recipients in the pool or an applicable chapter 4 withholding rate pool, the withholding agent must file a Form 1042-S for each recipient in the pool on a pro-rata basis. The withholding agent must check box 15 (pro-rata basis reporting) on each Form 1042-S. For example, if there are four account holders in a withholding rate pool that receives a $100 payment and the NQI fails to allocate more than $10 of the payment, the withholding agent must file four Forms 1042-S, one for each account holder in the pool, showing $25 of the income to each and box 15 checked. If, instead, the NQI fails to timely allocate 10% or less of the payment in a withholding rate pool to the specific recipients in a pool, the withholding agent must file a Form 1042-S for each recipient for which it has allocation information and report the unallocated part of the payment on a Form 1042-S as made to an "unknown recipient." In this case, the withholding agent does **not** check box 15 on any of the Forms 1042-S.

Payments allocated, or presumed made, to U.S. non-exempt recipients. You may be given Forms W-9 or other

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information regarding U.S. non-exempt recipients from an NQI or flow-through entity together with information allocating all or a part of the payment to U.S. non-exempt recipients. You must report income allocable to a U.S. non-exempt recipient on the appropriate Form 1099 and not on Form 1042-S, even though you are paying that income to an NQI or a flow-through entity. If, however, a participating FFI or registered deemed-compliant FFI provides a withholding statement allocating all or part of the payment to a chapter 4 withholding rate pool of U.S. payees along with the certification provided on Form W-8IMY required for reporting such pool (as described in Regulations section 1.1471-3(c)(3)(iii)(B)), you must report the income allocable to such pool on Form 1042-S.

Example 8. FP is a nonwithholding foreign partnership (flow-through entity) that is a certified deemed-compliant FFI. FP receives from WA, a U.S. withholding agent, a withholdable payment of interest described by income code 01 (interest paid by U.S. obligors – general). FP has three partners, A, B, and C, all of whom are individuals. FP provides WA with a Form W-8IMY certifying that it is transmitting Forms W-9 for U.S. non-exempt recipients and Forms W-8BEN from A and B and a Form W-9 from C, a U.S. non-exempt recipient. In addition, FP provides a complete withholding statement in association with its Form W-8IMY that allocates the interest payments among A, B, and C. WA must file two Forms 1042-S, one each for A and B, treating FP as the intermediary in boxes 15a through 15i. WA should also file a Form 1099-INT for C.

Example 9. The facts are the same as in *Example 8*, except that FP does not provide any documentation from its partners. Because WA cannot reliably associate the withholdable payment of interest with documentation from a payee, it must apply the presumption rules of Regulations section 1.1471-3(f) to treat the interest as paid to a nonparticipating FFI. A Form 1042-S should be completed by entering "4" in box 3, "Unknown Recipient" in box 13a, recipient code 21 (unknown recipient) as the chapter 3 status code, and recipient code 29 (unknown recipient) as the chapter 4 status code. Also, the name, country code, address, status codes, and TIN, if any, of FP should be entered in boxes 15a through 15i.

Example 10. The facts are the same as *Example 9* except that FP is a participating FFI and provides WA with a Form W-8IMY certifying that it is reporting its U.S. accounts under chapter 4 and a withholding statement allocating 33% of the payment to a pool of U.S. payees. With respect to the U.S. pool of payees, WA must file a Form 1042-S showing FP as the recipient in box 13a and include FP's GIIN, recipient code 08 as the chapter 3 status code (partnership other than a withholding foreign partnership), and use recipient code 48 (U.S. payees pool) as the chapter 4 status code. WA should enter "3" in box 3 as the chapter indicator, leave boxes 3a and 3b blank, and enter exemption code 18 (U.S. payees of a participating FFI or registered deemed-compliant FFI) in box 4a and "00.00" in box 4b.

Specified Federal Procurement Payments Made to Foreign Persons

Section 5000C imposes a 2% tax on any foreign person that receives a specified federal procurement payment. A specified federal procurement payment is a payment made to a foreign person pursuant to a contract with the U.S. government for: (1) the provision of goods that are manufactured or produced in a country that does not have an international procurement agreement with the U.S., or (2) the provision of services by a country that does not have an international procurement agreement with the U.S.

For purposes of section 5000C, a payor of a specified Federal procurement payment to a foreign person must complete a Form 1042-S for payments withheld upon in the name of the foreign person. Use income code 44 to report payments subject to withholding under section 5000C. Box 2 should include the amount of the specified Federal procurement payments subject to withholding and box 7 should include the amount of tax withheld under section 5000C.

If you are reporting tax withheld under section 5000C, enter "3" in box 3 as if the tax were a chapter 3 tax, enter "00" in box 3a, and report the tax withheld in box 7. You do not need to complete box 4a, 4b, or any box for a chapter 3 or 4 status code. On boxes 13a through 13d, include the name and the address of the foreign person withheld upon. If known, include the TIN (if any) in box 13e.

Amounts Paid by Qualified Intermediaries

In general. For purposes of chapter 4, a QI must complete a Form 1042-S for payments withheld under chapter 4 determined in accordance with the income codes used to file Form 1042-S. A QI that is a participating FFI or registered deemed-compliant FFI may use the chapter 4 pooled reporting codes 42 through 48 to allocate payments made to its recalcitrant account holders, payees that are nonparticipating FFIs, and payees that are U.S. persons. A QI should not use chapter 4 reporting pool 49 (QI-Recalcitrant Pool- General) to report its accounts but may use it to report accounts maintained by another QI. A QI that is an NFFE or an FFI treated as deemed-compliant under an applicable IGA (as described in Regulations section 1.1441-1(e)(5)(ii)(A)) may use chapter 4 reporting pool code 47 to report payments allocable to a pool of nonparticipating FFIs. QI may also use the chapter 4 pooled reporting codes to report payments allocable to account holders, payees, or owners of another participating FFI or registered deemed-compliant FFI that is an NQI, NWP, or NWT and provides its chapter 4 withholding rate pools on its withholding statement. In such case, the QI must include the NQI, NWP, or NWT as the recipient in box 13a and the applicable recipient code for such entity as the chapter 3 status code. For payments that are exempt from chapter 4 withholding, and made by the QI directly to foreign beneficial owners (or that are treated as paid directly to beneficial owners), the QI may report on the basis of chapter 3 reporting pools, in most cases. A QI may not report on the basis of reporting pools in the circumstances described in *Recipient-by-Recipient Reporting*, later. For payments not subject to chapter 4 withholding, a QI may use a single chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) and a single chapter 3 reporting pool code 27 (Withholding rate pool – general) as the chapter 3 status code for all reporting pools, except for amounts paid to foreign tax-exempt recipients for which chapter 3 reporting pool code 28 should be used. Note, however, that a QI should use recipient code 28 only for pooled account holders that have claimed an exemption based on their tax-exempt status and not some other exemption (tax treaty or other Code). If a QI uses a chapter 3 pooled

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reporting code (because chapter 4 withholding does not apply and the QI is not allocating the payment to a U.S. pool of payees), it should leave blank the recipient code for the chapter 4 status code.

Example 11. QI, a qualified intermediary and participating FFI, has four direct account holders, A and B, foreign individuals, and X and Y, foreign corporations. The withholdable payments made to these direct account holders are exempt from chapter 4 withholding because of the chapter 4 status of each account holder. A and X are residents of a country with which the United States has an income tax treaty and have provided documentation that establishes that they are entitled to a lower treaty rate of 15% on withholding of dividends from U.S. sources. B and Y are not residents of a treaty country and are subject to 30% withholding on dividends. QI receives U.S. source dividends on behalf of its four customers. QI must file one Form 1042-S for the 15% withholding rate pool. This Form 1042-S must show income code 06 (dividends paid by U.S. corporations – general) in box 1, "00" in box 3a (chapter 3 exemption code), "15.00" in box 3b (chapter 3 tax rate), chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) in box 4a, "00.00" in box 4b (chapter 4 tax rate), "Withholding rate pool" in box 13a (recipient's name), chapter 3 reporting pool code 27 (withholding rate pool – general) as the chapter 3 status code, and a blank chapter 4 status code. QI also must file one Form 1042-S for the 30% withholding rate pool that contains the same information as the Form 1042-S filed for the 15% withholding rate pool, except that it will show "30.00" in box 3b (chapter 3 tax rate).

Example 12. The facts are the same as in Example 11, except that Y is an organization that has tax-exempt status in the United States and in the country in which it is located, and B is a recalcitrant account holder with U.S. indicia. QI must file three Forms 1042-S. One Form 1042-S (for amounts allocable to A and X) will contain the same information as in Example 11. The second Form 1042-S (for amounts allocable to Y) will contain information for the withholding rate pool consisting of the amounts paid to Y. This Form 1042-S will show income code 06 (dividends paid by U.S. corporations – general) in box 1, exemption code 02 (exempt under IRC (other than portfolio interest)) in box 3a, "00.00" in box 3b (chapter 3 tax rate), chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) in box 4a, "00.00" in box 4b (chapter 4 tax rate), "Zero rate withholding pool-exempt organizations," or similar designation, in box 13a (recipient's name), chapter 3 code 28 (withholding rate pool – exempt organization) in box 13f, and a blank chapter 4 status code in box 13g. The third Form 1042-S will contain information for the recalcitrant pool consisting of amounts paid to B. This Form 1042-S will show income code 06 (dividends paid by U.S. corporations-general) in box 1, code 12 (payee subjected to chapter 4 withholding) in box 3a (chapter 3 exemption code), "00.00" in box 3b (chapter 3 tax rate), "00" in box 4a (chapter 4 exemption code), "30.00" in box 4b (chapter 4 tax rate), "recalcitrant pool – U.S. indicia" or similar designation, in box 13a (recipient's name), chapter 4 recipient code 43 (recalcitrant pool-U.S. indicia) as the chapter 4 status code in box 13g, and a blank chapter 3 status code in box 13f.

CAUTION *Under the terms of its Qualified Intermediary (or QI) agreement with the IRS, a QI that is an FFI may be required to report the amounts paid to U.S. non-exempt recipients on Form 1099 or Form 8966 using the name, address, and TIN of the payee to the extent those items of information are known. These amounts must be reported on Form 1042-S if allocated to a chapter 4 withholding rate pool of U.S. payees.*

Amounts Paid to Private Arrangement Intermediaries

In most cases, a QI must report payments made to each private arrangement intermediary (PAI) (defined earlier in *Definitions*) as if the PAI's direct account holders were its own. For purposes of chapter 4, a QI that is a participating FFI, registered deemed-compliant FFI, or an FFI treated as deemed-compliant under an applicable IGA (as described in Regulations section 1.1441-1(e)(5)(ii)(A)) may use the chapter 4 reporting pool code 47 to allocate payments made to the PAI's payees that are nonparticipating FFIs, and may treat the PAI as the recipient on Form 1042-S with respect to each such pool. For chapter 3 purposes, if the payment is made directly by the PAI to the recipient, the QI may report the payment on a pooled basis. A separate Form 1042-S is required for each withholding rate pool of each PAI. However, the QI must include the name and address of the PAI and use reporting pool code 29 or 30 (PAI withholding rate pool – general and PAI-withholding rate pool-exempt organization) as the chapter 3 status code. If the PAI is providing recipient information from an NQI or flow-through entity, the QI may not report the payments on a pooled basis for chapter 3 purposes. Instead, it must follow the same procedures as a U.S. withholding agent making a payment to an NQI or flow-through entity.

Example 13. QI, a qualified intermediary, pays U.S. source dividends to direct account holders that are foreign persons and beneficial owners. It also pays a part of the U.S. source dividends to two private arrangement intermediaries, PAI1 and PAI2. The private arrangement intermediaries pay the dividends they receive from QI to foreign persons that are beneficial owners and direct account holders of PAI1 or PAI2. All payees are exempt from chapter 4 withholding based on their respective chapter 4 statuses and the dividends paid are subject to a 15% rate of withholding. QI must file a Form 1042-S for the dividends paid to its own direct account holders that are beneficial owners. QI also must file two Forms 1042-S, one for the dividends paid to the direct account holders of each of PAI1 and PAI2. Each of the Forms 1042-S that QI files for payments made to PAI1 and PAI2 must contain the name and address of PAI1 or PAI2, recipient code 29 (PAI withholding rate pool – general) as the chapter 3 status code, and a blank chapter 4 status code, and should use chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) in box 4a.

Amounts Paid to Certain Partnerships and Trusts

A QI that is applying the special pool reporting allowance provided in the QI agreement for certain partnerships or trusts (Joint Account or Agency Option) must file separate Forms 1042-S reflecting reporting pools for each partnership or trust that has provided reporting pool information in its withholding statement. For purposes of chapter 4, a QI that is an FFI may use the chapter 4 reporting pool code 47 to allocate payments made to the partnership or trust's payees that are nonparticipating FFIs, and should report the partnership or trust as the recipient on Form 1042-S. For chapter 3 purposes, if the payment is made

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directly by the partnership or trust to the recipient, the QI may use reporting pool code 31 (Agency withholding rate pool - general), 32 (Agency withholding rate pool - exempt organization), or 33 (Joint account withholding rate pool) as the chapter 3 status code. However, to the extent required in the QI agreement, the QI must file separate Forms 1042-S for partners, beneficiaries, or owners of such partnership or trust that are indirect partners, beneficiaries, or owners, and for direct partners, beneficiaries, or owners of such partnership or trust that are intermediaries or flow-through entities.

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Recipient-by-Recipient Reporting

If a QI is not permitted to report on the basis of reporting pools, it must follow the same rules that apply to a U.S. withholding agent. For chapter 3 purposes, a QI may not report the following payments on a reporting pool basis, but rather must complete Form 1042-S for each appropriate recipient and must provide the applicable chapter 4 exemption code.

Payments made to another QI, QSL, WP, or WT. The QI must complete a Form 1042-S treating the other QI, QSL, WP, or WT as the recipient.

Payments made to an NQI (including an NQI that is an account holder of a PAI). For chapter 3 purposes, the QI must complete a Form 1042-S for each recipient who receives the payment from the NQI. A QI that is completing Form 1042-S for a recipient that receives a payment through an NQI must include in boxes 15a through 15i the name, country code, address, TIN, if any, GIIN, if any, and status codes of the NQI from whom the recipient directly receives the payment. In the case of an NQI that is a participating FFI or registered deemed-compliant FFI, the QI must complete a Form 1042-S for the chapter 4 withholding rate pool of the NQI provided in a withholding statement associated with its Form W-8IMY and must report the NQI as the recipient. In such a case, the QI must include the name and address of the NQI as the recipient and use chapter 4 pool reporting codes 42 through 48 as the chapter 4 status code and chapter 3 status code 25 (nonqualified intermediary). If the NQI fails to provide sufficient allocation information with respect to a withholdable payment, the QI must complete a Form 1042-S with the recipient as "Unknown Recipient" using reporting pool code 29 (unknown recipient) and must include the NQI's information in boxes 15a through 15i.

Example 14. QI, a qualified intermediary, has NQI, a nonqualified intermediary that is a participating FFI, as an account holder. NQI has two account holders, A and B, both recalcitrant account holders with U.S. indicia who receive a withholdable payment of U.S. source dividends from QI. NQI provides QI with a valid Form W-8IMY and a complete withholding statement that allocates the dividends paid to NQI to recalcitrant pool- U.S. indicia for both A and B. QI must complete one Form 1042-S reporting NQI as the recipient and using reporting pool code 43 (recalcitrant pool – U.S. indicia) as the chapter 4 status code.

Example 15. QI has NQI, a nonqualified intermediary that is a reporting Model 2 FFI, as an account holder. NQI has two account holders, A and B, who receive a withholdable payment of U.S. source dividends from QI. A is a nonparticipating FFI. NQI treats B as a non-consenting U.S. account under the applicable IGA and is not required to withhold on payments to B under chapter 4. NQI provides QI with a valid Form W-8IMY and a complete withholding statement that allocates 50% of the dividends paid to A and 50% to B. NQI designates B as an individual exempt from withholding under an IGA but cannot include B in a chapter 4 withholding rate pool of U.S. payees because the payment is subject to chapter 3 withholding and under the presumption rules of Regulations section 1.1441-1(b)(3) the payment is presumed made to an unknown, undocumented foreign payee. QI must complete two Forms 1042-S. One Form 1042-S must show NQI as the recipient and use reporting pool code 47 (nonparticipating FFI pool). The second Form 1042-S must show the recipient as “Unknown Recipient,” NQI's information in boxes 15a through 15i, chapter 4 exemption code 19 (exempt from withholding under IGA), chapter 4 status code 34 (non-consenting U.S. account), chapter 3 status code 21 (unknown recipient), and 30% withholding under chapter 3 for the payment allocated to B as a presumed foreign person under chapter 3.

Payments made to a flow-through entity. The QI must complete a Form 1042-S for each recipient who receives the payment from the flow-through entity. A QI that is completing a Form 1042-S for a recipient that receives a payment through a flow-through entity must include in boxes 15a through 15i the name, country code, address, TIN, if any, GIIN, if any, and status codes of the flow-through entity from which the recipient directly receives the payment.

For chapter 4 purposes and in the case of a flow-through entity that is a participating FFI or registered deemed-compliant FFI (other than a WP or WT), the QI must complete a Form 1042-S for each chapter 4 withholding rate pool provided in the withholding statement associated with the Form W-8IMY of the flow-through entity. The QI must include the name, address, and GIIN of the flow-through entity as the recipient and the applicable chapter 3 status code for the flow-through entity, and use pooled reporting codes 42 through 48 as the chapter 4 status code.

Example 16. QI, a qualified intermediary, has FP, a nonwithholding foreign partnership that is a registered deemed-compliant FFI, as an account holder. QI pays interest that is a withholdable payment described by income code 01 (interest paid by U.S. obligors – general) to FP. FP has three partners, A, B, and C, all of whom are exempt from withholding under chapter 4 based on their respective chapter 4 statuses. FP provides QI with a Form W-8IMY with which it associates the Forms W-8BEN from each of A, B, and C. In addition, FP provides a complete withholding statement in association with its Form W-8IMY that allocates the interest payments among A, B, and C. QI must file three Forms 1042-S, one each for A, B, and C. The Forms 1042-S must show information relating to FP in boxes 15a through 15i along with the chapter 3 and 4 status codes and chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) for A, B, and C.

Amounts Paid by Withholding Foreign Partnerships and Trusts

In general. For chapter 4 purposes, payments that are made by a withholding foreign partnership (WP) or withholding foreign trust (WT) that is a participating FFI or a registered deemed-compliant FFI directly to its partners, owners, or beneficiaries that are recalcitrant account holders, payees that are nonparticipating FFIs, and payees that are U.S. persons may be reported on the basis of chapter 4 reporting pools. A WP or WT may also use the chapter 4 pooled reporting codes to report payments allocable to account holders, payees, or owners of

another participating FFI or registered deemed-compliant FFI that is an NQI, NWP, or NWT and provides its chapter 4 withholding rate pools on its withholding statement when the WP or WT applies section 9.03 of its Agreement to such entity. In such case, the WP or WT must include the NQI, NWP, or NWT as the recipient in box 13a. If a WP or WT has not made a pooled reporting election, for chapter 3 purposes, a WP or WT must file a separate Form 1042-S for each direct partner, beneficiary, or owner that is exempt from chapter 4 withholding and to whom the WP or WT distributes, or in whose distributive share is included, an amount subject to withholding under chapter 3, in the same manner as a U.S. withholding agent. However, if the WP or WT has made a pooled reporting election in its WP or WT agreement, the WP or WT may instead report payments to such direct partners, beneficiaries, or owners on the basis of chapter 3 reporting pools and file a separate Form 1042-S for each reporting pool. For payments not subject to chapter 4 withholding, a WP or WT may use a single chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) and a single chapter 3 reporting pool code 27 (withholding rate pool – general) as the chapter 3 status code for all chapter 3 reporting pools, except for amounts paid to foreign tax-exempt recipients for which a separate recipient code 28 must be used. For this purpose, a foreign tax-exempt recipient includes any organization that is not subject to withholding and is not liable to tax in its country of residence because it is a charitable organization, pension fund, or foreign government. See the WP and WT agreements for when a WP and WT can pool report payments to an indirect partner, beneficiary, or owner. See section 9 of the WP or WT Agreement.

Amounts Paid by Nonqualified Intermediaries and Flow-Through Entities

An NQI and a flow-through entity are withholding agents and must file Forms 1042-S for amounts paid to recipients. However, an NQI or flow-through entity is not required to file Form 1042-S if it is not required to file Form 1042-S under the *Multiple Withholding Agent Rule,* later. An NQI or flow-through entity may report payments made to recipients to the extent it has failed to provide to another withholding agent the appropriate documentation and complete withholding statement for either chapter 3 or 4 purposes. If the NQI or flow-through entity chooses to or must file Form 1042-S, as described above, the NQI or flow-through entity must also file Form 1042 and, if applicable, attach the Form 1042-S it received from the withholding agent to establish any credit for amounts withheld by the withholding agent. See *Instructions for Form 1042.*

If another withholding agent has withheld tax on an amount that should have been exempt (for example, where the withholding agent applied the presumption rules because it did not receive proper documentation or other required information from the NQI or flow-through entity), and the payee or beneficial owner will make a claim for refund, the NQI or flow-through entity must report on Form 1042-S the correct tax rate and the combined amount of U.S. federal tax withheld with respect to all recipients and should enter the applicable chapter 3 and 4 exemption codes.

If another withholding agent underwithholds, regardless of whether it received proper documentation from the NQI or flow-through entity, the NQI or flow-through entity must withhold additional amounts to bring the total withholding to the correct amount.

Multiple Withholding Agent Rule

A withholding agent is not required to file Form 1042-S if a return is filed by another withholding agent reporting the same amount and the withholding agent has withheld correctly.

The multiple withholding agent rule does not relieve withholding agents from Form 1042-S reporting responsibility in the following circumstances.

- Any withholding agent making a payment to a QI, QSL, WP, or WT must report that payment as made to the QI, QSL, WP, or WT.
- Any withholding agent making a payment to a U.S. branch treated as a U.S. person must report the payment as made to that branch.
- Any withholding agent that withholds an amount from a payment under chapters 3 or 4 must report that amount to the recipient from whom it was withheld.

Furthermore, the multiple withholding agent rule does not relieve the following from Form 1042-S reporting responsibility.

- Any QI, WP, or WT required to report an amount to a chapter 4 withholding rate pool or chapter 3 withholding rate pool.
- An NQI or flow-through entity that knows, or has reason to know, that the correct amount has not been withheld by another withholding agent.

Under the multiple withholding agent rule, a withholding agent reporting amounts withheld by another withholding agent must use box 8 (Tax withheld by other agents) to report such amounts and must provide the name and EIN of the withholding agent that withheld in boxes 14a and 14b (Primary Withholding Agent's Name and EIN). See instructions for boxes 14a and 14b, later.

Example 17. NQI, a foreign bank that is a participating FFI, acts as a nonqualified intermediary for four different foreign persons (A, B, C, and D) who own securities from which they receive interest that is a withholdable payment. The interest is paid by a U.S. withholding agent (WA) as custodian of the securities for NQI. A, B, C, and D each own a 25% interest in the securities. NQI has furnished WA with a Form W-8IMY to which it certifies its status as a participating FFI and has attached Forms W-8BEN from A and B. NQI's Form W-8IMY contains an attachment stating that 25% of the securities are allocable to each of A and B, and 50% to a pool of recalcitrant account holders with U.S. indicia. WA pays $100 of interest during the calendar year. WA treats the $25 of interest allocable to A and the $25 of interest allocable to B as portfolio interest and completes Forms 1042-S for A and for B as the recipients. WA includes information relating to NQI in boxes 15a through 15i on the Forms 1042-S for A and B. WA subjects the remaining $50 of interest to 30% withholding under chapter 4 and reports the interest on a Form 1042-S by treating NQI as the recipient in box 13a and uses chapter 3 status code 25 (nonqualified intermediary), chapter 4 status code 43 (recalcitrant pool – U.S. indicia), “30.00” in box 4b (chapter 4 tax rate), and $15 as the amount withheld in boxes 7 and 10. Under the multiple withholding agent rule, NQI is not required to file a Form 1042-S, but must file a Form 1042-S if, for example, C and D seek to make a claim for refund and NQI has not filed a collective refund claim on behalf of C and D for the tax withheld under chapter 4 on the

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payment (see Regulations section 1.1471-4(h)).

Example 18. WA, a U.S. withholding agent, makes a $100 dividend payment that is a withholdable payment to a foreign bank (NQI) that is a participating FFI and acts as a nonqualified intermediary. NQI receives the payment on behalf of A, documented as a foreign individual exempt from chapter 4 withholding and a resident of a treaty country who is entitled to a 15% rate of withholding under chapter 3, and B, documented as a foreign individual exempt from chapter 4 withholding and a resident of a country that does not have a tax treaty with the United States and who is subject to 30% withholding under chapter 3. NQI provides WA with its Form W-8IMY that certifies its status as a participating FFI to which it associates the Forms W-8BEN from both A and B and a complete withholding statement that allocates 50% of the dividend to A and 50% to B. A's Form W-8BEN claims a 15% treaty rate of withholding. B's Form W-8BEN does not claim a reduced rate of withholding. WA, however, mistakenly withholds only 15%, $15, from the entire $100 payment. WA completes a Form 1042-S for each A and B as the recipients, showing on each form $50 of dividends in box 2, a withholding rate of "15.00" in box 3b (chapter 3 tax rate), and $7.50 as the amount withheld in boxes 7 and 10. Under the multiple withholding agent rule, NQI is not required to file a Form 1042-S for A. However, because NQI knows (or should know) that B is subject to a 30% rate of withholding, and assuming it knows that WA only withheld 15%, the multiple withholding agent rule does not apply to the dividend paid to B, and NQI must withhold an additional 15% from the payment to B. NQI then must file a Form 1042-S for B showing $50 of dividends in box 2, "00" in box 3a (chapter 3 exemption code), "30.00" in box 3b (the correct chapter 3 tax rate), $7.50 withheld by NQI in box 7, $7.50 withheld by WA in box 8, and $15 in box 10 (the combined amount withheld). NQI also must enter chapter 4 exemption code 15 (payee not subject to chapter 4 withholding) in box 4a and "00.00" in box 4b (chapter 4 tax rate). See the instructions for box 3b, later.

Penalties

The following penalties apply to the person required to file Form 1042-S. The penalties apply to both paper filers and electronic filers.

Late filing of correct Form 1042-S. A penalty may be imposed for failure to file each correct and complete Form 1042-S when due (including extensions), unless you can show that the failure was due to reasonable cause and not willful neglect. The penalty, based on when you file a correct Form 1042-S, is:

- $50 per Form 1042-S if you correctly file within 30 days after the required filing date; the maximum penalty is $536,000 per year ($187,500 for a small business). A small business, for this purpose, is defined as having average annual gross receipts of $5 million or less for the 3 most recent tax years (or for the period of its existence, if shorter) ending before the calendar year in which the Forms 1042-S are due.
- $100 per Form 1042-S if you correctly file more than 30 days after the due date but by August 1; the maximum penalty is $1,609,000 per year ($536,000 for a small business).
- $260 per Form 1042-S if you file after August 1 or you do not file correct Forms 1042-S; the maximum penalty is $3,218,500 per year ($1,072,500 for a small business).

If you intentionally disregard the requirement to report correct information, the penalty per Form 1042-S is increased to the greater of $530 or 10% of the total amount of items required to be reported, with no maximum penalty.

Failure to furnish correct Form 1042-S to recipient. If you fail to provide Forms 1042-S to recipients and cannot show reasonable cause, a penalty of up to $260 may be imposed for each failure to furnish Form 1042-S to the recipient when due. The penalty also may be imposed for failure to include all required information or for furnishing incorrect information on Form 1042-S. The maximum penalty is $3,218,500 for all failures to furnish correct recipient statements during a calendar year. If you provide the correct statement on or before August 1, reduced penalties similar to those for failing to file a correct Form 1042-S with the IRS may be imposed. See *Late filing of correct Form 1042-S*, earlier. If you intentionally disregard the requirement to report correct information, each $260 penalty is increased to the greater of $530 or 10% of the total amount of items required to be reported, with no maximum penalty.

Failure to file electronically. If you are required to file electronically but fail to do so, and you do not have an approved waiver on record, penalties may apply unless you establish reasonable cause for your failure.

Avoid Common Errors

To ensure that your Forms 1042-S can be correctly processed, be sure that you:

- Carefully read the information provided in Pub. 515 and these instructions.
- Comply with the requirements in Pub. 1187 if you are an electronic filer.
- Complete all required fields. At a minimum, you must enter information in boxes 1, 2, 7, 12a, 12d, 12f (except if the withholding agent is a U.S. person), 12h, 12i, and 13a. Other boxes must be completed if the nature of the payment requires it.
- If the amount reported in box 2 is a withholdable payment, you must enter information in boxes 4a, 4b, 12b, 12c, and 13g. If the amount reported in box 2 is an amount subject to chapter 3 withholding, you must enter information in boxes 12b, 12c, and 13f.
- If you use chapter 4 exemption code 15, 17, 18, 19, or 20 (that is, you are making a withholdable payment), you must provide a chapter 4 status code for the recipient (box 13g).
- If the amount reported in box 2 is not subject to chapter 4 withholding or is not a withholdable payment, you must enter "00.00" in box 4b and provide the applicable exemption code in box 4a.
- If the amount reported in box 2 is a withholdable payment and an amount subject to chapter 3 withholding and the tax rate in box 4b is 00.00, you must enter information in boxes 3a and 3b. If the rate entered in box 4b is 30.00, you may enter information in boxes 3a and 3b.
- If you are a QI, WP, or WT that is pool reporting for its direct account holders only, either a chapter 3 status code (box 13f) or chapter 4 status code (box 13g) is required.
- If the recipient in box 13 or entity in box 15 is a participating FFI, registered deemed-compliant FFI, sponsored FFI, direct reporting NFFE, or sponsored direct reporting NFFE, you must enter the entity's GIIN or the GIIN of the sponsoring entity in box 13h or 15e (to the extent that you may rely on a sponsored entity's GIIN under the chapter 4 regulations or an applicable IGA for withholding purposes).

Note. You may leave box 3b or 4b blank if you are reporting a payment to an artist or athlete and there is a central withholding agreement. See *Exception*

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for central withholding agreements in the instructions for boxes 3b or 4b.

- Use only income, status, and exemption codes specifically listed in these instructions.
- Use only tax rates that are allowed by statute, regulations, or treaty. Do not attempt to "blend" rates. Instead, if necessary, submit multiple Forms 1042-S to show changes in tax rate. See the *Valid Tax Rate Table,* later.

All information you enter when reporting the payment must correctly reflect the intent of the statute and regulations. In most cases, you should rely on the withholding documentation you have collected (Form W-8 series, Form 8233, etc.) to complete your Form 1042-S submissions.

Also note the following:

- The gross income you report in box 2 cannot be zero.
- The income code you report in box 1 must correctly reflect the type of income you pay to the recipient.
- The withholding agent's name, address, chapter 3 and 4 status codes, EIN, QI-EIN, WP-EIN, WT-EIN, and GIIN, if any, must be reported in boxes 12a-i.
- The recipient's name, address, U.S. TIN, if any, GIIN, if any, and country code must be reported in boxes 13a-e and 13h. In most cases, you must report a foreign address. See the instructions for box 13, later.
- In the case of joint owners, Form 1042-S can only list one of the owners as the recipient in box 13a. Form 1042-S must not be completed with more than one of the joint owners as the recipient.
- The country code that you report in boxes 13b and 15f must be present and correctly coded and cannot be "US" (unless the intermediary identified in line 15 is a U.S. branch that is not treated as a U.S. person). Additionally, do not use "OC" or "UC" except as specifically allowed in these instructions.
- For direct account holders, you must report the recipient's account number in box 13k. You may also be required to report the recipient's foreign TIN, an LOB code (for an entity claiming treaty benefits), and the recipient's date of birth in boxes 13j and 13l (see instructions for boxes 13j and 13l, later).
- The exemption code you report in box 3a must correctly identify the proper tax status for the type of income you pay to the recipient. The exemption code you report in box 4a must correctly identify the proper tax status for the type of income you pay to the recipient or if exemption code 15 is used (payee not subject to chapter 4 withholding), the chapter 4 status code of the recipient must correctly reflect this exemption.

Note. If you use exemption code 04 (exempt under tax treaty), the country code that you report in box 13e must be a valid treaty country. Countries with which the United States has a tax treaty are listed at *https://www.irs.gov/Businesses/International-Businesses/United-States-Income-Tax-Treaties---A-to-Z*.

CAUTION *You, the withholding agent, are liable for the tax if you know, or should have known, that underwithholding on a payment has occurred.*

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Specific Instructions for Withholding Agents

CAUTION *All amounts must be reported in U.S. dollars.*

Rounding Off to Whole Dollars

You must round off cents to whole dollars. To round off amounts to the nearest whole dollar, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, $1.39 becomes $1 and $2.50 becomes $3. If you have to add two or more amounts to figure the amount to enter on a line, include cents when adding and only round off the total.

Unique Form Identifier

A withholding agent must provide a unique form identifier number on each Form 1042-S that it files in the box provided at the top of the form. The unique form identifier must:

- Be numeric (for example, 1234567891),
- Be exactly 10 digits, and
- Not be the recipient's U.S. or foreign TIN.

If a withholding agent is filing an amended Form 1042-S, it must include the same unique form identifier that was reported by the withholding agent on the original Form 1042-S that is being amended. The unique form identifier will be used to identify which information return is being corrected or amended when multiple information returns are filed by a withholding agent with respect to the same recipient.

Amended Checkbox

See *Amended Returns*, later.

Box 1, Income Code

All filers must enter the appropriate 2-digit income code from the list, earlier. Use the income code that is the most specific. See Pub. 515 for further explanation of the income codes. Below are examples on how to use some of the income codes.

1. Use code 09 for the following types of capital gain:

a. Gains on disposal of timber, coal, or domestic iron ore with a retained economic interest, unless an election is made to treat those gains as income effectively connected with a U.S. trade or business;

b. Gains on contingent payments received from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and other like property;

c. Gains on certain transfers of all substantial rights to, or an undivided interest in, patents if the transfers were made before October 5, 1966; and

d. Certain gains from the sale or exchange of original issue discount obligations issued after March 31, 1972.

2. Use code 17 for payments for personal services performed by an independent contractor as contrasted with those performed by an employee. This includes payments that are subject to the business profits article of a treaty.

3. Use code 29 (deposit interest) if you are paying bank deposit interest, not code 01 (interest paid by U.S. obligors-general).

4. Use code 24 (qualified investment entity (QIE) distributions of capital gains) for distributions of capital gains from a QIE. Use code 36 (capital gains distributions) for capital gain distributions (dividends) paid or credited by mutual funds (or other regulated investment companies). Include short-term capital gain dividends (use exemption code 02 (exempt under IRC (other than portfolio interest)) in box 3a).

Note. Exempt-interest dividends should be reported under income code 01 (interest paid by U.S. obligors-general) (use exemption code 02 (exempt under IRC (other than portfolio interest)) in box 3a).

5. Use code 28 for gambling winnings. These are proceeds from a game other than blackjack, baccarat,

Income Codes

Box 1. **Enter the appropriate income code.**

Code	Interest Income
01	Interest paid by U.S. obligors – general
02	Interest paid on real property mortgages
03	Interest paid to controlling foreign corporations
04	Interest paid by foreign corporations
05	Interest on tax-free covenant bonds
22	Interest paid on deposit with a foreign branch of a domestic corporation or partnership
29	Deposit interest
30	Original issue discount (OID)
31	Short-term OID
33	Substitute payment – interest
51	Interest paid on certain actively traded or publicly offered securities[1]

Code	Dividend Income
06	Dividends paid by U.S. corporations – general
07	Dividends qualifying for direct dividend rate
08	Dividends paid by foreign corporations
34	Substitute payment – dividends
40	Other dividend equivalents under IRC section 871(m) (formerly 871(l))
52	Dividends paid on certain actively traded or publicly offered securities[1]
53	Substitute payments- dividends from certain actively traded or publicly offered securities [1]

Code	Other Income
09	Capital gains
10	Industrial royalties
11	Motion picture or television copyright royalties
12	Other royalties (for example, copyright, software, broadcasting, endorsement payments)
13	Royalties paid on certain publicly offered securities[1]
14	Real property income and natural resources royalties
15	Pensions, annuities, alimony, and/or insurance premiums
16	Scholarship or fellowship grants
17	Compensation for independent personal services[2]
18	Compensation for dependent personal services[2]
19	Compensation for teaching[2]
20	Compensation during studying and training[2]
23	Gross income – Other
24	Qualified investment entity (QIE)
25	Trust distributions subject to IRC section 1445
26	Unsevered growing crops and timber distributions by a trust subject to IRC section 1445
27	Publicly traded partnership distributions subject to IRC section 1446
28	Gambling winnings[3]
32	Notional principal contract income[4]
35	Substitute payment – other
36	Capital gains distributions
37	Return of capital
38	Eligible deferred compensation items subject to IRC section 877A(d)(1)
39	Distributions from a nongrantor trust subject to IRC section 877A(f)(1)
41	Guarantee of indebtedness
42	Earnings as an artist or athlete – no central withholding agreement[5]
43	Earnings as an artist or athlete – central withholding agreement[5]
44	Specified Federal procurement payments
50	Income previously reported under escrow procedure[6]
54	Other income

[1]This code should only be used if the income paid is described in §1.1441-6(c)(2) and withholding agent has reduced the rate of withholding under an income tax treaty without the recipient providing a U.S. or foreign TIN.

[2] If compensation that otherwise would be covered under Income Codes 17 through 20 is directly attributable to the recipient's occupation as an artist or athlete, use Income Code 42 or 43 instead.

[3] Subject to 30% withholding rate unless the recipient is from one of the treaty countries listed under *Gambling winnings (Income Code 28)* in Pub. 515.

[4] Use appropriate Interest Income Code for embedded interest in a notional principal contract.

[5] Income Code 43 should only be used if Letter 4492, Venue Notification, has been issued by the Internal Revenue Service (otherwise use Income Code 42 for earnings as an artist or athlete). If Income Code 42 or 43 is used, Recipient Code 22 (artist or athlete) should be used instead of Recipient Code 16 (individual), 15 (corporation), or 08 (partnership other than withholding foreign partnership).

[6] Use only to report gross income the tax for which is being deposited in the current year because such tax was previously escrowed for chapters 3 and 4 and the withholding agent previously reported the gross income in a prior year and checked the box to report the tax as not deposited under the escrow procedure. See the instructions to this form for further explanation.

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Exemption Codes and Recipient Codes

Boxes 3a and 4a. Exemption code (applies if the tax rate entered in boxes 3b and 4b is 00.00).

Code	Authority for Exemption
Chapter 3	
01	Effectively connected income
02	Exempt under IRC (other than portfolio interest)
03	Income is not from U.S. sources
04	Exempt under tax treaty
05	Portfolio interest exempt under IRC
06	QI that assumes primary withholding responsibility
07	WFP or WFT
08	U.S. branch treated as U.S. Person
09	Territory FI treated as U.S. Person
10	QI represents that income is exempt
11	QSL that assumes primary withholding responsibility
12	Payee subjected to chapter 4 withholding
22	QDD that assumes primary withholding responsibility
Chapter 4	
13	Grandfathered payment
14	Effectively connected income
15	Payee not subject to chapter 4 withholding
16	Excluded nonfinancial payment
17	Foreign Entity that assumes primary withholding responsibility
18	U.S. Payees – of participating FFI or registered deemed-compliant FFI
19	Exempt from withholding under IGA[7]
20	Dormant account[8]
21	Other – payment not subject to chapter 4 withholding

Boxes 12b, 12c, 13f, 13g, 15b, 15c, 16d, and 16e. Chapter 3 and Chapter 4 Status Codes (used to identify the type of Withholding Agent, Recipient, Intermediary, or Payer).

Chapter 3	Status Codes
01	U.S. Withholding Agent – FI
02	U.S. Withholding Agent – Other
03	Territory FI treated as U.S. Person
04	Territory FI – not treated as U.S. Person
05	U.S. branch – treated as U.S. Person
06	U.S. branch – not treated as U.S. Person
07	U.S. branch – ECI presumption applied
08	Partnership other than Withholding Foreign Partnership
09	Withholding Foreign Partnership
10	Trust other than Withholding Foreign Trust
11	Withholding Foreign Trust
12	Qualified Intermediary
13	Qualified Securities Lender – Qualified Intermediary
14	Qualified Securities Lender – Other
15	Corporation
16	Individual
17	Estate
18	Private Foundation
19	Government or International Organization
20	Tax Exempt Organization (Section 501(c) entities)
21	Unknown Recipient
22	Artist or Athlete
23	Pension
24	Foreign Central Bank of Issue
25	Nonqualified Intermediary
26	Hybrid entity making Treaty Claim
34	U.S. Withholding Agent-Foreign branch of FI
35	Qualified Derivatives Dealer

Pooled Reporting Codes [9]

27	Withholding Rate Pool – General
28	Withholding Rate Pool – Exempt Organization
29	PAI Withholding Rate Pool – General
30	PAI Withholding Rate Pool – Exempt Organization
31	Agency Withholding Rate Pool – General
32	Agency Withholding Rate Pool – Exempt Organization
33	Joint Account Withholding Rate Pool
36	Qualifying dividend equivalent offsetting payments to U.S. persons
37	Nonqualifying dividend equivalent payments to U.S. persons – Undisclosed
38	Other qualifying dividend equivalent offsetting payments (ECI)

[7] Use only to report a U.S. reportable account or non-consenting U.S. account that is receiving a payment subject to chapter 3 withholding.

[8] Use only if applying the escrow procedure for dormant accounts under 1.1471-4(b)(6).

[9] Codes 27 through 33 should only be used by a QI (including a QI acting as a QDD), QSL, WP, or WT. Codes 36 through 38 should only be used by a QI acting as a QDD.

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Recipient Codes (continued)

Code	Type of Withholding Agent, Recipient, Intermediary, or Payer
Chapter 4	**Status Codes**
01	U.S. Withholding Agent – FI
02	U.S. Withholding Agent – Other
03	Territory FI – not treated as U.S. Person
04	Territory FI – treated as U.S. Person
05	Participating FFI – Other
06	Participating FFI – Reporting Model 2 FFI
07	Registered Deemed-Compliant FFI – Reporting Model 1 FFI
08	Registered Deemed-Compliant FFI – Sponsored Entity
09	Registered Deemed-Compliant FFI – Other
10	Certified Deemed-Compliant FFI – Other
11	Certified Deemed-Compliant FFI – FFI with Low Value Accounts
12	Certified Deemed-Compliant FFI – Non-Registering Local Bank
13	Certified Deemed-Compliant FFI – Sponsored Entity
14	Certified Deemed-Compliant FFI – Investment Advisor or Investment Manager
15	Nonparticipating FFI
16	Owner-Documented FFI
19	Passive NFFE identifying Substantial U.S. Owners
20	Passive NFFE with no Substantial U.S. Owners
21	Publicly Traded NFFE or Affiliate of Publicly Traded NFFE
22	Active NFFE
23	Individual
24	Section 501(c) Entities
25	Excepted Territory NFFE
26	Excepted NFFE – Other
27	Exempt Beneficial Owner
28	Entity Wholly Owned By Exempt Beneficial Owners
29	Unknown Recipient
30	Recalcitrant Account Holder
31	Nonreporting IGA FFI
32	Direct reporting NFFE
33	U.S. reportable account
34	Nonconsenting U.S. account
35	Sponsored direct reporting NFFE
36	Excepted Inter-affiliate FFI
37	Undocumented Preexisting Obligation
38	U.S. branch – ECI presumption applied
39	Account Holder of Excluded Financial Account [10]
40	Passive NFFE reported by FFI [11]
41	NFFE subject to 1472 withholding
50	U.S. Withholding Agent-Foreign branch of FI
	Pooled Reporting Codes
42	Recalcitrant Pool – No U.S. Indicia
43	Recalcitrant Pool – U.S. Indicia
44	Recalcitrant Pool – Dormant Account
45	Recalcitrant Pool – U.S. Persons
46	Recalcitrant Pool – Passive NFFEs
47	Nonparticipating FFI Pool
48	U.S. Payees Pool
49	QI-Recalcitrant Pool-General [12]

Box 13j.	LOB Code (enter the code that best describes the applicable limitation on benefits (LOB) category that qualifies the taxpayer for the requested treaty benefits).
Code	**LOB Treaty Category**
01	Individual
02	Government – contracting state/political subdivision/local authority
03	Tax exempt pension trust/Pension fund
04	Tax exempt/Charitable organization
05	Publicly-traded corporation
06	Subsidiary of publicly-traded corporation
07	Company that meets the ownership and base erosion test
08	Company that meets the derivative benefits test
09	Company with an item of income that meets the active trade or business test
10	Discretionary determination
11	Other

[10] This code should only be used if income is paid to an account that is excluded from the definition of financial account under 1.1471-5(b)(2) or under Annex II of the applicable Model 1 IGA or Model 2 IGA.

[11] This code should only be used when the withholding agent has received a certification on the FFI withholding statement of a participating FFI or registered deemed-compliant FFI that maintains the account that the FFI has reported the account held by the passive NFFE as a U.S. account (or U.S. reportable account) under its FATCA requirements. The withholding agent must report the name and GIIN of such FFI in boxes 15d and 15e.

[12] This code should only be used by a withholding agent that is reporting a payment (or portion of a payment) made to a QI with respect to the QI's recalcitrant account holders.

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craps, roulette, or big-6 wheel. For more information, see Pub. 515.

6. Use code 33, 34, 35, 53, or 54 for all substitute payment transactions. For more information, see Regulations sections 1.861-2(a)(7) and 1.861-3(a)(6). For payments of interest or substitute interest made by a withholding agent to a QI that assumes primary withholding responsibilities for substitute interest, the withholding agent and the QI should use code 33 or 54. For payments of dividend equivalent payments made by a withholding agent to a QI acting as a QDD, a withholding agent and a QI should use code 34 or 53. See Revenue Procedure 201X-XX for more information on when a QI assumes primary withholding responsibilities for substitute interest or dividend equivalent payments.

7. Use code 37 (return of capital) for a nondividend distribution. This is a distribution that is not paid out of the earnings and profits of a corporation. It represents a distribution in part or full payment in exchange for stock.

8. Use codes 38 and 39 for payments to covered expatriates. Use code 38 for a payment of eligible deferred compensation subject to section 877A(d)(1) and use code 39 for a distribution from a nongrantor trust subject to section 877A(f)(1). For more information, see Notice 2009-85.

9. Use code 40 (other dividend equivalents under IRC section 871(m) (formerly 871(l))) for other U.S.-source dividend equivalents. These are dividend equivalent payments under section 871(m) that are not substitute dividend payments identified with income code 34 or 53.

10. Use code 41 (guarantee of indebtedness) for certain guarantee of indebtedness payments. These are amounts paid for the provision of a guarantee of indebtedness that was issued after September 27, 2010.

11. Use either code 42 (earnings as an artist or athlete – no central withholding agreement) or 43 (earnings as an artist or athlete – central withholding agreement) for payments to an artist or athlete. A central withholding agreement is Form 13930, Application for Central Withholding Agreement, plus additional information specified in the instructions to such form, that is entered into by the artist or athlete, a designated withholding agent, and the IRS. For more details, see Pub. 515.

12. Use code 50 (income previously reported under escrow procedure) with respect to a recalcitrant account holder of a dormant account for which a participating FFI reported the income on Form 1042-S in a prior calendar year but for which the participating FFI was not required to deposit the tax withheld or determined that withholding was not required until the current calendar year under an applicable escrow procedure. For additional information on the escrow procedure for dormant accounts, see Regulations section 1.1471-4(b)(6). Also use code 50 for income reported on a Form 1042-S in a prior calendar year for which tax withheld was not deposited pursuant to the escrow procedure for undetermined amounts of income and such withheld tax is now required to be deposited in the current calendar year. For additional information on the escrow procedure for undetermined amounts of income, see Regulations section 1.1441-3(d)(1). For instructions on reporting amounts withheld during the current calendar year that you are not depositing pursuant to the escrow procedure, see the instructions for box 7 later.

13. Use code 52 (dividends paid on certain actively traded or publicly offered securities), 53 (substitute payments-dividends paid from certain actively traded or publicly offered securities), 51 (interest paid on certain actively traded or publicly offered securities), 54 (substitute payments-interest from certain actively traded or publicly offered securities), and 13 (royalties paid on certain publicly offered securities) if the income paid is described in Regulations section 1.1441-6(c)(2) and you have reduced the rate of withholding under an income tax treaty without the recipient providing a U.S. or foreign TIN.

If you paid more than one type of income to or on behalf of the same recipient, you must complete a separate Form 1042-S for each income type.

Note. Although income codes are provided for short-term OID and notional principal contract income, those items are not always subject to reporting on Form 1042-S. For example, short-term OID may need to be reported by an NQI or flow-through entity if those amounts are paid to foreign persons and another withholding agent backup withheld on those amounts under the presumption rules. Notional principal contract income is reportable if it is effectively connected with the conduct of a trade or business in the United States or results in the payment of interest under Regulations section 1.446-3(g)(4) or a dividend equivalent under section 871(m)) and the regulations thereunder (for which a Form 1042-S is required). For more information, see the regulations under chapter 3 and Pub. 515.

Box 2, Gross Income

For each income type, enter the gross amount you paid to or on behalf of the recipient during calendar year 2017, including withheld tax. The following special procedures apply to the reporting of gross income.

- You must report the entire amount of a corporate distribution made with respect to stock even if you elect to reduce the amount of withholding on the distribution because all or a part of the distribution is nontaxable or represents a capital gain dividend.
- You must report the entire amount of a payment if you do not know at the time of payment the amount that is subject to withholding because the determination of the source of the income or the calculation of the amount of income subject to tax depends upon facts that are not known at the time of payment.
- If you applied the escrow procedure under chapters 3 and 4, report the entire amount of a payment that you previously reported in a prior calendar year for which you withheld tax but did not deposit such tax under the escrow procedure if the liability is due in the current calendar year.
- You must report the entire amount of gains relating to the disposal of timber, coal, or domestic iron ore with a retained economic interest and gains relating to contingent payments received from the sale or exchange of patents, copyrights, and similar intangible property.
- You must report only the amount of cash paid on notional principal contracts.

Box 3

Chapter indicator. If you are reporting amounts in boxes 7 through 9, enter either a “3” or “4” to indicate whether the amounts were withheld (or paid by the withholding agent) pursuant to chapter 3 or chapter 4. If you are reporting tax withheld under section 5000C, or backup withholding was applied under the presumption rules, enter “3” as if the tax were a chapter 3 tax.

Note. Either a “3” or “4” must be entered on each Form 1042-S, not both. If you are not reporting amounts in boxes 7 through 9 because you did not

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withhold under chapter 3 or 4, you should enter “3.”

If you are reporting payments to U.S. payees, enter “3” and leave boxes 3a and 3b blank.

Boxes 3a and 4a, Chapter 3 and Chapter 4 Exemption Codes

In most cases, if the tax rate you entered in box 3b or 4b is 00.00, you may be required to enter the appropriate exemption code (01 through 21) from *Income Codes, Exemption Codes, and Recipient, Withholding Agent, or Intermediary Codes,* earlier, as applicable for chapter 3 and 4 purposes. In certain cases more than one exemption code will apply; see below instructions for the applicable codes to determine which code to use.

If an amount was withheld under chapter 4 (the tax rate you entered in box 4b is greater than zero and is not due to backup withholding), enter “00” in box 4a. If the tax rate you entered in box 4b is 00.00, you must enter the applicable exemption code (13-21) in box 4a. If an amount was withheld under chapter 3 (the tax rate you entered in box 3b is greater than zero and is not due to backup withholding), enter “00” in box 3a. If the tax rate you entered in box 3b is due to backup withholding, leave box 3a blank.

If exemption code 01 or 14 (effectively connected income) applies, you must enter the recipient's U.S. TIN in box 13e if you report the income as effectively connected with a U.S. trade or business. If the recipient's U.S. TIN is unknown or unavailable, you must withhold tax at the rate of 30% (30.00) and enter “00” in boxes 3a and 4a.

A withholding agent should use exemption code 06 (QI that assumes primary withholding responsibility) only if it is making a payment to a QI that has represented on its Form W-8IMY that it is assuming primary withholding responsibility under chapters 3 and 4. However, if the payment is made to a QI that is acting as a QDD with respect to the payment, the withholding agent should instead use exemption code 22 (QDD that assumes primary withholding responsibility).

A withholding agent should use exemption code 07 (WP or WT) only if it is making a payment to a foreign partnership or trust that has represented on its Form W-8IMY that it is a withholding foreign partnership or trust.

A withholding agent should use exemption code 08 (U.S. branch treated as U.S. person) or 09 (territory FI treated as U.S. person) (as applicable) for chapter 3 purposes only if it is making a payment to a U.S. branch or to a territory FI and it has represented on its Form W-8IMY that it agrees to be treated as a U.S. person.

A withholding agent should use exemption code 10 (QI represents that income is exempt) for chapter 3 purposes only if it makes a payment to a QI that has not assumed primary withholding responsibility under chapters 3 and 4 or primary backup withholding responsibility, but has represented on a withholding statement associated with its Form W-8IMY that the income is exempt from withholding.

A withholding agent should use exemption code 11 (QSL that assumes primary withholding responsibility) for chapter 3 purposes only if the withholding agent makes a substitute dividend payment to a financial institution (including a QI) that represented on its Form W-8IMY that it is acting as a QSL for the account associated with the form.

A withholding agent should use exemption code 12 (payee subjected to chapter 4 withholding) for chapter 3 purposes if the recipient has been withheld upon under chapter 4 and thus chapter 3 withholding does not apply. See *Special Instructions for use of Chapter 3 Exemption Codes,* later.

A withholding agent should use exemption code 13 (grandfathered payment) for chapter 4 purposes only if the withholding agent makes a payment under a grandfathered obligation and exemption code 13 is the only exemption code that applies. If another exemption code applies, it should be used instead of exemption code 13.

A withholding agent should use exemption code 15 (payee not subject to chapter 4 withholding) for chapter 4 purposes if the payment is a withholdable payment (as defined in Regulations section 1.1473-1(a)), but has not been withheld upon under chapter 4 because of the payee's chapter 4 status. Also, if the withholding agent applies the 90-day grace period for a withholdable payment following a change in circumstances, use exemption code 15 (payee not subject to chapter 4 withholding).

A withholding agent should use exemption code 16 (excluded nonfinancial payment) for chapter 4 purposes only if exemption code 16 is the only exemption code that applies. If another exemption code applies, it should be used instead of exemption code 16.

A withholding agent should use exemption code 17 (foreign entity that assumes primary withholding responsibility) for chapter 4 purposes only if it makes a payment to a QI that assumes primary withholding responsibility, a WP, or a WT.

A withholding agent should use exemption code 18 (U.S. payees – of participating FFI or registered deemed-compliant FFI) for chapter 4 purposes only if it makes a payment to a participating FFI or registered deemed-compliant FFI and only to the extent represented on such FFI's withholding statement associated with its Form W-8IMY that the payment is allocable to a chapter 4 withholding rate pool of U.S. payees and FFI certifies on its withholding certificate that the FFI meets the requirements to include the account holder in a withholding rate pool of U.S. payees.

A withholding agent should use exemption code 20 (dormant account) for chapter 4 purposes only if it makes a withholdable payment to a participating FFI or registered deemed-compliant FFI that represented on its withholding statement associated with its Form W-8IMY that the payment is allocable to a dormant account holder for which the escrow procedure of Regulations section 1.1471-4(b)(6) applies.

A withholding agent should use exemption code 21 (Payment not subject to chapter 4 withholding) for chapter 4 purposes if the payment is exempt from chapter 4 withholding and no other chapter 4 exemption code applies.

If you have failed to provide a withholding agent with appropriate information regarding the status of the person to whom you are making a payment, the other withholding agent may be required to withhold on the payment based on the presumption rules. If the income is in fact exempt from withholding or subject to a reduced rate of withholding, and the account holder requests a corrected form, you must submit a Form 1042-S providing the correct information. In this situation, you must:

- Indicate the correct rate of withholding that should have been applied to the income in boxes 3b or 4b,
- Enter the appropriate exemption codes, if any, in boxes 3a and 4a,

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- Enter the actual amount of U.S. federal tax withheld by the other withholding agent in box 8,
- Provide the name and address of the actual recipient in boxes 13a-d along with the other required information for the recipient.
- Provide the name and EIN of the other withholding agent that actually withheld and deposited the tax (primary withholding agent) in boxes 14a and b.

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CAUTION *If you submit Form 1042-S as described above, you must also submit Form 1042 and issue a Form 1042-S to each recipient (including any unknown recipient or U.S. payee) of the income to which withholding was applied.*

Special instructions for use of chapter 3 exemption codes. If an amount was withheld under chapter 4, you may also include a chapter 3 exemption code and tax rate in boxes 3a and 3b to show the rate that would otherwise apply as if the payment had been later determined to be exempt from withholding under chapter 4. This may be done, for example, to assist the beneficial owner in pursuing a claim for refund. In such a case, enter "4" as the chapter indicator in box 3 to show that withholding was applied under chapter 4.

Boxes 3b and 4b, Chapter 3 and Chapter 4 Tax Rates

Enter the correct rate of withholding that applies to the income in box 2 (gross income) or box 6 (net income), as appropriate. In the case of a payment subject to chapter 4 withholding, the correct rate of withholding is "30.00." If the amount reported in box 2 is not subject to chapter 4 withholding or is not a withholdable payment, you must enter "00.00" in box 4b and provide the applicable exemption code in box 4a. For purposes of chapter 3 withholding, see *Valid Tax Rate Table,* later. The correct tax rate should be included even if you withheld at a different rate. For example, if an NQI that is a participating FFI is reporting dividends paid to a beneficial owner who is exempt from withholding under chapter 4 and a resident of a country with which the United States does not have a tax treaty and a U.S. withholding agent paid the dividend and incorrectly withheld only 15% under chapter 3 (rather than the required 30%) and the NQI withholds an additional 15% under chapter 3, the NQI should report "30.00" in box 3b. See Example 18. in *Multiple Withholding Agent Rule,* earlier. The tax rate on dividends paid to a corporation created or organized in, or under the law of, the Commonwealth of Puerto Rico may be 10%, rather than 30%. See Pub. 515 for more information.

In the case of a specified Federal procurement payment subject to section 5000C withholding, the correct rate of withholding is 2% or "02.00." For Form 1042-S purposes, report tax withheld under section 5000C in box 3b as if the tax were a chapter 3 tax.

Enter the tax rate using the following format: two digits, a decimal, and two digits (for example,"30.00" for 30%). However, if the income is exempt from tax under a U.S. tax treaty or the Code, enter "00.00." If the tax rate is less than 10%, enter a zero before the tax rate (for example, "04.00" for 4%).

CAUTION *If you withheld at more than one tax rate for a specific type of income that you paid to the same recipient, you must file a separate Form 1042-S for each amount to which a separate rate was applied.*

Valid Tax Rate Table

00.00	08.00	20.00
02.00	10.00	25.00
04.00	12.00	27.50
04.90	12.50	28.00
04.95	14.00	30.00
05.00	15.00	35.00
07.00	17.50	39.60

Exception for central withholding agreements. If you are the designated withholding agent who has entered into a central withholding agreement and you report an amount in box 2 using income code 43 (earnings as an artist or athlete—central withholding agreement), you do not have to enter a tax rate in box 3b but you must include a chapter 4 exemption code 16 (excluded nonfinancial payments) in box 4a.

Box 5, Withholding Allowance

This box should be completed only if the income code reported in box 1 is 16 (scholarship or fellowship grants), 17 (compensation for independent personal services), 18 (compensation for dependent personal services), 19 (compensation for teaching), 20 (compensation during studying and training), or 42 (earnings as an artist or athlete-no central withholding agreement). If you are a designated withholding agent that has entered into a central withholding agreement with the IRS, leave this box blank and report the gross amount paid to the recipient in box 2. See Pub. 515 for more information.

Box 6, Net Income

Complete this box only if you entered an amount in box 5. Otherwise, leave it blank.

Boxes 7 Through 10, Federal Tax Withheld

Box 7a. Enter the total amount of U.S. federal tax you actually withheld in box 7a under chapter 3 or 4. If you did not withhold any tax, enter "-0-."

CAUTION *Box 7a must be completed in all cases, even if no tax has been deposited.*

Box 7b. A withholding agent that withheld tax during calendar year 2017 and that was not required to deposit with the IRS the tax withheld during calendar year 2017 pursuant to the escrow procedure under Regulations sections 1.1471-2(a)(5)(ii) and/or 1.1441-3(d) must check box 7b "Check if tax not deposited with IRS pursuant to escrow procedure." A withholding agent reporting payments pursuant to the escrow procedure must report such payments on separate Forms 1042-S.

If you are a participating FFI or registered deemed-compliant FFI that, for chapter 4 purposes, applied the escrow procedure for dormant accounts, if the payment is also an amount subject to chapter 3 withholding and tax is withheld and deposited under chapter 3, do not check box 7b. Instead enter "3" in box 3 and complete box 3b to report the tax withheld under chapter 3.

Box 8. If you are a withholding agent filing a Form 1042-S to report income that has already been subject to withholding by another withholding agent, enter the amount actually withheld by the other agent(s) in box 8. Further, report in box 8 any credit forward of prior withholding as determined under Notice 2010-46 with respect to substitute dividend payments.

Box 9. Enter the total amount of tax paid by you and not withheld from the payment to the recipient.

Box 10. Enter in box 10 the total amount of tax withheld by you (box 7)

and any other withholding agent (box 8), but do not include the amount reported in box 9.

Box 11, Amount Repaid to Recipient

This box should be completed only if:

- You repaid a recipient under the reimbursement procedure during the 2018 calendar year (before the earlier of the date on which you filed Form 1042-S or the due date, without extensions, for filing Form 1042-S) an amount of tax that was overwithheld under chapter 3 or 4, and you are going to reimburse yourself by reducing, by the amount of tax actually repaid to the recipient, the amount of any deposit made for a payment period in calendar year 2018; or
- You repaid a recipient under the set-off procedure during the 2018 calendar year (before the earlier of the date on which you filed Form 1042-S or the due date, without extensions, for filing Form 1042-S) an amount of tax that was overwithheld under chapter 3 or 4 by reducing the amount you would have been required to withhold on later payments you made to that recipient.

If you repaid the recipient under the reimbursement or set-off procedure during the 2017 calendar year, do not complete box 11. Instead, reduce the amount of withholding reported in box 7.

In most cases, an intermediary or flow-through entity should not enter an amount in box 11 unless it is a QI that represented on its Form W-8IMY that it is assuming primary withholding responsibility or is a WP or WT.

In order to claim a credit for overwithheld amounts to which you are applying the reimbursement or set-off procedure, you must timely file a Form 1042 and attach a statement that the filing of the Form 1042 constitutes a claim for credit. See the instructions to Form 1042 for more information on the reimbursement and set-off procedures.

CAUTION *The adjustment for amounts overwithheld does not apply to partnerships or nominees required to withhold under section 1446.*

Box 12a, Withholding Agent's Employer Identification Number (EIN)

You are required to enter your EIN. However, if you are filing Form 1042-S as a QI, WP, or WT, enter your QI-EIN, WP-EIN, or WT-EIN. **The Withholding Agent's EIN cannot be truncated.**

If you do not have an EIN, you can apply for one online at *www.irs.gov/businesses/small* or by telephone at 1-800-829-4933. Also, you can apply for an EIN by filing Form SS-4, Application for Employer Identification Number. File amended Forms 1042-S when you receive your EIN.

To get a QI-EIN, WP-EIN, or WT-EIN, submit Form SS-4 with your application for that status. (See the definitions for *Qualified intermediary (QI)*, and *Withholding foreign partnership (WP) or withholding foreign trust (WT)* in *Definitions,* earlier, for more information.)

Boxes 12b and 12c, Withholding Agent's Chapter 3 and Chapter 4 Status Code

Enter the withholding agent status code(s) from the list of Recipient Codes, earlier. You must enter both a chapter 3 and a chapter 4 withholding agent status code regardless of the type of payment being made.

For payments made by a foreign branch of a U.S. financial institution, use Form 1042-S issued with respect to such payments chapter 3 status code 34 (U.S. Withholding Agent - Foreign branch of FI) instead of chapter 3 status code 01 (U.S. Withholding Agent - FI) and use chapter 4 status code 50 (U.S. Withholding Agent - Foreign branch of FI) instead of chapter 4 status code 01 (U.S. Withholding Agent - FI).

Boxes 12d Through 12i, Withholding Agent's Name, GIIN, Country Code, Foreign TIN (if any), and Address

Enter your name and address in the appropriate boxes. If your post office does not deliver mail to the street address and you have a P.O. box, show the box number instead of the street address.

If you are a nominee that is the withholding agent under section 1446, enter the PTP's name and other information in boxes 15a through 15i.

Note. On statements furnished to individual recipients of U.S. source deposit interest, in addition to your name and address, you must include the telephone number of a person to contact. This number must provide direct access to an individual who can answer questions about the statement. The telephone number is not required on Copy A of paper forms or on electronically filed forms.

Box 12e, Withholding Agent's GIIN. The GIIN provided, if any, should be the GIIN issued to the branch of, or disregarded entity owned by, the participating FFI or registered deemed-compliant FFI that is making the payment.

Box 12f, Country Code. You must enter the code (from the list at *www.irs.gov/countrycodes*) for the country for which you are resident in under that country's tax laws. Enter "OC" (other country) only when the country of residence does not appear on the list. However, if the withholding agent is a U.S. person or a foreign branch of a U.S. person, leave box 12f blank.

Boxes 13a Through 13d, Recipient's Name, Country Code, and Address

Box 13a, Recipient's Name. Enter the complete name of the recipient in box 13a.

- If you do not know the name of the recipient, or are required to use the recipient status codes for an unknown recipient, enter "Unknown Recipient."
- If Form 1042-S is being completed by a QI, WP, or WT for a chapter 3 withholding rate pool, or chapter 4 withholding pool, enter "Withholding rate pool" if withholding under chapter 3 was applied or if chapter 4 withholding was applied, a description of the chapter 4 reporting pool (for example "Nonparticipating FFI Pool") in box 13a.
- A withholding agent reporting payments made to a participating FFI or registered deemed-compliant FFI with respect to a chapter 4 reporting pool must include the name and address of the FFI in boxes 13a through 13g as well as the FFI's GIIN and country code. The GIIN reported must be the GIIN of the branch to whom the withholding agent is making the payment.
- A QI reporting payments made to a PAI on a withholding rate pool basis must include the name and address of the PAI in boxes 13a through 13g.
- In the case of foreign joint owners, Form 1042-S can only list one of the owners as the recipient in box 13a. Form 1042-S must not be completed

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with more than one of the joint owners as the recipient.

Box 13b, Recipient's Country Code. You must enter the code (from the list at www.irs.gov/countrycodes) for the country of which the recipient claims residency under that country's tax laws. Enter "OC" (other country) only when the country of residence does not appear on the list or the payment is made to an international organization (for example, the United Nations). If the recipient is unknown, leave box 13b, Recipient's country code, blank and enter "Unknown Recipient" in box 13a, Recipient's name. If you are making a payment to a QI, QSL, WP, or WT, or if you are a QI, QSL, WP, or WT and are making a payment to a QI, WP, or WT withholding rate pool, enter the country code of the QI, WP, or WT. Also, if you are making a payment to a participating FFI or registered deemed-compliant FFI's chapter 4 reporting pool, enter the country code of the participating FFI or registered deemed-compliant FFI or branch of or disregarded entity owned by such FFI receiving the withholdable payment and that was listed on Part II of either the Form W-8BEN-E or W-8IMY.

CAUTION *If exemption code 04 (exempt under tax treaty) appears in box 3a or if a reduced rate of withholding based on a tax treaty is entered in box 3b, the country code entered in box 13b must be a country with which the United States has entered into an income tax treaty.*

Boxes 13c and 13d, Recipient's Address. In most cases, you must enter a foreign address in boxes 13c and 13d. However, there are limited exceptions. For example, you may enter a U.S. address when reporting payments of scholarship or fellowship grants (income code 16).

For addresses outside the United States or its commonwealths and possessions, follow the foreign country's practice for entering the postal code.

For addresses within the United States, use the U.S. Postal Service 2-letter abbreviation for the state name. Do not enter "United States" or "U.S."

If you want to enter the recipient's account number, use box 13k.

Boxes 13e and 13h, Recipient's U.S. Taxpayer Identification Number (TIN) and GIIN

You must obtain and enter a U.S. taxpayer identification number (TIN) for any of the following recipients.

- Any recipient whose income is effectively connected with the conduct of a trade or business in the United States. For these recipients, enter exemption code 01 in box 3a or exemption code 14 in box 4a.
- Any foreign person claiming a reduced rate of, or exemption from, tax under a tax treaty between a foreign country and the United States, unless the recipient provides a foreign TIN (in such case, use box 13i), or unless the income is an unexpected payment (as described in Regulations section 1.1441-6(g)) or consists of dividends and interest from stocks and debt obligations that are actively traded; dividends from any redeemable security issued by an investment company registered under the Investment Company Act of 1940 (mutual fund); dividends, interest, or royalties from units of beneficial interest in a unit investment trust that are (or were, upon issuance) publicly offered and are registered with the Securities and Exchange Commission under the Securities Act of 1933; and amounts paid with respect to loans of any of the above securities. In the latter case, you must use income code 13, 51, 52, 53, or 54.
- Any nonresident alien individual claiming exemption from tax under section 871(f) for certain annuities received under qualified plans.
- A foreign organization claiming an exemption from tax solely because of its status as a tax-exempt organization under section 501(c) or as a private foundation.
- Any QI.
- Any WP or WT.
- Any nonresident alien individual claiming exemption from withholding on compensation for independent personal services.
- Any U.S. branch of an FFI or territory FI that is treated as a U.S. person.
- Any QSL that was paid a substitute dividend.

In all other cases, if you know the recipient's TIN or if a foreign person provides a TIN on Form W-8, but is not required to do so, you must include the TIN on Form 1042-S.

You must include a GIIN if you are required to collect a GIIN for the recipient under the requirements documenting the payee under chapter 4. If you make a payment to a disregarded entity or branch that is identified in Part II of Form W-8BEN-E, then report the GIIN of the disregarded entity or branch provided in that section.

Boxes 13f and 13g, Recipient's Chapter 3 and Chapter 4 Status Codes

Enter the recipient status code from the list of Recipient Status Codes, earlier. The following special instructions apply for chapter 3 status codes.

- If income code 42 (earnings as an artist or athlete - no central withholding agreement) or 43 (earnings as an artist or athlete - central withholding agreement) is used in box 1, use recipient code 22 (artist or athlete) instead of recipient code 16 (individual), 15 (corporation), or 08 (partnership other than withholding foreign partnership).
- If you are making a payment to an NQI or flow-through entity, in most cases you must use the recipient code that applies to the type of recipient who receives the income from the NQI or flow-through entity.
- Use recipient code 08 (partnership other than withholding foreign partnership) only if you are reporting a payment of income that is effectively connected with the conduct of a trade or business of a nonwithholding foreign partnership in the United States. You may, however, use recipient code 08 as the chapter 3 status code if you are using a chapter 4 pooled reporting code with respect to a payment made to a nonwithholding foreign partnership. See instructions later on use of recipient codes when reporting pools. Otherwise, follow the rules that apply to payments to flow-through entities.
- Use recipient code 21 (unknown recipient) only if you have not received a withholding certificate or other documentation for a recipient or you cannot determine how much of a payment is reliably associated with a specific recipient. Do not use this code because you cannot determine the recipient's status as an individual, corporation, etc. The regulations under chapter 3 provide rules on how to determine a recipient's status when a withholding agent does not have the necessary information.
- Use recipient code 13 (qualified securities lender – qualified

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intermediary) or 14 (qualified securities lender – other) if you make a payment to a QSL.

- Only a QI acting as a QDD may use chapter 3 pooled reporting codes 36 through 38 to report certain dividend equivalent offsetting payments. For more information on when a QI acting as a QDD must report such payments, see Revenue Procedure 201X-XX.
- Only a QI may use recipient codes 29 (PAI withholding rate pool – general) and 30 (PAI withholding rate pool – exempt organizations). Only a QI, WP, or WT that made a pooled reporting election for chapter 3 purposes may use recipient codes 31 (agency withholding rate pool – general), 32 (agency withholding rate pool – exempt organization), 33 (joint account withholding rate pool), 27 (withholding rate pool – general), and 28 (withholding rate pool – exempt organization) for chapter 3 purposes. Recipient code 28 or 30 should be used only for pooled account holders that have claimed an exemption based on their tax-exempt status and not some other exemption (for example, treaty or other Code exception). If you are a QI (including a QI acting as a QDD), WP, WT or QSL using a chapter 3 pooled reporting code (codes 27-33 and 36-38) with respect to a payment, do not include a chapter 4 status code unless making such payment to a PAI or certain partnerships or trusts. See *Amounts Paid to Private Arrangement Intermediaries and Amounts Paid to Certain Partnerships and Trusts,* earlier.
- A U.S. withholding agent making a payment to a QI should use recipient code 12 and recipient code 09 or 11 if it is making a payment to a WP or WT, respectively.

A chapter 4 status code is required only if the payment is a withholdable payment or when a participating FFI or registered deemed-compliant FFI provides a chapter 4 withholding rate pool of U.S. payees. The chapter 4 status code may be determined under the applicable intergovernmental agreement (IGA) by a withholding agent that is an FFI subject to such an agreement. The following special instructions apply for chapter 4 status codes.

- If you are making a withholdable payment to a U.S. branch of a foreign financial institution, use the applicable chapter 4 status code for the country of residence for an entity that is a participating FFI or registered deemed-compliant FFI. Otherwise, use the chapter 4 status code for any other foreign branch of the entity that is a participating FFI or registered deemed-compliant FFI.
- Only use recipient code 15 (nonparticipating FFI) or 30 (recalcitrant account holder) if you are reporting directly to the recipient. See *Amounts paid to a nonqualified intermediary or flow-through entity,* earlier. If you are reporting the chapter 4 reporting pools of recalcitrant account holders of a participating FFI, registered deemed-compliant FFI or QI, use codes 42 through 49. Only use chapter 4 reporting pool code 48 (U.S. payees pool) if a participating FFI or registered deemed-compliant FFI has provided a Form W-8IMY certifying that it meets the requirements to include the account holder in a withholding rate pool of U.S. payees and that is associated with a withholding statement allocating the payment or a portion of the payment to a chapter 4 withholding rate pool of U.S. payees. Only use chapter 4 reporting pool code 49 (QI-Recalcitrant Pool-General) if you are reporting recalcitrant account holders of a QI.
- Use recipient code 26 (excepted NFFE – other) if you are reporting to an NFFE treated as a U.S. person.
- Only use recipient code 29 (unknown recipient) if you have not received a withholding certificate or other documentation with respect to a withholdable payment from an intermediary or flow-through entity. Only use this code if you also used recipient code 21 (unknown recipient) as the chapter 3 status code. If you have not received a withholding certificate or other documentation from an intermediary or flow-through entity, you must include the entity's information in boxes 15a through 15i. You may also use recipient code 29 if you are reporting a withholdable payment to a recipient that is not subject to withholding under the terms of an IGA and the recipient's account is not required to be reported as a U.S. account or non-consenting U.S. account (for example, an undocumented individual with no U.S. indicia).
- Use recipient code 33 (U.S. reportable account) if you are reporting the recipient's account as a U.S. reportable account under the terms of a Model 1 IGA and the recipient does not meet the applicable requirements to be included in a pool of U.S. payees because the account holder is subject to chapter 3 withholding.
- Use recipient code 34 (Non-consenting U.S. account) if you are reporting the recipient's account as a non-consenting U.S. account under the terms of a Model 2 IGA and the recipient does not meet the applicable requirements to be included in a pool of U.S. payees because the account holder is subject to chapter 3 withholding.
- Use recipient code 35 (qualified derivatives dealer) if you make a payment to a QI that is acting as a QDD with respect to the payment.
- Use recipient code 37 (undocumented preexisting obligation) for an obligation that a withholding agent has not documented and the payment being reported was made before the expiration of time period allowed for documenting the obligation and thus the withholding agent was not required to apply the presumption rules to determine the payee's chapter 4 status.
- Use recipient code 39 (account holder of excluded financial account) if you are reporting amounts paid with respect to an obligation that is excluded from the definition of financial account for chapter 4 purposes (see Regulations section 1.1471-5(b)(2)).
- Use recipient code 41 (NFFE subject to 1472 withholding) if you are reporting amounts paid to a specific recipient that is an NFFE that you (or another withholding agent) withheld upon under section 1472 (that is, you are reporting amounts in boxes 7 through 9) unless the NFFE is treated as a recalcitrant account holder under Regulations section 1.1471-5(g), in which case, use code 30 (recalcitrant account holder).
- If you received a withholding certificate or other documentation with respect to a withholdable payment from an intermediary or flow-through entity that is a participating FFI or deemed-compliant FFI (other than a WP, WT, or QI that assumes primary withholding responsibility) and cannot reliably associate the payment with documentation to determine the payee's chapter 4 status (or with a chapter 4 withholding rate pool), you must report the recipient as "Unknown Recipient" and include the entity's information in boxes 15a through 15i (to the extent provided).
- If you are reporting a chapter 4 pooled reporting code with respect to a withholdable payment to an intermediary or flow-through entity, use the chapter 3 status code for the intermediary or flow-through entity as the recipient code.
- If you are a QI, WP, or WT reporting direct account holders, do not include a chapter 3 status code for the recipient if

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you are using a chapter 4 reporting pool code as the recipient's chapter 4 status code.

- If you are making a withholdable payment to a recipient that is a restricted distributor (as defined in Regulations section 1.1471-5(f)(4)), use recipient code 10 (certified deemed-compliant FFI - other).

Box 13i, Recipient's Foreign Taxpayer Identifying Number

Use box 13i to enter the recipient's identifying number used in the recipient's country of residence for tax purposes.

You must obtain and enter a foreign taxpayer identifying number for any of the following recipients:

- Any foreign person claiming a reduced rate of, or exemption from, tax under a tax treaty between a foreign country and the United States if such person did not provide a U.S. TIN and the income is not the type for which an exemption from the TIN requirement applies (see instructions for boxes 13e and 13h, earlier).
- Any recipient of a payment made with respect to an obligation maintained at a U.S. office or branch of a financial institution unless the recipient has not been issued a foreign taxpayer identifying number from its country of residence or its country of residence does not issue foreign taxpayer identifying numbers.

Box 13j, LOB Code

If you are making a payment for which a beneficial owner that is an entity has claimed a reduced rate of withholding under an income tax treaty and has provided documentation that establishes the limitation on benefits (LOB) article under which the beneficial owner qualifies, enter the applicable LOB code. See instructions to Form W-8BEN-E for a description of each of the LOB codes. If you are a QI, WP, or WT reporting a chapter 3 pool for which a reduced rate of withholding under an income tax treaty applies, do not include an LOB code.

Box 13k, Recipient's Account Number

If you are a financial institution reporting amounts paid to your direct account holder with respect to an account maintained by you at your U.S. office or U.S. branch, you must report the recipient's account number in box 13k. If the amount is paid through a nonqualified intermediary or flow-through entity, you are not required to use this box.

Note. For amounts paid on or after January 1, 2016, a U.S. financial institution or a U.S. branch of a foreign financial institution is required to report payments of the same type of income (as determined by the income code in box 1) made to multiple financial accounts held by the same beneficial owner at a U.S. office of such institution on a separate Form 1042-S for each account. For this purpose, a financial account is an account described in Treasury Regulations section 1.1471-5(b)(1). Report the identifying number assigned to such account (or its functional equivalent in the absence of an account number for the recipient).

Box 13l, Recipient's Date of Birth

Use box 13l to enter the recipient's date of birth if it is available in the withholding agent's electronically searchable information. The correct format if entered is YYYYMMDD. Beginning in 2017, a financial institution making a payment with respect to an obligation maintained at its U.S. office or U.S. branch must collect and report the recipient's date of birth if the recipient is an individual. See *Box 13i, Recipient's Foreign Taxpayer Identifying Number,* earlier.

Boxes 14a and 14b, Primary Withholding Agent's Name and EIN

If you reported amounts withheld by another withholding agent (the primary withholding agent) in box 8, you must provide the name and EIN of the withholding agent that withheld the tax. If multiple withholding agents withheld amounts reported on the same Form 1042-S, report the name of any one of the withholding agents that withheld amounts. Otherwise, leave blank.

Box 15, Pro-rata Basis Reporting Checkbox

Withholding agents must check box 15 to notify the IRS that an NQI that used the alternative procedures of Regulations section 1.1441-1(e)(3)(iv)(D) failed to properly comply with those procedures. See *Pro-rata reporting*, earlier, for additional information.

Boxes 15a Through 15i, Intermediary/ Flow-Through Entity's Name, Status Code, Country Code, Address, EIN, GIIN, and Foreign Taxpayer Identification Number

If you are reporting amounts paid to a recipient whose withholding certificates or other documentation has been submitted to you with a Form W-8IMY provided by an intermediary or flow-through entity (or should have been submitted to you), you must include the name and address of the intermediary or flow-through entity with whose Form W-8IMY the recipient's Form W-8 or other documentation is associated.

You must also include the intermediary or flow-through entity's chapter 3 and chapter 4 status codes and, if any, the TIN and GIIN of the intermediary or flow-through entity when provided or required to be collected by the withholding agent. If the intermediary or flow-through completed Part II of Form W-8IMY, then report the GIIN provided in that section.

Note. A withholding agent that is an intermediary or flow-through entity will leave these boxes blank unless it is making the payment to an intermediary or flow-through entity.

Box 15f, Country Code. You must enter the country code (from the list at *www.irs.gov/countrycodes* for the country where the intermediary or flow-through entity is located.

Box 15g, Intermediary or Flow-Through Entity's Foreign Taxpayer Identification Number. Use box 15g to enter the intermediary or flow-through entity's identifying number used in the country of residence for tax purposes. Box 15g is optional.

If you are a nominee that is the withholding agent under section 1446, enter the PTP's name and other information in these boxes.

Boxes 16a Through 16e, Payer's Name, TIN, GIIN, and Status Code

See the definition of *Authorized agent* in *Definitions,* earlier. Include the payer's name, TIN, and GIIN if different from the withholding agent shown in boxes 12a, d, and e.

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If payment is being made by a transfer agent or a paying agent acting as a withholding agent on behalf of a payer, enter the chapter 3 and 4 status codes applicable to the status of the payer in boxes 16d and 16e.

Boxes 17a Through 17c, State Income Tax Withheld and Related Information

Include in these boxes information relating to any state income tax withheld.

Amended Returns

If you filed a Form 1042-S with the IRS and later discover you made an error on it, you must correct it as soon as possible. To correct a previously filed Form 1042-S, you will need to file an amended Form 1042-S. The amended form must have the same unique form identifier as the original form that is being amended. Each time that you amend the same form (as determined by the unique form identifier), you must provide the amendment number in the box provided on the form (using "1" for the first amendment and increasing sequentially for each subsequent amendment).

CAUTION *If you provide an amended Form 1042-S to a recipient, you must also file the amended form with the IRS.*

If any information you correct on Form(s) 1042-S changes the information you previously reported on Form 1042, you also must correct the Form 1042 by filing an amended return. To do this, see the Form 1042 instructions.

If you are not filing electronically, follow these steps to amend a previously filed Form 1042-S.

Step 1. Prepare a paper Form 1042-S.

- Enter all the correct information on the form, including the recipient name and address, money amounts, and codes.
- Enter an "X" in the amended box at the top of the form and enter the amendment number.

Amended checkbox. Enter an "X" in the amended checkbox of Copy A, B, C, D and E only if you are amending a Form 1042-S you previously filed with the IRS. You must provide statements to recipients showing the corrections as soon as possible regardless of the change to the Form 1042-S.

Step 2. File the amended paper Form 1042-S with a Form 1042-T. See the Form 1042-T instructions for information on filing these forms.

CAUTION *If you fail to correct Form(s) 1042-S, you may be subject to a penalty. See Penalties, earlier.*

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. Sections 1441, 1442,1446 (for PTPs), 1471, and 1472 require withholding agents to report and pay over to the IRS taxes withheld from certain U.S. source income. Form 1042-S is used to report the amount of income and withholding to the payee. Form 1042 is used to report the amount of withholding that must be paid over to the IRS. Section 6109 requires you to provide your identification number. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and cities, states, the District of Columbia, and U.S. Commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to Federal and state agencies to enforce Federal nontax criminal laws, or to Federal law enforcement and intelligence agencies to combat terrorism. If you fail to provide this information in a timely manner, you may be liable for penalties and interest.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is 34 minutes.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from www.irs.gov/formspubs. Click on "More Information" and then on "Give us feedback." Or you can write to Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see Where, When, and How To File, earlier.

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