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# Withholding And Reporting On Payments To Foreign Partners And Other Foreign Entities

A Technical Overview

5/15/2012

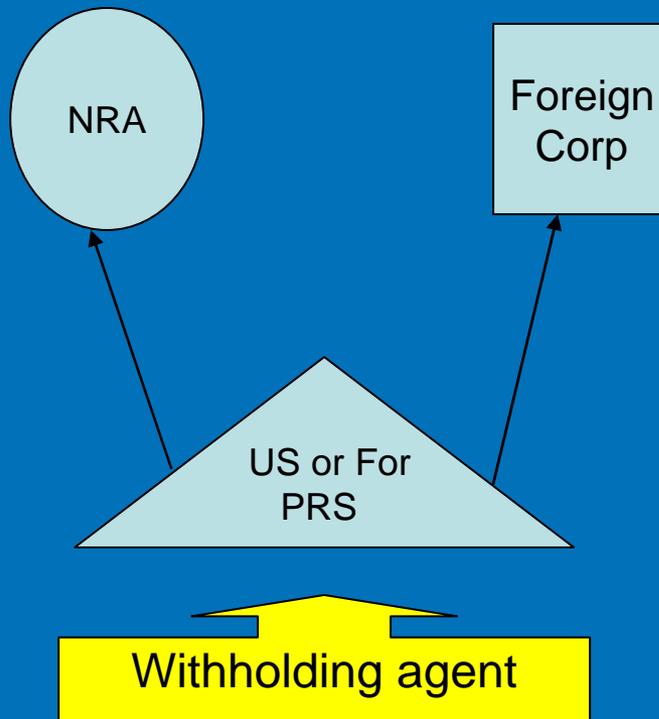




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# Partnership Withholding



If a partnership has ECTI for any taxable year, and

If any portion of that income is allocable to a foreign partner, then

that partnership shall pay a withholding tax at the highest rate.





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# Withholding Tax Forms And Returns

Form 8813 (Partnership Withholding Tax Payment)

Form 8804 (Annual Return) is due by the 15th day of the 4th month after the partnership's taxable year closes.

Form 8805 (For each foreign partner)

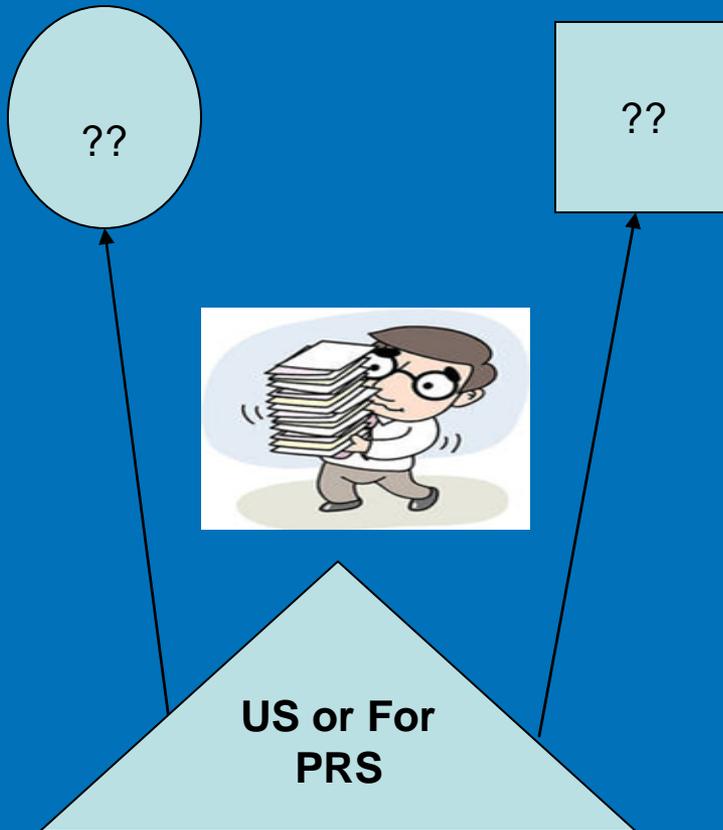




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# Determining If Partner Is Foreign



Partnership must determine if partner is foreign or domestic

Done with Forms W-8BEN, W-8EXP, W-8IMY & Form W-9

If proper forms aren't obtained, partner is presumed foreign





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# Effectively Connected Taxable Income

Capital losses allowed to extent of cap gains

No deduction for charitable contributions

Partnership must use percentage depletion for depletion deduction and

Items allocable to U.S. persons are not taken into account

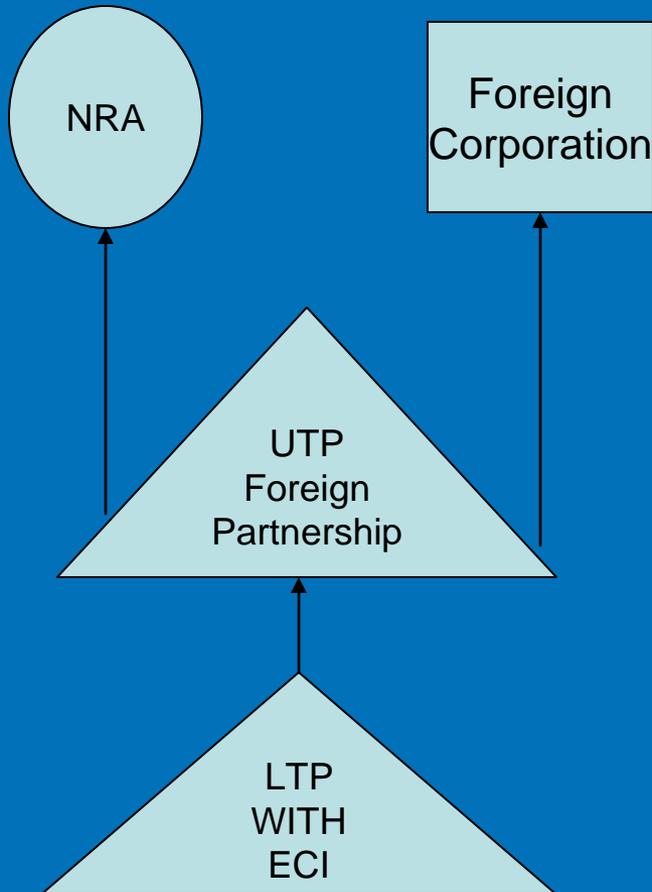




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# Tiered Partnership Structures



The LTP must provide UTP with proper documentation.

The UTP may credit the 1446 tax paid by the LTP against its liability

The UTP must file Form 8804 and Form 8805 for each of its foreign partners.

The UTP may claim a refund for the 1446 tax it does not pass to the foreign partner on Form 8805





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# Withholding Of Tax On Other Type Payments

Income Must Be:

US sourced per sourcing rules

Fixed or determinable, annual or  
periodic (FDAP)

Generally not effectively connected  
with a US trade or business



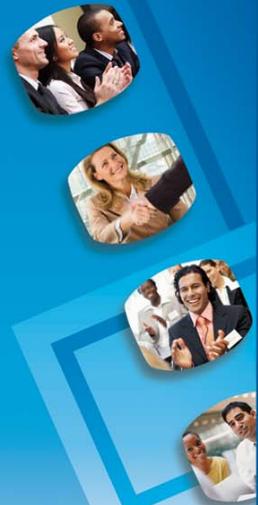


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# Sourcing Rules

Personal services	Where performed
Dividends	U.S. / For. Corp.
Interest	Residence/payer
Rents	Location of prop.





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# Withholding Agent

Withholding Agent - control, receipt, custody, disposal, or payment of any item of income to a foreign person.

May be individual, corporation, partnership, trust, association, or any other entity.

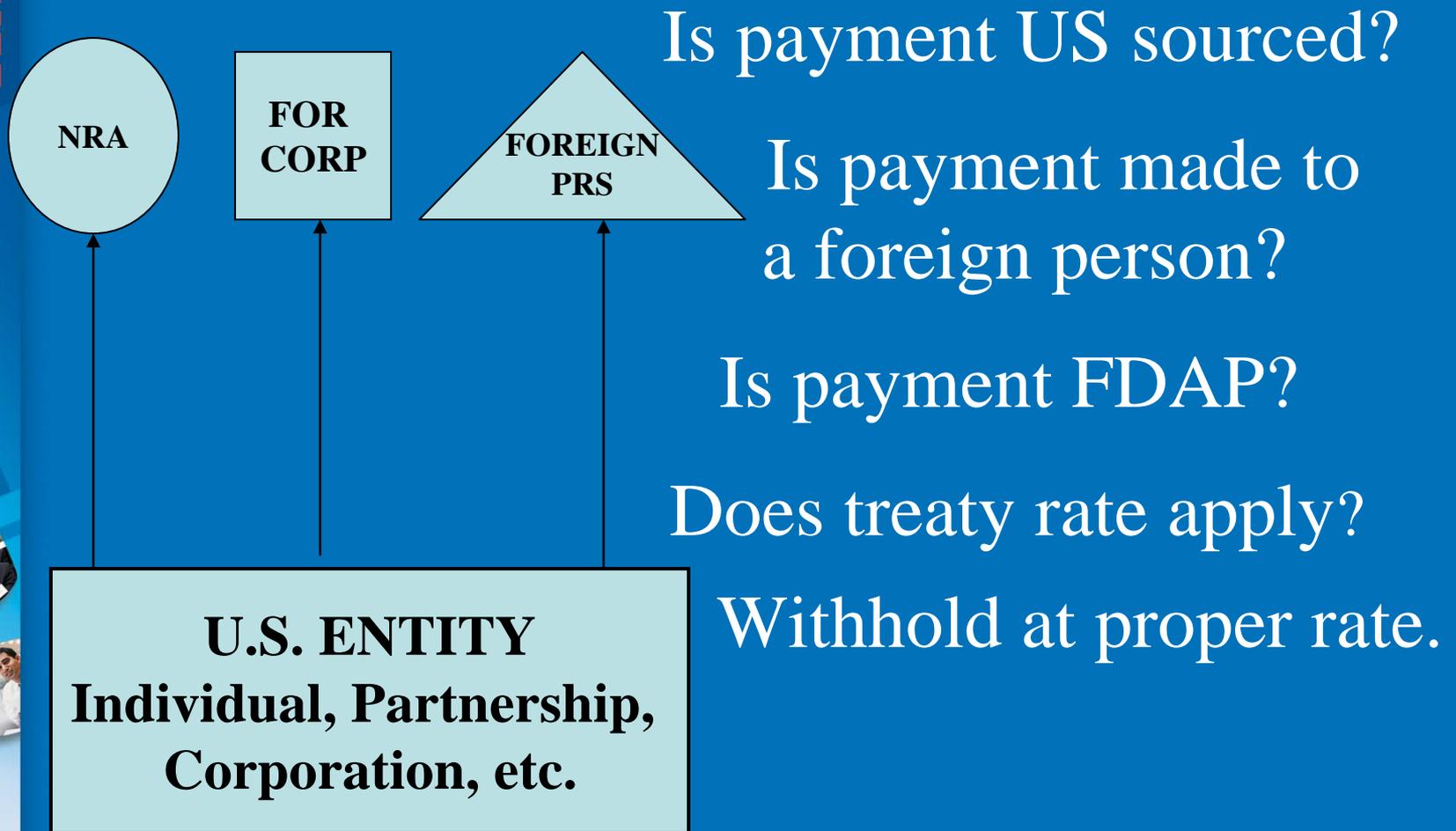




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# Determining If Entity Is Foreign





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# Withholding Rates And Reporting Requirements

Withholding rate of 30% is generally required on Gross Income.

Reduced treaty rate, including exemption from tax may apply.



File withholding tax return Forms 1042 and 1042-S.



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# Where To Get More Information

IRC §§ 1441/1442, 1445, 1446, related  
Treas. Regs, Publications 515, 519 & 901

[http://www.irs.gov/businesses/small/international/  
index.html](http://www.irs.gov/businesses/small/international/index.html)

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