

Instructions for Form W-8

(October 1998)

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

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



Department of the Treasury
Internal Revenue Service

General Instructions

Purpose of Form. Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources that consists of:

- Interest (including certain original issue discount (OID));
- Dividends;
- Rents;
- Premiums;
- Annuities;
- Compensation for, or in expectation of, services performed; or
- Other fixed or determinable annual or periodical gains, profits, or income.

This tax is imposed on the gross amount paid and is generally collected by way of withholding on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner or to another person, such as an intermediary, agent, or partnership, for the benefit of the beneficial owner.

If you receive certain types of income, you must provide Form W-8 to:

- Establish that you are a foreign person;
- Claim that you are the beneficial owner of the income for which Form W-8 is being provided;
- If applicable, claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty.

A withholding agent or payer of the income may rely on a properly completed Form W-8 to treat a payment associated with the Form W-8 as a payment to a foreign person who beneficially owns the amounts paid. If applicable, the withholding agent may rely on the Form W-8 to apply a reduced rate of withholding at source.

Failure by a beneficial owner to provide a Form W-8 when requested may lead to withholding of a 30% or 31% amount from the payment. It may also lead to a 30% or 31% tax assessment on the withholding agent or payer, as well as interest and penalties for lack of compliance.

Who Must File. You must give Form W-8 to the withholding agent or payer if you are a foreign person and you are the beneficial owner of an amount subject to withholding. Submit Form W-8 when requested by the withholding agent or payer whether or not you are claiming a reduced rate of, or exemption from, withholding.

You must also submit Form W-8 for certain types of income that are not subject to withholding under section 1441 or 1442 but that would be subject to U.S. information reporting and backup withholding if neither Form W-8 nor **Form W-9**, Request for Taxpayer Identification Number and Certification, is provided. Such income includes:

- Broker proceeds.
- Short-term OID (183 days or less).
- Bank deposit interest.
- Foreign source interest, dividends, rents, or royalties.
- Proceeds from a wager placed by a nonresident alien individual in the games of blackjack, baccarat, craps, roulette, or "big 6" wheel.

You must also file Form W-8 if you have business profits not attributable to a permanent establishment.

DO NOT use Form W-8 if:

- You are a nonresident alien individual who claims exemption from withholding on compensation for independent (and certain dependent) personal services performed in the United States. Instead, provide **Form 8233**, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, or **Form W-4**, Employee's Withholding Allowance Certificate.
- You are receiving income that is effectively connected with the conduct of a trade or business in the United States. Instead, provide Form W-8A. If any of the income for which you have provided a Form W-8 becomes effectively connected, this is a change in circumstances and Form W-8 is no longer valid. You must file Form W-8A. See **Change in Status** below.
- You are a tax-exempt organization, private foundation, foreign government, international organization, or foreign central bank of issue. Instead, provide Form W-8B.
- You are a foreign partnership, other than a hybrid entity claiming treaty benefits (see **Definitions** on page 2). Instead, provide Form W-8C. However, if you are a partner in a partnership and you are not yourself a partnership, you may be required to furnish a Form W-8 to the partnership.
- You are a reverse hybrid entity transmitting beneficial owner documentation provided by your interest holders to claim treaty benefits on their behalf. A reverse hybrid entity is any person other than an individual that is not fiscally transparent under U.S. tax law principles (i.e., is a taxable entity) but that is fiscally transparent under the laws of a jurisdiction with which the United States has an income tax treaty (see **Definitions** on page 2). For example, an entity that is treated as equivalent to a U.S. partnership by a treaty country but is treated by the United States as a corporation is a reverse hybrid entity. If you are not claiming treaty benefits on behalf of your interest holders, you should provide Form W-8C.
- You are a foreign withholding partnership. A foreign withholding partnership is, generally, a foreign partnership that has entered into a withholding agreement with the IRS under which it agrees to assume primary withholding responsibility for each partner's distributive share of income subject to withholding that is paid to the partnership. Instead provide Form W-8C.
- You are acting as an intermediary (i.e., acting not for your own account, but for the account of others as an agent, nominee, or custodian). Instead, provide Form W-8C.

Giving Form W-8 to the Withholding Agent. Give Form W-8 to the person who is requesting it from you. Generally, this will be the person from whom you receive the payment or who credits your account. Give Form W-8 to the person requesting it before the payment is made to you or credited to your account. If you do not provide this form, the withholding agent may have to withhold at a 30% (nonresident alien withholding) or 31% (backup withholding) rate. If you receive more than one type of income from a single withholding agent for which you claim different benefits, you may have to submit a Form W-8 for each different type of income. Generally, a separate Form W-8 must be given to each withholding agent.

DO NOT send Form W-8 to the IRS.

Change in Status. If a change in circumstances makes any information on the Form W-8 you have submitted incorrect, you must notify the withholding agent or payer within 30 days of the change in circumstances and you **must** file a new Form W-8.

If you use Form W-8 to certify that you are a foreign person, a change of address to an address in the United States is a change in circumstances. Generally, a change of address within the same foreign country or to another foreign country is not a change in circumstances. However, if you use Form W-8 to claim treaty benefits, a move to the United States or outside the country where you have been claiming treaty benefits is a change in circumstances. In that case, you must notify the withholding agent or payer within 30 days of the move.

If you become a citizen or resident of the United States after you submit Form W-8, you are no longer subject to the 30% withholding applicable to foreign persons. You must notify the withholding agent or payer within 30 days of becoming a U.S. citizen or resident. You may be required to provide a Form W-9. For more information, see the **Instructions for Form W-9**.

Definitions

Beneficial Owner. The beneficial owner is the person who is the owner of the income for tax purposes and who beneficially owns the income. Thus, a person receiving income as a nominee, custodian or agent for another person is not the beneficial owner of the income. Generally, a person is treated as the owner of the income to the extent it is required under U.S. tax principles to include the amount paid in gross income on a tax return. A person who is the owner of income is considered the beneficial owner of that income unless that person is a conduit entity whose participation in a transaction can be disregarded. Generally, the principles of section 7701(l) and Regulations section 1.881-3 apply to determine if a person is a conduit entity.

The beneficial owners of income paid to a partnership are those persons who, under U.S. tax principles, are the owners of the income for tax purposes in their separate or individual capacities and who beneficially own the income. Generally, the beneficial owners of income paid to a partnership are the partners, other than a partner that is itself a partnership or a conduit. (If a partner is a partnership or conduit, the beneficial owner is the first person in the chain of ownership that is not itself a partnership or a conduit. See Form W-8C.)

Note: *A payment to a person that a withholding agent or payer may treat as a U.S. partnership is treated as a payment to a U.S. payee. A payment to a U.S. partnership is not subject to 30% nonresident alien withholding. A U.S. partnership should provide the withholding agent with a Form W-9.*

For additional beneficial owner requirements, see the **Specific Instructions for Part II**.

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. It also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization if the foreign branch is a qualified intermediary. Generally, a payment to a U.S. branch of a foreign person is a payment to a foreign person.

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. Additionally, an individual who is a resident of a foreign country under the residence article of an income tax treaty, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa is a nonresident alien individual.

Note: *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 (e.g., filing a joint income tax return), such individual is still treated as a nonresident alien for withholding tax purposes on all income except wages.*

See **Pub. 519**, U.S. Tax Guide for Aliens, for more information on resident and nonresident alien status.

Hybrid entity. A hybrid entity is any person other than an individual that is treated as fiscally transparent in the United States but is not treated as fiscally transparent (i.e., is treated as a taxable entity) by a country with which the United States has an income tax treaty. For example, an entity that is treated as a partnership or as a disregarded entity under U.S. tax principles but is treated as an entity equivalent to a U.S. corporation under treaty country principles is a hybrid entity. Hybrid status is relevant for claiming treaty benefits. See the **Specific Instructions for Part II**.

Fiscally transparent entity. An entity is treated as fiscally transparent to the extent that the interest holders in the entity must take into account separately their shares of items of income paid to the entity, and must determine the character of the items of income as if they were realized directly from the source from which realized by the entity. For example, partnerships are generally considered to be fiscally transparent. See Regulations section 1.894-1T(d)(4)(ii).

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.

Amounts Subject to Withholding. This means amounts from sources within the United States that are fixed or determinable annual or periodical (FDAP) income. FDAP income is all income included in gross income, including interest, dividends, rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums), and insurance premiums within the meaning of section 4372 paid to a foreign insurer or reinsurer. FDAP income also does not include items of U.S. source income that are excluded from gross income without regard to the identity of the holder, such as interest under section 103(a).

Other amounts that are subject to withholding that are not FDAP income are payments of U.S. source gains from the disposal of timber, coal, or domestic iron ore with a retained economic interest, and U.S. source gains from the sale or exchange of patents, copyrights, and similar intangible property that are contingent on the productivity, use, or disposition of the property or interest sold or exchanged.

Withholding on payment of accrued OID is required only when the withholding agent has actual knowledge of the portion of the payment that is taxable to the beneficial owner as OID. A withholding agent has actual knowledge if it knows how long the beneficial owner has held the obligation, the terms of the obligation, and whether the beneficial owner purchased the obligation at a premium. A withholding agent is treated as having knowledge if the information is reasonably available. Information is reasonably available if a withholding agent maintains a direct account relationship with the beneficial owner. Even if a withholding agent does not have this knowledge, it must withhold on the entire amount of OID if he does not have a Form W-8 from the beneficial owner and the OID would qualify as portfolio interest if a Form W-8 had been provided.

Withholding Agent. Any person, U.S. or foreign, that has the control, receipt, custody, disposal, or payment of any amount subject to withholding is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity, including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies. Generally, the person who pays (or causes to be paid) the item of U.S. source income to the foreign person (or to its agent) must withhold.

Specific Instructions

Note: *An entity that is fiscally transparent under U.S. law should give Form W-8 to a withholding agent only if that entity is a hybrid entity and is claiming a reduced rate of withholding under an income tax treaty. See the **Specific Instructions for Part II**.*

In all other cases, a fiscally transparent entity should give Form W-8C to the withholding agent.

Part I

Line 1. Enter your name. If you are a disregarded entity, enter the name of your foreign single owner. However, if the disregarded entity is claiming treaty benefits as a hybrid entity, enter the name of the disregarded entity.

Note: If you own the income or account jointly with one or more other persons, the income or account will be treated by the withholding agent as owned by a foreign person only if Forms W-8 are provided by all of the owners. If a withholding agent or payer does not receive a Form W-8 from all of the joint owners or if he receives a Form W-9 from any of the joint owners, he must treat the payment as made to U.S. persons.

Line 2. Check the box that applies. By checking a box, you are representing that you qualify for this classification. You must check the box that represents your classification (e.g., corporation, partnership, trust, estate, etc.) under U.S. tax principles. If you are a partnership or disregarded entity filing Form W-8 to claim treaty benefits, you **must** check the partnership or disregarded entity box. **Do not** check the box that describes your status under the law of the treaty country or the status of your single owner.

Line 3. Enter the country of incorporation if you are a corporation. If you are another type of entity, enter the country under whose laws you are created, organized, or governed.

Line 4. Your permanent residence address is the address in the country where you claim to be a resident for purposes of that country's income tax. If you are giving Form W-8 to claim a reduced rate of withholding under an income tax treaty, you must determine your residency in the manner required by the treaty. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you are an individual who does not have a tax residence in any country, your permanent residence is where you normally reside. If you are not an individual and you do not have a tax residence in any country, the permanent residence address is where you maintain your principal office.

Line 5. Enter your mailing address only if it is different from the address you show on line 4.

Line 6. A U.S. taxpayer identification number is a Social Security Number (SSN), Employer Identification Number (EIN), or IRS Individual Taxpayer Identification Number (ITIN). Check the appropriate box for the type of taxpayer identification number you are providing.

Contact a Social Security Administration (SSA) office to find out if you are eligible to get an SSN. If you do not have an SSN but are eligible to get one, apply on **Form SS-5**, Application for a Social Security Card. If you do not have, **and are not eligible to obtain**, an SSN, you may apply for an ITIN using **Form W-7**, Application for IRS Individual Taxpayer Identification Number.

If you are other than an individual (including a foreign estate or trust), or you are an individual who is an employer or who is engaged in a U.S. trade or business as a sole proprietor, use **Form SS-4**, Application for Employer Identification Number, to obtain an EIN. If you are a foreign wholly-owned entity, enter the TIN (if required) of the foreign single owner. However, if the entity disregarded for Federal income tax purposes is claiming treaty benefits, enter the TIN of the disregarded entity.

You **must** provide a TIN if you are claiming benefits under an income tax treaty. However, the following items of income do not require a TIN to claim treaty benefits:

- 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 funds);
- 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 SEC under the Securities Act of 1933; and

- Income related to loans of any of the above securities.

Note: You may want to obtain and provide a TIN on Form W-8 even though it is not required. A Form W-8 containing a TIN remains valid for as long as your status and the information relevant to the certifications you make on the form remain unchanged.

Line 7. If your country of residence for tax purposes has issued you a tax identifying number, enter it here. For example, if you are a resident of Canada, enter your Social Insurance Number.

Line 8. List all account numbers with the same withholding agent or payer here unless the withholding agent or payer requires you to submit a separate Form W-8 for each account.

Part II

Individuals

An individual is entitled to benefits under an income tax treaty if he/she is a resident of a country with which the United States has an income tax treaty and meets all other requirements of the treaty.

Entities

Nonfiscally transparent entities. If an entity is not considered fiscally transparent under the laws of a treaty country, the entity may claim treaty benefits on its own behalf by filing Form W-8 provided that:

1. It derives the payment as a resident of the treaty country;
2. The entity is the beneficial owner of the income for treaty purposes; and
3. All other applicable requirements for benefits under the treaty are satisfied.

Fiscally transparent entities. If an entity is considered fiscally transparent in a treaty country where an interest holder is resident, the interest holder may file a claim for treaty benefits if:

1. The interest holder derives the income as a resident of a treaty country;
2. The interest holder is the beneficial owner of the income for treaty purposes;
3. The interest holder meets all other applicable requirements under the treaty;
4. The interest holder provides a completed form W-8 to the entity; and
5. The entity provides a Form W-8C to the withholding agent to which the interest holder's Form(s) W-8 are attached.

Note: An income tax treaty may not apply to reduce the amount of any tax on income received by an entity that is treated as a domestic corporation of U.S. tax purposes. Therefore, neither the domestic corporation nor its shareholders are entitled to the benefits of a reduction of U.S. income tax on income received from U.S. sources by the corporation.

Part II Definitions

Beneficial owner. For treaty purposes, a person is the beneficial owner of income if the person is required to take the item of income into account in computing its tax liability in its country of residence and the person is not an agent, custodian, nominee, or conduit with respect to the income under U.S. tax principles. An interest holder in a fiscally transparent entity is the beneficial owner of the item of income received by the fiscally transparent entity if the interest holder is required to take its share of the income received by the entity into account in determining its tax liability and the interest holder is not an agent, custodian, nominee, or conduit with respect to the income under U.S. tax principles.

Resident. For treaty purposes, a person is a resident of a treaty country if the person is a resident of that country under the terms of the treaty. A payment received by an entity is treated as derived by a resident of the treaty country only to the extent that the payment is required to be included in the gross income of a resident of that country.

Dual Claims

An entity may simultaneously file claims for treaty benefits on its own behalf for a portion of the payment and on behalf of its interest holders for another portion of the payment. The entity must provide Form W-8 to claim benefits on its own behalf and provide Form W-8C to claim benefits on behalf of its interest holders. The entity generally must include a completed Form W-8 provided by the interest holders with its Form W-8C.

Example 1. Entity X, a business organization formed under the laws of Country A, is liable to tax in Country A. Entity X is a hybrid entity (i.e., is treated as fiscally transparent by the United States but as nonfiscally transparent by Country A). Entity X is owned equally by C, a Country A resident, and D, a Country B resident. Entity X receives from the withholding agent a U.S. source royalty payment and U.S. source interest income. There is an income tax treaty between the United States and Country A that reduces the rate on royalties to 5%. Entity X is the beneficial owner of the royalty income for treaty purposes. Entity X qualifies as a resident of Country A and meets all other requirements to claim a reduced rate on the royalty income under the Country A treaty. To claim the reduced rate, Entity X must file Form W-8.

The interest income is potentially eligible for the portfolio interest exemption under sections 871(c) and 881(c). For the portfolio interest payment, Entity X must file Form W-8C, with the Forms W-8 of C and D attached because Entity X is not the beneficial owner of the portfolio interest income since it is not required under U.S. tax principles to include the amount paid in gross income on a tax return (see definition of beneficial owner on page 2 of these instructions).

Example 2. The facts are the same as in Example 1. Under Country B law, Entity X is considered fiscally transparent. There is an income tax treaty between the United States and Country B that reduces the rate on royalties to 0%. D qualifies as a resident of Country B and meets all other requirements to claim the zero rate under the Country B treaty. Entity X may submit a Form W-8 to claim benefits under the Country A treaty on its own behalf for a proportionate portion of the royalty income. Entity X may also file a claim for benefits under the Country B treaty on behalf of D for the remaining portion of the royalty income by providing Form W-8C, with the Form W-8 of D attached.

Box a. Enter the country where you claim to be a resident for income tax treaty purposes.

Box b. If you are claiming benefits under an income tax treaty, you must have a TIN unless one of the exceptions listed in the instructions for Part I, line 5 applies.

Box c. If you are not an individual, you must meet the requirements of any "limitation on benefits" article in the applicable income tax treaty and you must be the person who derives the income as a resident of a treaty country.

Box d. Caution: If you are claiming treaty benefits under an income tax treaty entered into force after December 31, 1986, **do not** use this box. Instead, use box c.

If you are a foreign corporation claiming treaty benefits under an income tax treaty that entered into force before January 1, 1987 (and has not been renegotiated) on (a) U.S. source dividends paid to you by another foreign corporation, or (b) U.S. source interest paid to you by a U.S. trade or business of another foreign corporation, you must generally be a "qualified resident" of a treaty country. See section 884 for the definition of interest paid by a U.S. trade or business of a foreign corporation ("branch interest") and other applicable rules.

In general, a foreign corporation is a qualified resident of a country if one or more of the following applies:

- It meets a 50% ownership and base erosion test.
- It is primarily and regularly traded on an established securities market in its country of residence or the United States.
- It carries on an active trade or business in its country of residence.
- It gets a ruling from the IRS that it is a qualified resident.

See Regulations section 1.884-5 for the requirements that must be met to satisfy each of these tests.

Box e. Check this box if you are related to the withholding agent within the meaning of section 267(b) or 707(b) and the aggregate amount subject to withholding received during the calendar year exceeds \$500,000. Additionally, you must file **Form 8833**, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b).

Box f. Check this box if you are submitting Form W-8 to claim that you are a resident of a country with which the United States has an income tax treaty and the income you are receiving is exempt from U.S. tax under the business profits (or industrial or commercial profits) article of that treaty.

Signature

Form W-8 must be signed and dated by the beneficial owner of the income, or, if the beneficial owner is not an individual, by an authorized representative or officer of the beneficial owner. If Form W-8 is completed by an agent acting under a duly authorized power of attorney, the form must be accompanied by the power of attorney in proper form or a copy thereof specifically authorizing him to represent his principal in making, executing and presenting the form. Form 2848 may be used for this purpose. The agent, as well as the beneficial owner, may incur liability for the penalties provided for an erroneous, false, or fraudulent form.

Certain individuals who expatriate are subject to special tax rules under section 877. You are considered to have expatriated if any of the following events occurs:

- You renounce your U.S. citizenship before a diplomatic or consular officer of the United States.
- You furnish to the U.S. Department of State a statement of voluntary relinquishment of U.S. nationality confirming an act of expatriation.
- The U.S. Department of State issues you a certificate of loss of U.S. nationality.
- A U.S. Federal court cancels your certificate of naturalization. Former long-term lawful permanent residents (green-card holders) for at least 8 of the 15 consecutive tax years ending with the year you ceased to be a resident may also be subject to these special tax rules.

Broker Transactions or Barter Exchanges. Income from transactions with a broker, or barter exchanges, is subject to reporting rules and backup withholding unless Form W-8 or a substitute form is filed to notify the broker or barter exchange that you are an exempt foreign person.

You are an exempt foreign person for a calendar year in which:

1. You are a nonresident alien individual or a foreign corporation, partnership, estate, or trust;
2. You are an individual who has not been, and does not plan to be, present in the United States for a total of 183 days or more during the calendar year; **and**
3. You are neither engaged, nor plan to be engaged during the year, in a U.S. trade or business that has effectively connected gains from transactions with a broker or barter exchange.

IRC section 877. If you expatriated after February 5, 1995, and a principal purpose of your expatriation was tax motivated, you are generally not entitled to claim treaty benefits.

For more information on figuring the tax under section 877, see the instructions for **Form 1040NR** or **Notice 97-19, 1997-1 C.B. 394**.

Instructions for Withholding Agent

Responsibilities of the Withholding Agent. If you make a payment of interest, dividends, rents, royalties, commissions, nonemployee compensation, or certain other amounts (including broker and barter exchange transactions, and certain payments made by fishing boat operators), you are generally required to obtain from the payee either a Form W-9 with a TIN or a Form

W-8, Form W-8A, Form W-8B, or Form W-8C. These forms are also used to establish a person's status for purposes of domestic information reporting and backup withholding. If you receive a Form W-9 with a TIN, you must generally make an information return on Form 1099. If you receive a Form W-8, Form W-8A, Form W-8B, or Form W-8C, you are exempt from reporting on Form 1099, but you may have to file Form 1042-S and withhold under the rules applicable to payments made to foreign persons. See **Form 1042-S**, Foreign Person's U.S. Source Income Subject to Withholding.

Generally, you can rely on a Form W-8, Form W-8A, Form W-8B, or Form W-8C only to the extent you can reliably associate a payment with it. You can reliably associate a payment with a Form W-8, Form W-8A, Form W-8B, or Form W-8C if, for that payment, you hold a valid form, you can reliably determine how much of the payment relates to the form, and you have no actual knowledge or reason to know that any of the information or certifications on the form are incorrect.

If you do not receive Form W-8, Form W-8A, Form W-8B, Form W-8C or Form W-9, or if you cannot reliably associate the payment with a Form W-8, Form W-8A, Form W-8B, or Form W-8C, you must determine whether a payment should be treated as made to a U.S. person or to a foreign person. Generally, you must rely on the presumption rules set forth in Regulations sections 1.1441-1(b)(3), 1.1441-4(a), 1.1441-5(d), 1.1441-5(e), 1.1441-9(b)(3), and 1.6049-5(d) if a payee that is required to provide Form W-8, Form W-8A, Form W-8B, Form W-8C, or Form W-9 does not provide the form or the form is unavailable. Generally, the payee is treated as a U.S. person, and you are required to report the payment on Form 1099 and apply 31% backup withholding.

Note: *Certain payees known as "exempt recipients" are not required to provide a Form W-9 and are exempt from backup withholding. If you make a payment to an exempt recipient, you do not have to obtain a Form W-9 and you have no Form 1099 reporting requirement. However, if the exempt recipient has an employer identification number (EIN) beginning with "98" or shows a foreign mailing address, the name of the payee indicates that it is on the per se corporation list in Regulations section 301.7701-2(b)(8)(i), or the payment is made outside of the United States, treat the recipient as a foreign person. In that case, 30% withholding may apply. See the **Instructions for Requester of Form W-9** for a list of exempt recipients.*

Requesting Form W-8. You must request Form W-8, W-8A, W-8B, or W-8C from any person to whom you are making a payment that you presume to be a foreign person. (You must do so before making a payment so that you hold the form when making the payment.) When you receive a completed Form W-8, you must review it for completeness and accuracy. You may rely on the information and certifications provided on the form (including the status of the beneficial owner as an individual, corporation, etc.) unless you have actual knowledge or reason to know that the information is untrue or incorrect. You have reason to know that the information is untrue or incorrect if you have knowledge of relevant facts or statements contained in the withholding certificates or other documentation that would cause a reasonably prudent person in the position of the withholding agent to question the claims made. For example, if you have information in your records that contradicts information provided on the form, you may not rely on the form. If you know or have reason to know that any information is untrue or incorrect, you must obtain a new Form W-8 or obtain documentation from the beneficial owner to support the claim of foreign status or reduced withholding.

Due diligence requirements. You are responsible for ensuring that all information relating to the type of income for which Form W-8 is submitted is complete and appears accurate. If you are a foreign financial institution (including a regulated investment company) paying 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, dividends, interest, or royalties from units of beneficial interest in a unit investment trust that are (or were upon issuance)

publicly offered and registered with the SEC under the Securities Act of 1933 and amounts paid with respect to loans of such securities, you have reason to know that the Form W-8 is not reliable and you must request additional documentation in any of the following circumstances:

1. The permanent residence address given is an address in the United States. However, if the beneficial owner is an individual, you may rely on information in your files that is less than 3 years old and that supports the claim of foreign status, despite the U.S. address. If you have no information in your files, you must contact the beneficial owner and obtain an explanation in writing supporting the claim of foreign status of the beneficial owner. Documentation supporting the claim must be attached to the beneficial owner's statement. If the beneficial owner is other than an individual, you must inquire as to whether the person whose name is on the Form W-8 is actually organized or created under the laws of a foreign country.

2. The payment is directed to a P.O. box, in-care-of address, or a U.S. address. If the beneficial owner is an individual, you may rely on a certificate of residence (as described in Regulations section 1.1441-6(c)(3)) or other documentary evidence issued by a governmental authority that contains the individual's name, address, and photograph, to support the beneficial owner's claim of residence in a foreign country. In the case of a person other than an individual, the withholding agent may rely on other evidence to ascertain that the person whose name is on the withholding certificate is not a U.S. person.

3. In the case of income for which treaty benefits are claimed, the permanent residence or mailing address is not in the corresponding treaty country. In this case, the withholding agent may rely on the type of documentary evidence mentioned above.

4. The mailing address on the Form W-8 is in the United States or the beneficial owner notifies you of a new address for mailing or residential purposes that is in the United States, a P.O. box, or an in-care-of address, or, in the case of income for which benefits under a tax treaty are claimed, the mailing address on Form W-8 or the new mailing or residential address is not in the treaty country. The withholding agent may rely on documentary evidence of a type described above supporting a beneficial owner's claim of residence in a treaty country.

5. The name of the person on the Form W-8 indicates that the person's status is a corporation, partnership, trust, estate, or an individual, and the person's claim of status is not consistent with such indication.

You must request a new Form W-8 **before** making a payment. If you make a payment without holding a Form W-8 from the beneficial owner, you must withhold 30% or 31% of the amount paid depending on whether, under the applicable presumptions, the beneficial owner is considered to be a U.S. or a foreign person and the nature of the payment. If you do not hold Form W-8 when making the payment and you do not withhold, you may be liable for a 30% or 31% tax. Relief from the 30% tax liability may be available if the beneficial owner provides Form W-8 after the fact, but interest and penalties may apply to the amount that should have been withheld.

If you are making payments to a foreign entity that is simultaneously claiming a reduced rate of tax on its own behalf and on behalf of persons in their capacity as interest holders in that entity you may, at your option, accept the dual claims even though you hold different withholding certificates that require you to treat the entity inconsistently for different payments or for different portions of the same payment. If, however, inconsistent claims are made for the same portion of a payment, you may either reject both claims and request consistent claims or you may choose which reduction to apply.

You must request a new Form W-8:

- Upon the expiration of an existing Form W-8.
- If the existing form does not support a claim of reduced rate for a different type of income.
- When there is a change in the beneficial owners circumstances that makes any information on the current form incorrect (see **Change In Status** on page 2).

Example. A foreign investor opens an account with a broker to purchase U.S. Treasury bonds, and provides Form W-8 to obtain the portfolio interest exemption. The investor does not have to complete Part II. Later, the investor purchases U.S. stocks and claims treaty benefits on dividend income. The investor must complete a new Form W-8 providing the information required in Part II.

Grace Period for Certain Payments. For specific types of payments, you may treat a payee as a foreign person (up to a maximum of 90 days) if you do not hold a valid Form W-8, Form W8-A, Form W-8B, or Form W-8C from the payee and you have any of the following:

- An address in a foreign country for that person.
- A facsimile copy or a non-qualified electronic transmission of the information required to be stated on a Form W-8 for that person.
- A Form W-8 that is no longer reliable for reasons other than because its validity has expired.

The grace period applies only for the following types of payments:

- 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 funds);
- 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 SEC under the Securities Act of 1933; and
- Income related to loans of any of the above securities.

If you may apply the grace period, it begins, for a newly opened account, on the date the payer first credits the account. For an existing account for which the payer holds a Form W-8, the grace period begins on the date the payer first credits the account after the existing documentation held can no longer be relied upon. The grace period ends on the earlier of the close of the 90th day from the date the grace period begins, the date the documentation is provided, or the last day of the calendar year. The grace period also ends when the remaining balance in the account equals 31 percent of the total amounts credited since the beginning of the grace period.

You may not use the grace period rules to apply a reduced withholding rate. However, if you have a withholding certificate that is otherwise valid except that it is transmitted by facsimile, you may rely on that facsimile form for purposes of withholding at the reduced rate that the beneficial owner claims on the facsimile for the grace period.

If, by the end of the grace period, the beneficial owner has not given you the required documentation, you must apply the presumptions described in **Responsibilities of the Withholding Agent** on page 4.

Expiration of Form W-8. Generally, a Form W-8 provided without a TIN will remain in effect for a three-year period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. For example, a Form W-8 signed on September 30, 1999, remains valid through December 31, 2002. A Form W-8 furnished with a TIN will remain in effect until such time as the status of the person whose name is on the form changes, or a change in circumstances makes any information on the form incorrect.

DO NOT send Form W-8 to the IRS. Instead, keep Form W-8 in your records for as long as it may be relevant to the determination of your tax liability under section 1461. Use the Information on Form W-8 to prepare **Form 1042-S**, Foreign Person's U.S. Source Income Subject to Withholding.

Substitute Forms W-8

You may develop and use your own Form W-8 (a substitute Form W-8) if its content is substantially similar to the IRS's official Form W-8, to the extent required by these instructions, and it satisfies certain certification requirements. You may

develop and use a substitute Form W-8 that is in a foreign language, provided that the substitute form also provides the English version of the statements and information otherwise required to be included on the substitute form. You may combine Forms W-8, W-8A, W-8B, and W-8C into a single substitute form.

You may incorporate a substitute Form W-8 into other business forms you customarily use, such as account signature cards, provided the required certifications are clearly set forth. You may not:

1. Use a substitute Form W-8 that requires the payee, by signing, to agree to provisions unrelated to the required certifications; or
2. Imply that a person may be subject to 30% withholding or 31% withholding unless that person agrees to provisions on the substitute form that are unrelated to the required certifications.

Content of substitute form. The substitute Form W-8 must contain all of the information required in Part I, lines 1 through 5, and line 6, if a TIN is required.

The certifications in Form W-8, Part II must be included in a substitute form only if treaty benefits are claimed, and then only to the extent that the certifications are required. For example, if the substitute form is intended for the use of individuals only, the certifications contained in boxes **c** through **e** are not required.

A substitute Form W-8 is valid only if it contains the same penalties of perjury statement as the official form and the required signature. However, if the substitute form is contained in some other business form, the words "information on this form" may be modified to refer to that portion of the business form containing the substitute Form W-8 information. The design of the substitute form must be such that the information and certifications that are being attested to by the penalties of perjury statement clearly stand out from any other information contained in the form. Additionally, the following statement must be presented in the same manner as in the preceding sentence and must appear immediately above the single signature line: "The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to establish your status as a foreign person and, if applicable, obtain a reduced rate of withholding."

The substitute form must contain instructions that adequately inform the beneficial owner what is meant by permanent residence address and beneficial ownership and, if the beneficial owner is other than an individual, instructions relevant to hybrid and reverse hybrid entities. You are, however, encouraged to provide all relevant instructions, especially if the payee requests them.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

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 Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, XX min.; **Learning about the law or the form**, XX min.; **Preparing and sending the form to IRS**, XX min.

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 write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the tax form to this office. Instead, give it to your withholding agent.