

Publication 1281

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

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

Volume 4 of 5



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For an entity claiming status as a certified deemed-compliant FFI that is a sponsored, closely held investment vehicle described in Regulations section 1.1471-5(f)(2)(iii) on a Form W-8BEN-E or Form W-8IMY, you must obtain the GIIN for the sponsoring entity and verify it against the published IRS FFI list. For an entity claiming status as a sponsored investment entity or controlled foreign corporation described in Regulations section 1.1471-5(f)(1)(i)(F), you must obtain and verify the GIIN of the sponsored investment entity or controlled foreign corporation against the published IRS FFI list, not the GIIN of the sponsoring entity.

If you receive a Form W-8BEN-E, Form W-8IMY, or Form W-8EXP from an entity payee that is claiming chapter 4 status as a participating FFI (including a reporting Model 2 FFI), registered deemed-compliant FFI (including a reporting Model 1 FFI and a sponsored FFI described in the Treasury

regulations under section 1471), direct reporting NFFE, sponsored direct reporting NFFE, or nonreporting IGA FFI required to provide a GIIN (as described earlier) that contains “Applied for” in the box for the GIIN, the payee must provide its GIIN within 90 days of providing the form. A Form W-8 from such a payee that does not include a GIIN, or includes a GIIN that does not appear on the published IRS FFI list, will be invalid for purposes of chapter 4 beginning on the date that is 90 days after the date the form is provided. See Regulations section 1.1471-3(e)(3)(iii) and (iv).

You may only accept a Form W-8BEN-E or Form W-8IMY with Part II completed if the entity shown in Part II is an FFI that is a branch of the entity identified in Part II, line 1, and the branch is receiving a withholdable payment, or if the entity shown in Part II is a disregarded entity that is identified in Part I, line 3, as receiving the payment. If you

receive a Form W-8BEN-E or Form W-8IMY from a branch (other than a U.S. branch) or disregarded entity described in the preceding sentence that is receiving a payment associated with the form, you must verify the GIIN of the branch (unless the branch is treated as a nonparticipating FFI) or disregarded entity that is provided in Part II against the published IRS FFI list and not that of the entity identified in Part I, line 1. In such a case, you may accept the form without a GIIN on line 9a (for Form W-8BEN-E) or line 9 (for Form W-8IMY). If you receive a Form W-8BEN-E from a U.S. branch, the branch may provide the GIIN of any other branch of the FFI (including the GIIN for the FFI's residence country). A U.S. branch providing a Form W-8IMY is not required to provide a GIIN.

Presumption Rules

If you do not receive a valid Form W-8 or Form W-9 that you may rely upon under the

due diligence requirements, or cannot otherwise determine whether a payment should be treated as made to a U.S. or foreign person, you must apply the presumption rules provided in the regulations. If the payment is an amount subject to withholding under chapter 3 or 4 or a reportable payment under one of those sections or another relevant section under chapter 61 of the Code, you must apply the presumption rules provided in the Regulations under sections 1441, 1471, 6045, and 6049 (as applicable). If the presumption rules are applied to treat a person as a foreign person, the statutory 30% withholding rate applies to a payment subject to withholding under chapter 3 and cannot be reduced (for example, no treaty rate). You may not rely on the presumption rules if you have actual knowledge that a higher withholding rate is applicable. If you determine that you are making a withholdable payment to an entity and cannot reliably associate the payment

with a Form W-8 or other permitted documentation that is valid for chapter 4 purposes, you are required to treat the entity payee as a nonparticipating FFI. If the payment is an amount subject to withholding under section 1446(a) or section 1446(f) for which a valid Form W-9 (or acceptable substitute) is not received and the partnership does not use other means to determine a partner's non-foreign status (only for section 1446(a) withholding), the amount is treated as made to a foreign person and, unless an exception applies, withholding applies as required under the regulations to section 1446(a) or 1446(f) (as applicable).

When To Request a New Form W-8

Request a new Form W-8:

- Before the expiration of the validity period of an existing Form W-8 (when applicable);

- If the existing form does not support a claim for a reduced rate of withholding or is incomplete with respect to any claim made on the form (such as may result, for example, from a new regulatory requirement relevant to the Form W-8); or
- If you know or have reason to know of a change in circumstances that makes any information on the current form unreliable or incorrect for purposes of chapter 3 or 4 (to the extent applicable) based on the claims made on the form.

Example. A foreign individual investor opens an account with a broker to purchase U.S. Treasury bonds and provides Form W-8BEN to obtain the portfolio interest exemption. The investor does not complete Part II of Form W-8BEN because he or she is not claiming treaty benefits. Later, the investor purchases U.S. stock and claims treaty benefits on dividend

income. The withholding agent must obtain a new Form W-8BEN at that time that provides the information required in Part II to be able to withhold based on the treaty claim and not at the 30% withholding tax rate.

Changes in circumstances for chapter 4 purposes. For chapter 4 purposes, a change in circumstances generally occurs when there is a change in a person's chapter 4 status. You must treat a Form W-8 as invalid when you know or have reason to know of a change in circumstances that affects the correctness of the form. However, you may continue to treat an FFI as having the same chapter 4 status that it had prior to the change in circumstances until the earlier of 90 days from the date of the change or the date that new documentation is obtained.

You are not considered to have reason to know of a change in circumstances if an FFI's chapter 4 status changes solely because the jurisdiction where the FFI is resident,

organized, or located is treated as having an IGA in effect or if the jurisdiction had a Model 2 IGA in effect and is later treated as having a Model 1 IGA in effect. If such change in circumstances occurs, the FFI may provide you with oral or written confirmation (including by email) of its new chapter 4 status rather than providing a new Form W-8, and you must retain a record of this confirmation.

If an FFI is resident, organized, or located in a jurisdiction that is treated as having an IGA in effect, and the jurisdiction's status on the Treasury Department's IGA list (located at [Treasury.gov/resource-center/tax-policy/treaties/pages/FATCA.aspx](https://www.treasury.gov/resource-center/tax-policy/treaties/pages/FATCA.aspx)) is later updated to indicate that it is no longer treated as having an IGA in effect, you will have reason to know of a change in circumstances with respect to the FFI's chapter 4 status on the date that the jurisdiction ceases to be treated as having an IGA in effect. See Regulations

section 1.1471-3(c)(6)(ii)(E)(3). If such change in circumstances occurs, the FFI may provide you with oral or written confirmation (including by email) of its new chapter 4 status rather than providing a new Form W-8, and you must retain a record of this confirmation.

Period of Validity

Generally, a Form W-8 is valid from the date signed until the last day of the third succeeding calendar year unless a change in circumstances occurs that makes any information on the form incorrect. For example, a Form W-8BEN signed on September 30, 2022, generally remains valid through December 31, 2025. However, under certain conditions, a Form W-8 will be valid indefinitely unless there has been a change in circumstances. For example, a Form W-8BEN and documentary evidence supporting an individual's claim of foreign status (other than the portion of the form making a claim for

treaty benefits) are indefinitely valid if the form and documentary evidence are provided within 30 days of each other. A Form W-8BEN-E and documentary evidence supporting an entity's claim of foreign status (other than the portion of the form making a claim for treaty benefits) that are received by a withholding agent before the validity period of either the form or the documentary evidence would otherwise expire are indefinitely valid. A Form W-8IMY is valid indefinitely as described in this paragraph, but see Notes for Validating Form W-8IMY, later, for the validity period for a Form W-8IMY provided by a QDD. For further information on the period of validity for a Form W-8 for chapter 3 purposes, see Regulations section 1.1441-1(e)(4)(ii), and for chapter 4 purposes, see Regulations section 1.1471-3(c)(6)(ii). The validity period for a Form W-8 associated with an amount subject to withholding under section 1446(a) or an amount realized under section 1446(f)

is determined under the chapter 3 requirements referenced in the preceding sentence.

Forms Received That Are Not Dated or That Contain Inconsequential Errors or Omissions

If a Form W-8 is valid except that the person providing the form has not dated the form, you may date the form from the day you receive it and measure the validity period from that date. Generally, you may treat a withholding certificate as valid if it contains an error or omission that is inconsequential and you have sufficient documentation on file to supplement the missing information. However, a failure to establish an entity type or make a required certification is not inconsequential.

Example 1. If an entity receiving a withholdable payment selects a certified deemed-compliant FFI status on line 5 of

Form W-8BEN-E but does not complete the corresponding required certifications in Part V, the form is invalid for chapter 4 purposes. On the other hand, if you receive a Form W-8 for which the person signing the form does not also print a name before the signature when required on the form, you are not required to treat the form as incomplete if you have documentation or information supporting the identity of the person signing the form.

Example 2. An abbreviation of a country of residence on Form W-8BEN is an inconsequential error if it is an ambiguous abbreviation and you have documentary evidence supporting the beneficial owner's country of residence. For further information about withholding certificates that contain inconsequential errors, see Regulations section 1.1441-1(b)(7)(iv) for chapter 3 purposes and Regulations section 1.1471-3(c)(7)(i) for chapter 4 purposes.

Foreign TINs

If you are a U.S. office or branch of a depository institution, custodial institution, investment entity, or specified insurance company (each as defined in Regulations section 1.1471-5(e)) documenting an account holder (as defined in Regulations section 1.1471-5(a)(3)) of an account that is a financial account (as defined in Regulations section 1.1471-5(b)), you must obtain the account holder's TIN for its jurisdiction of tax residence (FTIN) on a Form W-8 that is a beneficial owner withholding certificate in order for the form to be valid for a payment of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement), unless:

- The account holder is resident of a jurisdiction that is not listed in section 3 of Rev. Proc. 2020-15, 2020-23 I.R.B. 905, which may be further updated in future published guidance;

- The account holder is resident in a jurisdiction that has been identified on the IRS's List of Jurisdictions That Do Not Issue Foreign TINs, available at [IRS.gov/businesses/ corporations/list-of-jurisdictions-that-do-not-issue-foreign-tins](https://www.irs.gov/businesses/corporations/list-of-jurisdictions-that-do-not-issue-foreign-tins);
- The account holder is a government (including a controlled entity that is a foreign government under section 892), international organization, foreign central bank of issue, or resident of a U.S. territory; or
- You obtain a reasonable explanation for why the account holder has not been issued an FTIN (generally by the account holder checking an applicable box on the form).

A reasonable explanation that an account holder does not have an FTIN must address why the account holder was not issued an FTIN only to the extent provided in the

instructions for the applicable Form W-8. A reasonable explanation for not providing an FTIN includes checking the applicable box signaling that you are not legally required to obtain an FTIN from your jurisdiction of residence (including if the jurisdiction does not issue FTINs). If an account holder provides an explanation other than or in furtherance of the one described in the Instructions for the applicable Form W-8, you must determine whether the explanation is reasonable. In such a case, you may accept this further (or other) explanation if it is written in the line on the form for an FTIN, in the margins of the form, or on a separate attached statement associated with the form.

You may rely on an FTIN provided on a Form W-8 unless you know or have reason to know it is incorrect. You may also accept the FTIN on a separate statement as provided in Regulations section 1.1441-1(e)(2)(ii)(B)(1).

Alternative Certifications Under an Applicable IGA

If you are an FFI subject to a Model 1 or Model 2 IGA using Form W-8BEN-E or Form W-8IMY to document account holders pursuant to the due diligence requirements of Annex I of an applicable IGA, you may request alternative certifications from your account holders in accordance with the requirements of, and definitions applicable to, the IGA instead of the certifications on Form W-8BEN-E or W-8IMY. You should provide those certifications to account holders from whom you request a Form W-8BEN-E or W-8IMY, and the account holder should attach the completed certification to the Form W-8BEN-E or W-8IMY in lieu of completing a certification otherwise required. In such a case, you must provide a written statement to the account holder stating that you have provided the alternative certification to meet your due diligence requirements under an

applicable IGA and you must associate the certification with the Form W-8BEN-E or W-8IMY.

If you are a withholding agent (including an FFI), you may also request and rely upon an alternative certification from an entity account holder to establish that the account holder is an NFFE (rather than a financial institution) under an applicable IGA. An entity providing such a certification will still be required, however, to provide its chapter 4 status (that is, the type of NFFE) in Part I, line 5, as determined under the regulations if you are a withholding agent other than an FFI documenting an account holder under Annex I of an applicable IGA. For example, if you are a U.S. withholding agent that receives a Form W-8BEN-E or W-8IMY from an entity account holder certifying to its status as a passive NFFE, you may request a written certification that the entity is not a financial institution as defined under the IGA applicable to the entity

and document it under the regulations by obtaining the NFFE's certification of its chapter 4 status in Part I, line 5. In the case of an FFI documenting an account holder under Annex I of an applicable IGA, however, a nonprofit organization treated as an active NFFE under the Annex may provide an FFI with an alternative certification that it is an NFFE that qualifies as a nonprofit organization under an applicable IGA. In such a case, the nonprofit organization will not be required to check a box in Part I, line 5, and the FFI may treat the entity as an excepted NFFE.

If you receive an alternative certification under an applicable IGA described in the preceding paragraphs, you may rely on such certification unless you know or have reason to know the certification is incorrect.

Rules for Specific Types of Forms W-8

Form W-8BEN

You should request Form W-8BEN from any foreign individual for any of the purposes described previously in these instructions. These purposes include if you are making a payment subject to chapter 3 withholding or a withholdable payment; if you are a partnership (or nominee for a PTP) documenting a partner for purposes of section 1446(a), or are a broker or transferee documenting a transferor paid an amount realized under section 1446(f); if a payee claims foreign status for purposes of domestic information reporting and backup withholding; or if you are an FFI using this form to document an account for purposes of chapter 4.

Notes for Validating Form W-8BEN

Line 6a and 6b (Foreign TIN). If you do not obtain an FTIN on line 6a (when required) and the account holder has not checked line 6b, or provided a further (or other) explanation for why the account holder has not been issued an FTIN on a separate statement (see *Foreign TINs*, earlier), you must treat the form as invalid for payments of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement).

Line 8 (Date of birth). If you are a U.S. office or branch of a depository institution, custodial institution, investment entity, or specified insurance company (each as defined in Regulations section 1.1471-5(e)) documenting an individual account holder (as defined in Regulations section 1.1471-5(a)(3)) of an account that is a financial account (as defined in Regulations section 1.1471-5(b)), you must obtain the individual

account holder's date of birth on the Form W-8BEN in order for the form to not be invalid for a payment of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement). If the individual's date of birth is not provided on the Form W-8BEN, the form is not invalid if you otherwise have the date of birth in your account files for the account holder or you obtain the date of birth on a written statement (including a written statement transmitted by email) from the account holder and associate the written statement with the Form W-8BEN. You may rely on the date of birth provided by an account holder unless you know or have reason to know it is incorrect.

Line 10 (Special rates and conditions). If the beneficial owner is required to explain the additional conditions in the treaty that it meets to be eligible for the rate of withholding on line 10, you may accept a brief

explanation for this purpose. You may accept a treaty claim without this explanation under an interest or dividends (other than dividends subject to a preferential rate based on ownership) article of a treaty or other income article, unless such article requires additional representations.

See the Instructions for Form W-8BEN for further information for when a beneficial owner is required to complete line 10. For a beneficial owner that is claiming treaty benefits for gain or income with respect to a PTP and that is subject to section 1446, the name of each PTP to which the claim relates must be identified. If the beneficial owner receives gain or income with respect to multiple PTPs, it may attach a separate statement to the form that identifies each PTP. If the beneficial owner provides the separate statement after it has provided the Form W-8BEN, it must indicate that the statement relates to the applicable form.

A beneficial owner that is taxed on a remittance basis and that is claiming treaty benefits with respect to a payment under a treaty must state this on line 10 and include the amount of income that was remitted to, and is taxable in, the treaty country. You may generally rely on the claim if you are remitting the payment to the treaty country (or you know that another withholding agent is doing so) or if you maintain the account for the claimant in the treaty country, subject to any due diligence requirements applicable to validating a claim of residency in a treaty jurisdiction (see Limitations on reason to know for certain entities, earlier). In certain cases, you may also be able to use the adjustment to overwithholding procedures in Regulations section 1.1461-2(a) to repay a beneficial owner that establishes remittance of the payment to the treaty country after you make the payment.

Form W-8BEN-E

You should request Form W-8BEN-E from any foreign entity for the purposes described previously in these Instructions for Form W-8BEN or if the payee is to establish that certain income from notional principal contracts is not effectively connected with the conduct of a U.S. trade or business (for reporting on Form 1042-S). See Regulations section 1.1441-4, and Notional principal contracts reportable on Form 1042-S, later.

Notes for Validating Form W-8BEN-E

Part I, line 4 (Chapter 3 Status). If you receive a Form W-8BEN-E from an entity that indicates in Part I, line 4, that it is a disregarded entity, partnership, simple trust, or grantor trust, and the entity has checked “No” in Part I, line 4 (regarding the entity’s claim of treaty benefits), you should not accept the Form W-8BEN-E if the form is used only with respect to reportable amounts or

withholdable payments. In such a case, you should request the entity complete a Form W-8IMY if the entity is a partnership, simple trust, or grantor trust, or have the owner of a disregarded entity complete the appropriate Form W-8. If you are an FFI documenting an entity account holder solely for chapter 4 purposes (that is, you are not required to document the payee for purposes of withholding or domestic information reporting), the entity does not need to provide a chapter 3 status on line 4 of the form. For purposes of section 1446, however, you may accept a Form W-8BEN-E from a simple trust.

Part I, lines 9b, and 9c (Foreign TIN). If you do not obtain an FTIN on line 9b (when required) and the account holder has not checked line 9c, provided a further (or other) explanation for why the account holder has not been issued an FTIN on a separate statement (see Foreign TINs, earlier), you

must treat the form as invalid for payments of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement).

Part II (Disregarded Entity or Branch Receiving Payment). If you are making payments to multiple branches/ disregarded entities that would be completing Part II, and the Part I information for each branch/disregarded entity is the same, instead of obtaining separate Forms W-8BEN-E with respect to each branch/disregarded entity, you may accept a single Form W-8BEN-E with a separate schedule attached that includes all of the information required by Part II for each branch/disregarded entity and you are able to allocate each payment to each branch/disregarded entity associated with the form. See Requirements for Obtaining and Verifying a Global Intermediary Identification Number (GIIN), earlier, for

when a GIIN is required when Part II is completed.

Part III (Claim of Tax Treaty Benefits), line 14b. An entity claiming a reduced rate of withholding under an income tax treaty that contains a limitation on benefits (LOB) article must identify the LOB provision that it satisfies by checking one of the boxes on line 14b. In general, the entity is only required to check one box, even if it satisfies more than one provision. If the applicable treaty has no LOB article, the entity must check the box indicating no LOB article in the treaty. You may rely on the entity's claim on line 14b unless you have actual knowledge that the claim is incorrect.

Part III, line 15 (Special rates and conditions). If the beneficial owner is required to explain the additional conditions in the treaty that it meets to be eligible for the rate of withholding on line 15, you may accept a brief explanation. You may accept a

treaty claim without this explanation under an interest or dividends (other than dividends subject to a preferential rate based on ownership) article of a treaty or other income article, unless such article requires additional representations.

See the Instructions for Form W-8BEN-E for further information for when a beneficial owner is required to complete line 15. For a beneficial owner that is claiming treaty benefits for gain or income with respect to a PTP that is subject to withholding under section 1446(a) or (f), the name of each PTP to which the claim relates must be identified. If the beneficial owner receives gain or income with respect to multiple PTPs, it may attach a separate statement to the form that identifies each PTP. If the beneficial owner provides the separate statement after it has provided the Form W-8BEN-E, it must indicate that the statement relates to the applicable form.

Part X (Owner-Documented FFI), line 24.

You may accept this certificate and treat an entity as an owner-documented FFI only if you are a designated withholding agent under the chapter 4 regulations. Also, an owner-documented FFI that is a nonreporting IGA FFI must check "Owner-Documented FFI" (and not "Nonreporting IGA FFI") on line 5 and complete Part X. You may accept a Form W-8BEN-E from an entity claiming status as an Owner-Documented FFI that does not check box 24d in Part X regardless of whether you know that the entity is a trust that has one or more contingent beneficiaries.

Form W-8ECI

You should request Form W-8ECI from any foreign person or organization to which you are making a payment subject to withholding under chapter 3 or 4 if it is the beneficial owner of the income (or an entity engaged in a U.S. trade or business submitting the form on behalf of its owners, partners, or

beneficiaries) and claims that the income is effectively connected with the conduct of a trade or business in the United States.

However, if you are a partnership (or nominee for a PTP interest), you should request a Form W-8BEN or W-8BEN-E (as applicable) from a foreign partner that is allocated income that is ECTI for purposes of withholding under section 1446(a).

Nevertheless, a foreign partner that has made an election under section 871(d) or section 882(d) must provide that election to the partnership along with a Form W-8ECI.

An exception from section 1446(f) withholding applies to a foreign dealer that transfers a PTP interest if the foreign dealer provides Form W-8ECI and makes the certifications set forth on line 12 of such form. See Regulations section 1.1446(f)-4(b)(6). You may rely on the certifications made by the dealer for this purpose unless

you have actual knowledge they are unreliable or incorrect.

If you receive a Form W-8ECI without a U.S. TIN entered on line 7, you may not rely on Form W-8ECI to treat the income as effectively connected with a U.S. trade or business and you must apply the appropriate presumption rules or obtain another Form W-8 for the payee that you may rely upon. If you receive a Form W-8ECI without an FTIN on line 8a when required and the account holder has not checked line 8b, or provided a reasonable (or other) explanation for why the account holder has not been issued an FTIN on a separate statement when required (see Foreign TINs, earlier), you must treat the form as invalid for payments of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement).

Your receipt of Form W-8ECI serves as a representation by the payee or beneficial

owner that the items of income identified on line 11 are effectively connected with the conduct of a trade or business within the United States. Therefore, if a beneficial owner provides you with a Form W-8ECI, you may treat all of the U.S. source income identified on line 11 paid to that beneficial owner as effectively connected with the conduct of a trade or business within the United States and not as a withholdable payment for purposes of chapter 4. Accordingly, a chapter 4 status is not required for a payee who provides a valid Form W-8ECI unless you are an FFI requesting a Form W-8ECI from an account holder for purposes of your chapter 4 due diligence requirements.

If you pay items of income that are not identified on line 11 by the beneficial owner as effectively connected with the conduct of a trade or business within the United States, you are generally required to obtain another type of Form W-8 from the beneficial owner.

Generally, you may not treat an amount otherwise subject to withholding under chapter 3 or 4 as income effectively connected with the conduct of a trade or business within the United States unless the beneficial owner gives you a valid Form W-8ECI. However, there are exceptions (described below) for income paid on notional principal contracts and payments made to certain U.S. branches.

Notional principal contracts reportable on Form 1042-S. Withholding at a 30% rate is not required on amounts paid under the terms of a notional principal contract whether or not a Form W-8ECI is provided (except when a payment made under such contract is U.S. source income, such as a dividend equivalent amount under section 871(m)). However, if the income is effectively connected with the conduct of a U.S. trade or business, it is reportable by you on Form 1042-S (regardless of whether the payment is

U.S. source income). You must treat income as effectively connected with the conduct of a U.S. trade or business, even if a Form W-8ECI has not been received, if the income is paid to a qualified business unit of a foreign person located in the United States or if the income is paid to a qualified business unit of a foreign person located outside the United States and you know, or have reason to know, that the payment is income effectively connected with the conduct of a U.S. trade or business.

However, a payment is not treated as income effectively connected with the conduct of a U.S. trade or business if the payee provides a Form W-8BEN-E representing that the payment is not income effectively connected with a U.S. trade or business or makes a representation in a master agreement that governs the transactions in notional principal contracts between the parties (for example, an International Swaps and Derivatives Association agreement), or in the confirmation on the particular notional

principal contract transaction, that the payee is a U.S. person or a non-U.S. branch of a foreign person.

Payments to certain U.S. branches treated as effectively connected income.

If you make a payment to a U.S. branch of a foreign bank or insurance company that does not provide a withholding certificate but has provided an employer identification number (EIN), the payment is presumed to be effectively connected with the conduct of a trade or business within the United States even if the foreign person (or its U.S. branch) does not give you a Form W-8ECI. If you do not obtain a Form W-8ECI or the U.S. branch's EIN, the income paid cannot be treated as income effectively connected with a U.S. trade or business.

Form W-8EXP

You should request Form W-8EXP from any foreign government, international

organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession to which you are making a payment of an amount subject to chapter 3 withholding if such person is claiming an exemption from withholding under sections 1441, 1442, and 1443 pursuant to section 115(2), 501(c), 892, or 895, or claiming a rate of withholding under section 1443(b). Except as provided below, you should request Form W-8EXP from a person claiming an exemption from withholding under chapter 4 as an exempt beneficial owner or tax-exempt organization under section 501(c) or that is claiming any other chapter 4 status shown on the form when also claiming a chapter 3 status described in the preceding sentence. In certain cases, a GIIN may be required based on the chapter 4 status claimed on the form. See Requirements for Obtaining and Verifying a Global Intermediary Identification Number (GIINs), earlier.

If you are an FFI documenting an account holder that is a tax-exempt organization or exempt beneficial owner (each as defined for chapter 4 purposes) to which you do not pay amounts subject to withholding under chapter 3, you may require that the account holder complete Form W-8BEN-E (rather than Form W-8EXP) to establish its status for chapter 4 purposes.

A Form W-8EXP submitted by a foreign person that is a partner in a partnership for purposes of withholding under sections 1441 through 1443 will also establish that partner's foreign status for purposes of section 1446. However, except as provided in Regulations section 1.1446-3(c)(3) (regarding certain tax-exempt organizations described in section 501(c)), the submission of Form W-8EXP will have no effect on whether the partner is subject to withholding under section 1446(a).

You may treat a payee as an international organization without requiring a Form W-

8EXP if the payee is designated as an international organization by an executive order (pursuant to 22 U.S.C. 288 through 288(f)) and other facts surrounding the payment reasonably indicate that the beneficial owner of the payment is an international organization. With regard to amounts derived from bankers' acceptances for chapter 3 purposes, you may treat a payee as a foreign central bank of issue without requiring a Form W-8EXP if the name of the payee and other facts surrounding the payment reasonably indicate that the beneficial owner of the payment is a foreign central bank of issue.

A U.S. TIN is required if the beneficial owner is claiming an exemption or reduced rate of withholding based solely on a claim of tax-exempt status under section 501(c) or private foundation status. However, a U.S. TIN is not required from a foreign private foundation that is subject to the 4% excise tax on gross

investment income (under section 4948(a)) that would be exempt from withholding except for section 4948(a) (for example, portfolio interest).

If you receive a Form W-8EXP without an FTIN (or a reasonable explanation for why the account holder has not been issued an FTIN) on line 8b (or on a separate statement) when required (see *Foreign TINs*, earlier), you must treat the form as invalid for payments of U.S. source income reportable on Form 1042-S (as determined before the application of this requirement).

Form W-8IMY

For purposes of chapter 3 and 4, you should request Form W-8IMY from any entity that is a QI (including a QI acting as a QDD), an NQI (including certain U.S. branches and territory financial institutions), a withholding foreign partnership (WP), a withholding foreign trust (WT), or a flow-through entity to which you

make a withholdable payment or pay a reportable amount. A flow-through entity for purposes of chapters 3 and 4 includes a foreign partnership (other than a WP), a foreign simple or grantor trust (other than a WT), and, for any payments for which a treaty benefit is claimed, any entity to the extent it is treated as fiscally transparent under the laws of the treaty jurisdiction, as provided in section 894 and the regulations thereunder (without regard to whether it is fiscally transparent under the laws of the United States). See Section 1446 Requirements, later, for when an intermediary, partnership or trust is required to provide a Form W-8IMY for purposes of sections 1446(a) and (f). As provided in Notice 2020-2, Form W-8IMY may also be provided by an entity to claim chapter 3 status as a QSL with respect to payments of U.S. source substitute dividends made in 2022 and may be relied upon regardless of whether the QSL acts as an intermediary with

respect to substitute dividends associated with the form. You may accept a Form W-8IMY from an individual acting as an agent or intermediary (as appropriately amended to account for individual status), but you are not required to obtain such form if you are able to associate payments you make to the person(s) for whom the individual acts.

You may accept multiple Forms W-8IMY from an intermediary that is acting in multiple capacities (for example, as a QI for one account but an NQI or QDD for another account). However, a QI may provide you with a single Form W-8IMY that covers more than one category of QI shown on the form, provided that it properly identifies to you the accounts and/or transactions on a withholding statement. Thus, for example, a QI may provide a single Form W-8IMY when acting as both an intermediary and as a QDD with respect to payments you make to the QI (by checking each applicable box in Part III of the

form). You may accept a single Form W-8IMY, including a withholding statement with the required information. For multiple branches of the entity providing the form if the information in Part I is the same for each branch and a separate schedule is attached that includes all of the Part II information on each branch and sufficient information to associate the payments with each branch and any other required information.

The chapter 4 status of an intermediary or flow-through entity is required on Part I of the form if the form is associated with a withholdable payment. Part II must be completed when a withholdable payment is made to a branch or disregarded entity described in Part II of the form.

Generally, for purposes of both chapters 3 and 4, except to the extent otherwise provided in the Regulations under section 1441 or 1471, a Form W-8IMY must be associated with a withholding statement and

withholding certificates (or documentary evidence, where permitted) for the beneficial owners. Generally, the withholding statement must allocate the payment to each payee (or pool of payees, where permitted, as described later), provide the rate of withholding for each payee (or pool of payees), and provide certain identification information on each payee that is not included in a pool. See, however, Regulations section 1.1441-1(e)(3)(iv)(C)(3) for the allowance for a withholding agent to accept an alternative withholding statement from an NQI (which also applies to a flow-through entity) for purposes of chapter 3 or 4. Also see the Instructions for Form W-8IMY for information on the box that an NQI may check on the form when providing an alternative withholding statement.

If you are a participating FFI or registered deemed-compliant FFI, you may also request Form W-8IMY from an intermediary or flow-

through entity that is an account holder to establish its chapter 4 status or status under an applicable IGA even when no payments subject to withholding or domestic information reporting under chapter 61 are made to the account. In such a case, a withholding statement is not required.

Notes for Validating Form W-8IMY

In addition to the validation requirements for Forms W-8IMY described directly below with respect to QIs (including QDDs), flow-through entities, NQIs, U.S. branches, territory financial institutions, and QSLs providing the form (requirements that apply for chapters 3 and 4 and Form 1099 reporting), see Section 1446 Requirements, later, if you pay an amount realized or an amount distributed by a PTP (PTP distribution) to any of these entities, or are otherwise a partnership determining its withholding under section 1446(a).

QIs, WPs, and WTs (in general). A QI, WP, or WT acting in its capacity as such must provide the EIN that was issued to the entity in such capacity (that is, its QI-EIN, WP-EIN, or WT-EIN) on Form W-8IMY and not any other EIN it may have in its NQI, nonwithholding foreign partnership, or nonwithholding foreign trust capacity. Because status as a QI, WP, or WT for a financial institution is limited to certain classes of FFIs, if you are making a withholdable payment to a QI, WP, or WT that is a financial institution, you must verify that the QI, WP, or WT certifies its status as one of the permitted classes in Regulations sections 1.1441-1(e)(5)(ii) (for a QI), 1.1441-5(c)(2)(ii) (for a WP), or 1.1441-5(e)(5)(v) (for a WT) and provides its GIIN (except in the case of certain foreign central banks of issue and retirement funds).

If a QI checks line 15f of Part III of the form to certify that it assumes primary Form 1099

reporting and backup withholding responsibility, you may accept the form even if you do not know if there are any U.S. accounts receiving reportable payments at the time of the certification. If a QI does not check line 15f or 15g of Part III of the form, you must confirm that the QI is not receiving payments for U.S. accounts that are reportable on Form 1099, and the QI must provide an updated Form W-8IMY or must provide a withholding statement if it allocates payments to such accounts for which it does not assume primary withholding responsibility. A QI may check line 15i of Part III of the form to indicate that it allocates a portion of the payment to a chapter 4 withholding rate pool of U.S. payees that includes account holders of another intermediary or flow-through entity even if the withholding statement does not show any intermediaries or flow-through entities at the time the certification is provided. However, a QI is not required to check line 15i of Part III

of the form until it provides a withholding statement identifying an intermediary or flow-through entity that receives a payment allocated to a chapter 4 withholding rate pool of U.S. payees.

QIs acting as QDDs. You should only accept a Form W-8IMY from a QI acting as a QDD to the extent you are making payments with respect to potential section 871(m) transactions or underlying securities to the QDD when the entity claims QDD status in Part III of the form. A QDD must indicate its entity classification on line 16b of the form. If you are making such payment that is an amount subject to chapter 3 withholding to a QI that is acting as a QDD and the QDD is claiming treaty benefits applicable to the status identified on line 16b on the payment, you may treat the Form W-8IMY as a beneficial owner withholding certificate and provide such benefits if the QDD provides a statement associated to the Form W-8IMY

that includes the necessary information with respect to the treaty claim required in Part III of Form W-8BEN-E and its FTIN (when otherwise required) on a QDD withholding statement or separate statement. In such case, the portion of the certificate making a claim for treaty benefits is valid until the end of the third calendar year following the year in which the Form W-8IMY is signed (unless a change in circumstances occurs sooner), and the validation rules for a treaty claim apply. A QDD may instead provide a separate Form W-8BEN-E to make the treaty claim. You may otherwise treat a Form W-8IMY provided by a QDD (other than a flow-through entity or disregarded entity) as a beneficial owner withholding certificate for establishing foreign status of the QDD for a payment of U.S. source FDAP income (as long as the QDD provides its FTIN (when otherwise required) on a QDD withholding statement or a separate statement). A QDD that is receiving payments that it beneficially owns that are

not covered by its QI agreement should provide the appropriate Form W-8 based on its status (and not Form W-8IMY). The QDD must provide to you a withholding statement to identify the home office or branch that is treated as the owner for U.S. income tax purposes and, in certain circumstances (described in the Instructions for Form W-8IMY), the QDD's FTIN (or a reasonable explanation for why it has not been issued an FTIN, if required). Notwithstanding the preceding sentence, a QDD withholding statement need not identify the branch or home office of the QDD if the form is provided only for payments beneficially owned by the QDD (and an FTIN is provided when required). See Foreign TINs, earlier, for when you must treat the form as invalid if an FTIN or reasonable explanation is not provided.

QIs assuming withholding on payments of substitute interest. If a QI represents its status as a QI on a Form W-8IMY with respect

to payments of interest and substitute interest and checks line 15e of Part III of the form, you may treat the QI as assuming withholding for payments of interest and substitute interest it receives from you in connection with a sale-repurchase or similar agreement, a securities lending transaction, or collateral that the QI holds in connection with its activities as a dealer in securities. You may accept this representation regardless of whether the QI represents it acts as a QDD (by checking line 16a in Part III). The representation on Line 15e does not apply to payments made to a QI when acting as a QDD.

QSLs. If you make payment of a U.S. source substitute dividend to a QSL (prior to January 1, 2023), the QSL is required to provide its U.S. TIN. If you make a payment to a QSL (prior to January 1, 2023) that is a withholdable payment, you must collect a Form W-8IMY that includes the QSL's chapter

4 status and GIIN (as applicable) to avoid withholding under chapter 4. A QSL that is a QI should check line 15d of Part III of the form and a QSL that is an NQI should check line 17d of Part IV of the form regardless of whether the QSL acts as an intermediary. You may not associate a Form W-8IMY from a QSL with a payment of a substitute dividend on or after January 1, 2023, and you should obtain a revised withholding certificate.

For information on transition rules that apply until 2023 for withholding agents to apply with respect to QSLs, see *Notice 2020-2*.

U.S. branches. If you make a payment to a U.S. branch of a foreign bank or insurance company that represents that it is acting as an intermediary and has agreed to be treated as a U.S. person, for chapter 3 and 4 for payments associated with this form (by checking line 19a in Part VI of this form) you are not required to obtain the GIIN or chapter 4 status of the entity, but you must obtain

the U.S. branch's EIN. If you make a withholdable payment to a U.S. branch of an FFI that is acting as an intermediary and that does not agree to be treated as a U.S. person, the branch must provide its EIN (but does not need to provide a GIIN or chapter 4 status) and certify that the branch is applying the rules described in Regulations section 1.1471-4(d)(2)(iii)(C) by checking the box on line 19c in Part VI of the form. If you do not obtain the certification from a U.S. branch described in the preceding sentence, you must treat the branch as a nonparticipating FFI and withhold under chapter 4 on withholdable payments made to the branch. You are not required to treat as invalid a Form W-8IMY from an account holder that completes Part VI of the form (to the extent required) but does not complete Part II of the form.

Territory financial institutions acting as intermediaries. If you make a payment to a

territory financial institution acting as an intermediary, you must obtain the territory financial institution's EIN if it agrees to be treated as a U.S. person for chapters 3 and 4 for payments associated with this form (by checking line 18b of Part V of the form). You are not required to obtain a GIIN from a territory financial institution.

Participating FFIs and registered deemed-compliant FFIs that are flow-through entities or acting as intermediaries. If a participating FFI or registered deemed-compliant FFI that is an intermediary or flow-through entity provides you with a withholding statement and documentation for its account holders or payees, you are not required to verify the information on the account holders or payees provided in the documentation for chapter 4 purposes unless the information in the documentation is facially incorrect, and you are not required to obtain additional

documentation for an account holder or payee in addition to the withholding certificate unless you are obtaining the documentation for purposes of chapter 3 or 61, or unless you know that the documentation review conducted by the participating FFI or registered deemed-compliant FFI was not adequate for purposes of chapter 4. See Regulations section 1.1441-7(b)(10) for the due diligence requirements for indirect account holders for purposes of chapter 3 and see Regulations section 1.1471-3(e)(4)(vi) (B) for standards that apply in such case to determine whether chapter 4 withholding applies. You may rely on documentation that does not include a chapter 4 status for an account holder of an intermediary or flow-through entity that is an FFI when the withholding statement provided by such entity indicates that the payment is made to an account excluded as a financial account under Regulations section 1.1471-5(b)(2).

An intermediary or flow-through entity that is a participating FFI or registered deemed-compliant FFI may provide a status for chapter 4 purposes found under the requirements of (and documentation or information that is publicly available that determines the chapter 4 status of the payee permitted under) an applicable IGA for an account holder, and you may rely upon such status and documentation, provided that you have the information necessary to report on Form 1042-S. Additionally, see *Alternative Certifications Under an Applicable IGA*, earlier, for further details on alternative certifications.

In general, if you make a withholdable payment to an intermediary or flow-through entity that is a participating FFI or registered deemed-compliant FFI, the FFI may provide an FFI withholding statement that allocates a portion of the payment to a chapter 4 withholding rate pool. If an intermediary

provides with its Form W-8IMY an FFI withholding statement that allocates a portion of the payment to a chapter 4 withholding rate pool of U.S. payees, the FFI must provide a chapter 4 status on line 5. If the intermediary described in the preceding sentence is an NQI, it must provide the certification required in Part IV with respect to its compliance with the requirements of Regulations section 1.6049-4(c)(4) (or similar requirements under chapter 61 for a payment other than interest). If the intermediary is a QI, it must certify that it meets the requirements of Regulations section 1.6049-4(c)(4)(iii) and, to the extent the U.S. payees are account holders of an intermediary or flow-through entity receiving a payment from the QI, the QI has obtained or will obtain documentation sufficient to establish each such intermediary or flow-through entity status as a participating FFI, registered deemed-compliant FFI, or FFI that is a QI. An allocation of a payment shown on a

withholding statement and made on or after April 1, 2017, to an NQI, nonwithholding foreign partnership, or nonwithholding foreign trust of an amount subject to chapter 3 withholding to a chapter 4 withholding rate pool of U.S. payees must identify the payees consistent with the description in Regulations section 1.1471-3(c)(3)(iii) (B)(2)(iii) (describing account holders of an FFI that is a non-U.S. payor that are not subject to withholding under chapter 3 or 4 or under section 3406, and that are holders of U.S. accounts reported by the FFI under its Foreign Account Tax Compliance Act (FATCA) requirements as a participating FFI or registered deemed-compliant FFI).

Section 1446 Requirements

Section 1446(a) requirements in general.

You should request Form W-8IMY for purposes of section 1446(a) only from a foreign upper-tier partnership or foreign grantor trust or from a simple trust if you do

not obtain a Form W-8BEN-E from the trust. You may also accept a Form W-8IMY from a foreign intermediary holding a partnership interest for a partner (including a partner that is an upper-tier partnership or trust) for determining your withholding under section 1446(a). Generally, for purposes of section 1446(a), the Form W-8IMY submitted by these entities is used to transmit the forms of the owners of these entities (excluding a partnership that is a PTP and a simple trust when a Form W-8IMY is provided). The other forms should be accompanied with the information necessary to reliably associate your effectively connected partnership items with the upper-tier partners, in the case of a foreign upper-tier partnership, and the grantor or other owner, in the case of a foreign grantor trust. Then you must look through these entities to the beneficial owners when determining your section 1446(a) tax obligation. A domestic upper-tier partnership may also provide you this

information by attaching it to a Form W-9 with a statement that it is electing to apply these look through rules. Under those circumstances you may, but are not required to, pay the section 1446(a) withholding tax of the foreign partners of the domestic upper-tier partnership. See Regulations section 1.1446-5.

Section 1446(a) (PTP Distributions).

Notwithstanding the preceding paragraph, for an amount subject to section 1446(a) withholding on a PTP distribution, you may accept a Form W-8IMY from a QI that acts as a nominee for the distribution by checking lines 14 and 15c. In such a case, you must treat the QI as assuming all withholding on the distribution (that is, amounts subject to chapters 3 and 4 withholding on the distribution in addition to amounts subject to sections 1446(a) and (f) withholding on the distribution). You may accept this representation regardless of whether the QI

assumes primary withholding for other payments subject to chapters 3 and 4 withholding by checking line 15a. You may also accept a Form W-8IMY that is associated with a PTP distribution from any entity that represents its status as a QI on line 14 but that does not check line 15c for purposes of your relying on chapters 3 and 4 withholding rate pool information provided by the QI (similar to a case in which a QI does not assume primary withholding for chapters 3 and 4 purposes except that each U.S. partner must be disclosed). A QI that represents its status as a QI on line 14 of a Form W-8IMY that is associated with a PTP distribution may instead, however, act as a disclosing QI for the distribution by not acting as a nominee and providing specific payee information to you with its withholding statement with respect to its account holders that are partners in the PTP (and may only provide chapter 4 withholding rate pool information when permitted under chapter 4 for a

withholdable payment). You may not, however, rely on an allocation of a PTP distribution made to a chapter 4 withholding rate pool of U.S. payees (that is, each U.S. partner must be disclosed). Regardless of whether the QI acts as a disclosing QI, you must determine each amount subject to withholding on the PTP distribution by reference to the qualified notice issued for the distribution (or, if you receive the distribution from a nominee, the nominee's determination) rather than relying on a determination of those amounts by the QI (to avoid withholding under the default rule in Regulations section 1.1446-4).

If the entity checks its status as an NQI in box 17a of Part IV, you must treat the entity as an NQI for a PTP distribution that is associated with the form. For determining your withholding on the distribution, you may rely on specific payee information provided by the NQI with respect to the partners allocated

the distribution on a withholding statement provided with the form and chapter 4 withholding rate pool information to the extent permitted for a QI (as described directly above), but may not rely on that information and withholding statement for purposes of withholding on an amount realized on the distribution (that is, you must withhold at the 10% rate on an amount to which section 1446(f) applies without regard to underlying payee information).

You may also accept a Form W-8IMY that is associated with a PTP distribution from a U.S. branch that acts as nominee for a PTP distribution by checking line 19e. If the U.S. branch does not act as a nominee for the distribution by checking line 19f, you may rely on specific payee documentation provided by the U.S. branch with the form to the same extent described in the preceding paragraph with respect to an NQI to which you pay a PTP distribution. You must apply similar rules

in the case of a Form W-8IMY associated with the distribution that is provided by a territory financial institution.

Although you may accept a Form W-8IMY that is associated from a PTP distribution from an entity that represents its status as a WP or WT, you may not treat the entity as a WP or WT except for the amount of the distribution subject to withholding under chapter 3 or 4. For a nonwithholding partnership or trust to which you pay a PTP distribution that checks line 21b, see Section 1446 Requirements, earlier. See the requirements of chapters 3, 4 and section 1446(f) for when you can rely on partner, owner or beneficiary information for amounts subject to withholding under those provisions on a PTP distribution.

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