



Addressing FIRPTA in Every Transaction

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LEGAL EDUCATION DEPARTMENT
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Table of Contents		Page Number
1.	PowerPoint	5
2.	Taxpayer Identification Numbers (ITIN)	46
3.	IRS Form W-9	50
4.	Instructions IRS Form W-9	56
5.	Non-Foreign Certification by Individual	60
6.	Non-Foreign Certification by Entity	61
7.	IRS Form W-7	62
8.	Instruction IRS Form W-7	63
9.	IRS Substantial Presence Test	77
10.	FIRPTA Withholding Rate Flowchart	80
11.	IRS Form 8288	81
12.	Instructions IRS Form 8288	83
13.	IRS Form 8288A	99
14.	FIRPTA Closing Aid	104
15.	“The Catch-22 of Foreign Sellers and the Form 1099-S,”	106
16.	IRS Form 1099-S	108

17.	Instructions IRS Form 1099-S	112
18.	Accreditation Information	116



Addressing FIRPTA in Every Transaction

Linda Monaco, B.C.S.
Sr. Legal Education Attorney

3

Overview

- Determination of seller's status
 - Form W-9
 - Affidavit
- Foreign seller
 - ITIN
 - Exceptions
 - Withholding
 - Withholding Certificate
 - 1099-S



4



4

FIRPTA

- Foreign Investment in Real Property Tax Act
 - Sec. 1445 – FIRPTA U.S.C.
- FIRPTA
 - Is withholding against potential taxes owed
 - FIRPTA is not a tax
 - Presumes all sellers are foreign
 - Applies to more than just real estate transactions
 - Requires buyer to
 - Withhold funds from transaction, 15% of amount realized
 - Fill in forms 8288 & 8288-A
 - Remit to IRS within 20 days

5



5

FIRPTA

- ONLY 7 exceptions, by law
 1. Not a foreign person
 2. Foreign person passes the substantial presence test
 3. Buyer, use & property qualify for \$300k exemption
 - ✓ 4. Contract or transfer price is \$0.00

 5. ~~Seller has treaty benefits~~
 6. ~~Governmental purchase~~
 7. Receive a withholding certification from IRS

6



6

Seller's Status

7

Seller's Status

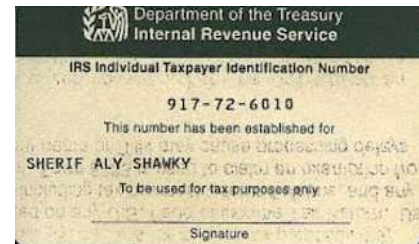
- US citizen
 - Has a Social Security Number
- Permanent resident of the United States
 - Holds a valid (not expired) “green card”
 - Issued a 9-digit Individual Tax Identification Number (ITIN)
- Citizen of another country
 - Lives in the US
 - Holds a visa – issued a 9-digit SSN for work purposes only
 - May pass the substantial presence test
 - Visits the US
- Many people confuse an SSN with an ITIN



8

SSN vs. EIN vs. ITIN

- SSN – Social Security Number
 - Issued by Social Security Administration
 - US Citizens
 - Foreign person for work purposes only
- EIN – Employer Identification Number
 - Aka federal tax identification number
 - Issued by the IRS
 - Issued to a business entity
- ITIN – Individual Tax Identification Number
 - Issued by the IRS (will expire – IRS will send notice)
 - Issued to certain nonresident and resident aliens
 - Begins with the number 9



9

**Seller is not
Foreign**

10

Certification of Non-Foreign Status

- No specific form
- Statement that transferor is not a foreign person
- Transferor's
 - Name
 - Home address (or office if an entity)
 - US identification number (SSN or EIN)
- Signed under penalty of perjury



IRS Instructions for Form 8288:

Transferor not a foreign person.
Generally, no withholding is required if you receive a certification of nonforeign status from the transferor, signed under penalties of perjury, stating that the transferor is not a foreign person and containing the transferor's name, address, and identification number (social security number (SSN) or employer identification number (EIN)).



W-9
Form 8288
(Rev. March 2024)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification
Go to www.irs.gov/FormW9 for instructions and the latest information.

Give form to the requester. Do not send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)

2 Business name/disregarded entity name, if different from above.

3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor ☐ C corporation ☐ S corporation ☐ Partnership ☐ Trust/estate

☐ LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) _____

Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner.

☐ Other (see instructions)

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____

5 Address (number, street, and apt. or suite no.). See instructions.

6 City, state, and ZIP code

7 List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and

2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and

3. I am a U.S. citizen or other U.S. person (defined below); and

4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here **Signature of U.S. person** **Date**

Request Taxpayer Identification Number & Certification Form W-9



- Request early



1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)	
2 Business name/disregarded entity name, if different from above.	
3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one of the following seven boxes. <div style="margin-top: 5px;"> <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C corporation <input type="checkbox"/> S corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) </div>	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____ <i>(Applies to accounts maintained outside the United States.)</i>
3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions <input type="checkbox"/>	
5 Address (number, street, and apt. or suite no.). See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	



13

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
	-		-						
or									
Employer identification number									
	-								

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
------------------	----------------------------	--------

14



14

Certification of Non-Foreign Status

Non-Foreign Certification by Individual Transferor (Seller's FIRPTA Affidavit)

60

Transferor: Click or tap here to enter text.
Transferee: Click or tap here to enter text.
Property: Click or tap here to enter text.
Closing Date: Click or tap to enter a date.

Before me, the undersigned authority, personally appeared the person(s) named in paragraph 2(b) below who, after being duly sworn, stated as follows:

1. This certificate is to inform the transferee that withholding Federal Income Tax is not required, upon the sale of the following described real property:

Click or tap here to enter text.

2. The undersigned Transferor certifies and declares as follows:

a. I am not a foreign person for purposes of United States income taxation and am not subject to the tax withholding requirements of Section 1445 of the Internal Revenue Code of 1954, as amended.

b. My United States taxpayer identification or Social Security number is: Click or tap here to enter text.

c. My home address is: Click or tap here to enter text.

3. There are no other persons who have an ownership interest in the above described property other than those persons listed in paragraph 2(b) above.

a. The undersigned hereby further certifies and declares:

b. I understand the purchaser of the described property intends to rely on the foregoing representations in connection with the United States Foreign Investment in Real Property Tax Act (FIRPTA).

4. I understand this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statements contained in this certification may be punished by fine, imprisonment or both.

Under penalties of perjury, I state that this declaration was carefully read and is true and correct.

Print Name: Click or tap here to enter text. (Affiant)

STATE OF: Click or tap here to enter text.

COUNTY OF: Click or tap here to enter text.

The foregoing instrument was sworn to and subscribed before me by means of ☐ physical presence or ☐ online notarization this Click or tap here to enter text. day of Click or tap here to enter text, Click or tap here to enter text, by Click or tap here to enter text, who ☐ is personally known or ☐ has produced Click or tap here to enter text, as identification.

[Notary Seal]

Notary Public

Printed Name: Click or tap here to enter text. My

Commission Expires: Click or tap to enter a date.

Note: This affidavit is intended as a work aid and basic guidance and not a substitute for legal analysis of a specific transaction.

Non-Foreign Certification by Entity Transferor (Seller's FIRPTA Affidavit)

61

Transferor: Click or tap here to enter text.
Transferee: Click or tap here to enter text.
Property: Click or tap here to enter text.
Closing Date: Click or tap to enter a date.

Before me, the undersigned authority, personally appeared the person(s) named below who, after being duly sworn, stated as follows:

Transferor is selling that certain real property located in , which is more particularly described as follows:

Click or tap here to enter text.

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by , the undersigned hereby certifies the following on behalf of:

1. Click or tap here to enter text. is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. Click or tap here to enter text. is not a disregarded entity as defined in §1.1445-2(b)(2)(ii);

3. Click or tap here to enter text. 's U.S. employer identification number is Click or tap here to enter text. ; and

4. Click or tap here to enter text. 's office address is Click or tap here to enter text. .

Click or tap here to enter text. understands that this certification may be disclosed to the Internal Revenue Service by transferees and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Click or tap here to enter text. .

Print Name: Click or tap here to enter text. (Affiant)

STATE OF: Click or tap here to enter text.

COUNTY OF: Click or tap here to enter text.

The foregoing instrument was sworn to and subscribed before me by means of ☐ physical presence or ☐ online notarization this Click or tap here to enter text. day of , by Click or tap here to enter text, who ☐ is personally known or ☐ has produced Click or tap here to enter text, as identification.

[Notary Seal]

Notary Public

Printed Name: Click or tap here to enter text. My

Commission Expires: Click or tap to enter a date.

Note: This affidavit is intended as a work aid and basic guidance and not a substitute for legal analysis of a specific transaction.

15



15

Certification of Non-Foreign Status

• Seller's affidavit – too late in the game

13. Seller understands that Section 1445 of the Internal Revenue Code provides that a Buyer of a United States real property interest must withhold tax if the Seller is a foreign person. To inform the Buyer that withholding of tax is not required upon purchase of the above-described property, Seller certifies the following:

a. Seller is not a nonresident alien individual, foreign corporation, foreign partnership, foreign trust or foreign estate for purposes of United States federal income taxation.

b. Seller's U.S. Taxpayer Identification Number is _____.

c. Seller's address is: _____.

d. No other persons or entities have an ownership interest in the above described property.

Seller understands the Buyer of the described property intends to rely on the foregoing representations in connection with the United States Foreign Investment in Real Property Tax Act (FIRPTA). Seller understands this certification may be disclosed to the Internal Revenue Service by the Buyer and that any false statements contained in this certification may be punished by fine, imprisonment or both. Under penalties of perjury, Seller states that this declaration was carefully read and is true and correct.

16



16

Certification of Non-Foreign Status

- Receive a certification of non-foreign status
 - Must retain such certification for 6 years
 - Five tax years after tax year of transfer
 - Treas. Reg. Sec. 1.1445-2 (b)(3) (2022)
 - May rely upon certification unless
 - Actual knowledge of falsehood
 - Foreign corporation with election under 26 U.S.C. § 897(1) certification with no acknowledgment attached

6 Years



17

Certification of Non-Foreign Status Signed by

- Individual
 - By individual
- Disregarded entity – may NOT sign
 - Owner of disregarded entity signs as self
 - For example, single member LLC is Joe Smith – Joe Smith signs non-foreign certification as Joe Smith
- Domestic corporation
 - Responsible officer



18

Certification of Non-Foreign Status Signed by

- Foreign corporation elected to be treated as domestic under 26 U.S.C. § 897 (i)
 - Responsible officer and
 - Must attach acknowledgment of election received from IRS
- Partnership (domestic only)
 - General partner
- Trust (domestic only)
 - Trustee
- Estate (domestic only)
 - Personal representative



19



19

FIRPTA

- ONLY 7 exceptions, by law
- ✓ 1. Not a foreign person
 2. Foreign person passes the substantial presence test
 3. Buyer, use & property qualify for \$300k exemption
 - ✓ 4. Contract or transfer price is \$0.00
-
- ~~5. Seller has treaty benefits~~
 - ~~6. Governmental purchase~~
 7. Receive a withholding certification from IRS

20



20

Foreign Seller

21

W-7

Obtaining an ITIN

22

Foreign Person Filing Tax Forms Requires an ITIN

- Foreign seller of real property
- Foreign buyers, when the seller is also foreign



Form W-7
(Rev. December 2024)
Department of the Treasury
Internal Revenue Service

Application for IRS Individual Taxpayer Identification Number
For use by individuals who are not U.S. citizens or permanent residents.
Go to www.irs.gov/FormW7 for instructions and the latest information.

OMB No. 1545-0074

An IRS individual taxpayer identification number (ITIN) is for U.S. federal tax purposes only.

Before you begin:
• **Don't submit** this form if you have, or are eligible to get, a U.S. social security number (SSN).

Application type (check one box):
☐ Apply for a new ITIN
☐ Renew an existing ITIN

Reason you're submitting Form W-7. Read the instructions for the box you check. **Caution:** If you check box b, c, d, e, f, or g, you must file a U.S. federal tax return with Form W-7 unless you meet one of the exceptions (see instructions).

a ☐ Nonresident alien required to get an ITIN to claim tax treaty benefit (you must also check and complete box h (see instructions))
b ☐ Nonresident alien filing a U.S. federal tax return
c ☐ U.S. resident alien (based on days present in the United States) filing a U.S. federal tax return
d ☐ Dependent of U.S. citizen/resident alien } If d, enter relationship to U.S. citizen/resident alien (see instructions)
e ☐ Spouse of U.S. citizen/resident alien } If d or e, enter name and SSN/ITIN of U.S. citizen/resident alien (see instructions)
f ☐ Nonresident alien student, professor, or researcher filing a U.S. federal tax return or claiming an exception (if claiming an exception, you must also check and complete box h (see instructions))
g ☐ Dependent/spouse of a nonresident alien holding a U.S. visa
h ☐ Other (see instructions)

Additional information for a and f: Enter treaty country and treaty article number

Name (see instructions)
1a First name Middle name Last name
Name at birth if different 1b First name Middle name Last name

Applicant's Mailing Address
2 Street address, apartment number, or rural route number. If you have a P.O. box, see separate instructions.
City or town, state or province, and country. Include ZIP code or postal code where appropriate.



Exemptions for Foreign Sellers

Only for Withholding
NOT for Filing Tax Returns

Substantial Presence Test

Foreign Person who Spends
Substantial Time in United States

25

“Substantial Presence Test”

- Seller will be considered a US resident for tax purposes if seller meets substantial presence test for calendar year
 - Seller must be physically present in US at least:
 1. 31 days during the current year, &
 2. 183 days during 3-year period (current year & 2 years immediately before) counting:
 - All the days present in current year, &
 - 1/3 days present in first year prior, &
 - 1/6 days present in second prior
- Seller to sign a detailed affidavit for buyer's benefit



26

The Fund

26

“Substantial Presence Test”

- **Example:**

- Seller was present in US on 120 days in each of 2025, 2024, and 2023
 - 2025 – 120
 - 2024 – 40 (1/3 of 120)
 - 2023 – 20 (1/6 of 120)
- Total 180 days, Seller is NOT considered a resident for 2025
- For additional details see “*IRS Substantial Presence Test*”



27

January Closings

If foreign seller “lives in the US,” do not close in January as foreign seller will NOT qualify for substantial presence test

- Cannot use substantial presence test in January
 - Requires person to be in US 31 days of current year

January

A large red prohibition symbol (a circle with a diagonal line) is superimposed over the word "January", which is written in a blue, handwritten-style font.

28

FIRPTA

- ONLY 7 exceptions, by law
 - ✓ 1. Not a foreign person
 - ✓ 2. Foreign person passes the substantial presence test
 - 3. Buyer, use & property qualify for \$300k exemption
 - ✓ 4. Contract or transfer price is \$0.00
-
- ~~5. Seller has treaty benefits~~
 - ~~6. Governmental purchase~~
 - 7. Receive a withholding certification from IRS

29



29

Seller Will Need to File a Tax Return

Instructions for Form 1040-NR

U.S. Nonresident Alien Income Tax Return

Form	1040-NR	Department of the Treasury—Internal Revenue Service U.S. Nonresident Alien Income Tax Return	2024	OMB No. 1545-0074	IRS Use Only—Do not write or staple in this space.
For the year Jan. 1–Dec. 31, 2024, or other tax year beginning _____, 2024, ending _____, 20____.					
Your first name and middle initial		Last name		Your identifying number (see instructions)	
Home address (number and street). If you have a P.O. box, see instructions.					Apt. no.
City, town, or post office. If you have a foreign address, also complete spaces below.				State	ZIP code
Foreign country name		Foreign province/state/county		Foreign postal code	

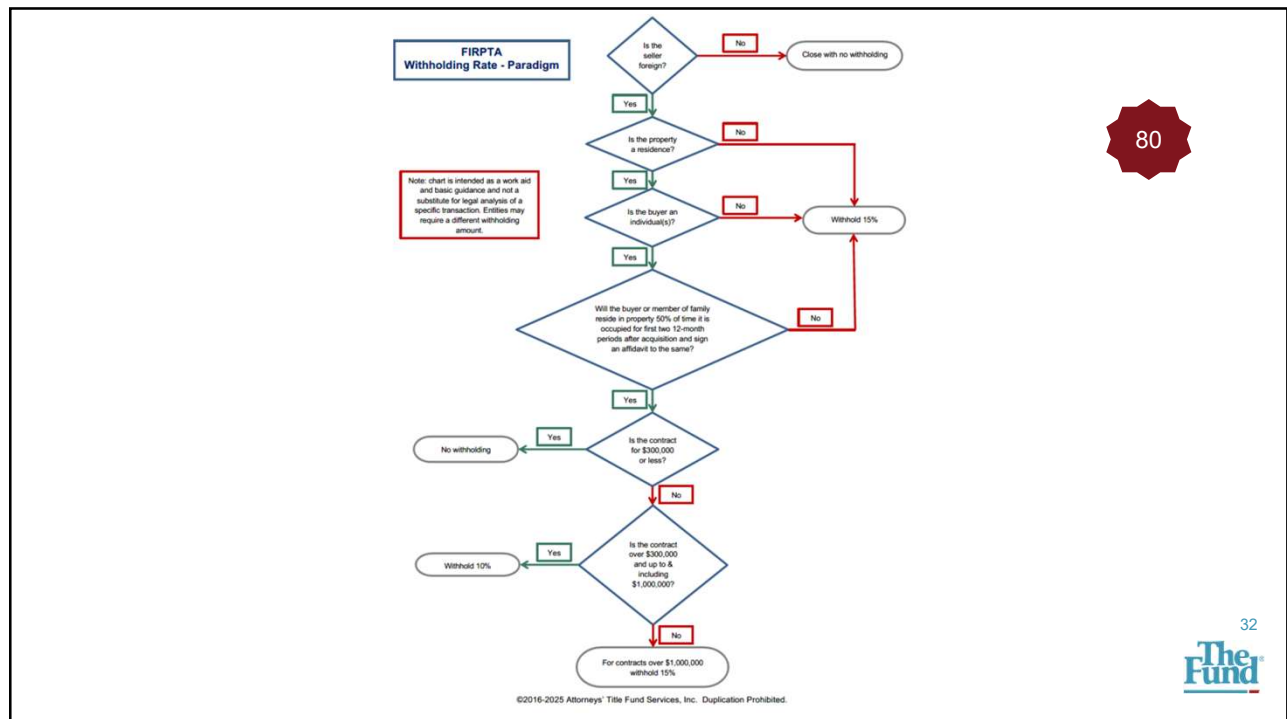
30



30

\$300,000 Exemption

31



32

Exemption Requirements

- Price, property, buyer & use must qualify
 - Price
 - Sale price \$300,000 or less
 - Property
 - Residence
 - Buyer
 - Individual(s) to take title
 - Use
 - Buyer or family member will reside in property
 - Minimum 50% of time occupied
 - First two 12-month periods post acquisition

33



33

Price

- Contract price \$300,000 or less

Property

- Cannot be
 - Vacant land
 - "Teardown"
 - Company purchase
 - Commercial property
- IRS gives caution against pressure on buyer to sign affidavit



34



34

Buyer

- Individual(s)
 - Bob, Sally, Fred
- No entities
 - Trust
 - LLC
 - Corporation
 - Estate
 - Other



35

The Fund

35

Use

- Limited use needs to pass 50% test
 - Do not count vacant days in 50% test
- Can use if family member to occupy

January	February	March	April
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30
May	June	July	August
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
September	October	November	December
S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30	S M T W T F S 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

Mr. & Mrs. Buyer

Buyer's Son

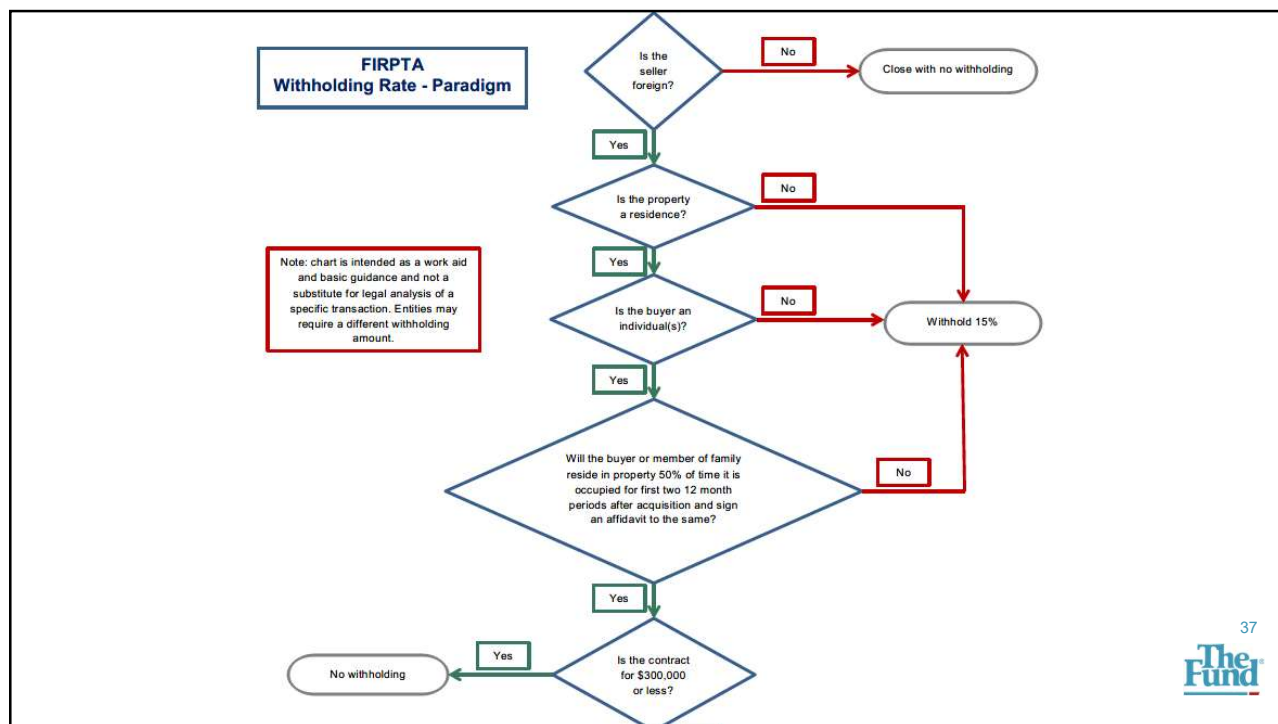
Rental

Vacant

36

The Fund

36



37

More Details Exemption Requirements

- Buyers must sign an affidavit, under penalties of perjury that they (buyers) meet requirements of exemption
- If buyers do not comply with occupancy after sale, buyer could be liable for 15% of sale price, plus penalties & interest to IRS



38

The Fund

38

**Qualified \$300,000 Exemption Withholding
Rate**

0%



39

**Is There a
Reduced Rate?**

YES!

40

How to Qualify for Reduced Rate

- Price, property, buyer & use must qualify
 - Price
 - Sale price over \$300,000 up to & including \$1,000,000
 - Property
 - Residence
 - Buyer
 - Individual(s) to take title
 - Use
 - Buyer or family member will reside in property
 - Minimum 50% of time occupied
 - First two 12-month periods post acquisition



41

The Fund

41

Price

- Contract price is over \$300,000 & up to and including \$1,000,000

Property - May qualify for reduced rate of 10% withholding

- Cannot be
 - Vacant land
 - "Teardown"
 - Company purchase
 - Commercial property
- IRS gives caution against pressure on buyer to sign affidavit



42

The Fund

42

Buyer

- Individual(s)
 - Bob, Sally, Fred
- No entities
 - Trust
 - LLC
 - Corporation
 - Estate
 - Other



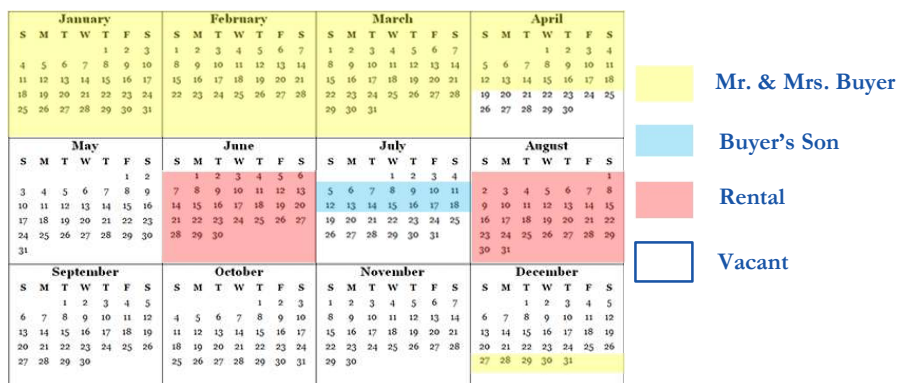
43

The Fund

43

Use

- Limited use needs to pass 50% test
 - Do not count vacant days in 50% test
- Can use if family member to occupy



44

The Fund

44

More Details Exemption Requirements

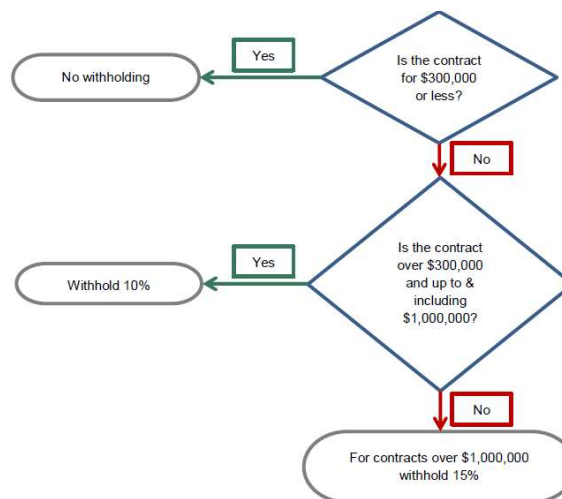
- Buyers must sign an affidavit, under penalties of perjury that they (buyers) meet requirements of exemption
- If buyers do not comply with occupancy after sale, buyer could be liable for 15% of sale price, plus penalties & interest to IRS



45

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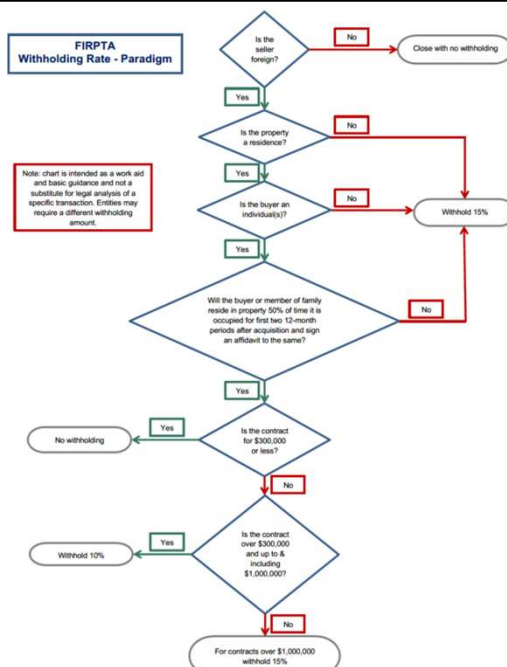
46

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46

If Qualified, Reduced Withholding Rate

10%



FIRPTA

• ONLY 7 exceptions, by law

- ✓ 1. Not a foreign person
- ✓ 2. Foreign person passes the substantial presence test
- ✓ 3. Buyer, use & property qualify for \$300k exemption
- ✓ 4. Contract or transfer price is \$0.00

- 5. Seller has treaty benefits
- 6. Governmental purchase
- 7. Receive a withholding certification from IRS

49



49

Seller will need to file a Tax Return

Instructions for Form 1040-NR

U.S. Nonresident Alien Income Tax Return

Form 1040-NR		Department of the Treasury—Internal Revenue Service		U.S. Nonresident Alien Income Tax Return		2024	OMB No. 1545-0074	IRS Use Only—Do not write or staple in this space.
For the year Jan. 1–Dec. 31, 2024, or other tax year beginning _____, 2024, ending _____, 20____								See separate instructions.
Your first name and middle initial			Last name			Your identifying number (see instructions)		
Home address (number and street). If you have a P.O. box, see instructions.							Apt. no.	
City, town, or post office. If you have a foreign address, also complete spaces below.						State	ZIP code	
Foreign country name			Foreign province/state/county			Foreign postal code		

50



50

Withholding Reporting Forms

Foreign Seller

51

FIRPTA Reporting Forms

- FIRPTA withholding applies to many transactions beyond transactional real estate sales
- This will cover the basics of which areas
 - To fill in for real estate transactions &
 - To ignore
- Form 8288 is the cover sheet for the withholding
 - Describes the transaction in whole, as to foreign sellers
- Form 8288-A is each foreign seller's part of the total
 - 2 foreign sellers equal 2 sets of 8288-As
- Forms 8288 & 8288-A are the responsibility of buyer

81

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52

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52

Form 8288 – The Cover Sheet

- The 8288 is the cover sheet for FIRPTA withholding
 - If one foreign seller & one US seller only show 50% of total sale on the 8288 (presumption 50/50 ownership)
- Buyer is always the withholding agent
- Any one buyer can sign as the withholding agent for the transaction
- If settlement agent or other person charges to fill in form
 - It is chargeable to seller under FR/Bar-6 contract (paragraph 9.(a))
 - They will need to acquire a PTIN (preparer tax identification number)
 - Renew or obtain a PTIN in 2023 is \$30.75 (renew each year)

81

53



53

Form 8288 (Rev. 1-2023)
U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons
OMB No. 1545-0002

Page 2

Part IV To Be Completed by the Partnership Required To Withhold Under Section 1445(f)(4)

16 Partnership distributions. Complete the following:

a	Total number of distributions	16a
b	Total amount of distributions	16b
c	Total amount of other withholding	16c

Part I To Be Completed by the Buyer or Other Transferee Required To Withhold Under Section 1445(a)

6 Amount subject to withholding \$

7 Withholding tax liability. Multiply line 6 by the applicable withholding rate on line 7a or 7b. Otherwise, check the box on line 7c.

a	10% (0.10)	7a	\$
b	15% (0.15)	7b	\$
c	Withholding at an adjusted amount (see instructions)	7c	\$

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name	Firm's EIN			
Firm's address	Phone no.			

Form **8288** (Rev. 1-2023)

54

8288 -A

99

- The 8288-A is each foreign seller's portion of the sale
- It describes that seller's part of the transaction
 - For example, if two foreigners are selling each seller's 8288-A would show 50% of the transaction total & 50% of the withholding
- Buyer is always the withholding agent
- No signature is required
- Copies A & B are sent to the IRS
- Copy C is for the Buyer
- Buyer is required to make copies of the 8288 & 8288-A for the seller per contract

55

55

WITHHOLDING AGENT'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and phone no.		1 Date of transfer (mm/dd/yyyy)	OMB No. 1545-0902	Statement of Withholding on Certain Dispositions by Foreign Persons Copy A For Internal Revenue Service Center For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 8288.
		2 Gain recognized by foreign corporation	Form 8288-A (Rev. January 2023)	
WITHHOLDING AGENT'S U.S. TIN	U.S. TIN of FOREIGN PERSON subject to withholding (see instructions)	3 Amount realized	4 Federal income tax withheld	
		\$	\$	
FOREIGN PERSON'S name subject to withholding		5 Withholding under section:	6 FOREIGN PERSON subject to withholding:	
Foreign address (number, street, and apt. or suite no.)		a 1445 <input type="checkbox"/>	a Individual <input type="checkbox"/>	
City or town, state or province, country (not U.S.), and ZIP or foreign postal code		b 1445 (1) <input type="checkbox"/>	b Corporation <input type="checkbox"/>	
Mailing address of FOREIGN PERSON subject to withholding (if different)		7 Country code of FOREIGN PERSON subject to withholding	c Partnership <input type="checkbox"/>	
		8 Description of property transferred	d Other <input type="checkbox"/>	
			(specify)	

Form **8288-A** (Rev. 1-2023) Cat. No. 62261L **Attach Copies A and B to Form 8288** Department of the Treasury - Internal Revenue Service

56

Country Name & Code

Afghanistan	AF	Benin	BN	Clipperton Island	IP	Eritrea	ER	Guyana	GY
Akrotiri	AX	Bermuda	BD	Cocos (Keeling) Islands	CK	Estonia	EN	Haiti	HA
Albania	AL	Bhutan	BT	Colombia	CO	Ethiopia	ET	Heard Island and McDonald Islands	HM
Algeria	AG	Bolivia	BL	Comoros	CN	Falkland Islands (Islas Malvinas)	FK	Holy See	VT
American Samoa	AQ	Bosnia-Herzegovina	BK	Congo (Brazzaville)	CF	Faroe Islands	FO	Honduras	HO
Andorra	AN	Botswana	BC	Congo (Kinshasa)	CG	Federated States of Micronesia	FM	Hong Kong	HK
Angola	AO	Bouvet Island	BV	Cook Islands	CW	Fiji	FJ	Howland Island	HQ
Anguilla	AV	Brazil	BR	Coral Sea Islands	CR	Finland	FI	Hungary	HU
Antarctica	AY	British Indian Ocean Territory	IO	Costa Rica	CS	France	FR	Iceland	IC
Antigua & Barbuda	AC	British Virgin Islands	VI	Cote D'Ivoire (Ivory Coast)	IV	French Polynesia	FP	India	IN
Argentina	AR	Brunei	BX	Croatia	HR	French Southern and Antarctic Lands	FS	Indonesia	ID
Armenia	AM	Bulgaria	BU	Cuba	CU	Gabon	GB	Iran	IR
Aruba	AA	Burkina Faso	UV	Curacao	UC	The Gambia	GA	Iraq	IZ
Ashmore and Cartier Islands	AT	Burma	BM	Cyprus	CY	Georgia	GG	Ireland	EI
Australia	AS	Burundi	BY	Czech Republic	EZ	Germany	GM	Israel	IS
Austria	AU	Cambodia	CB	Denmark	DA	Ghana	GH	Italy	IT
Azerbaijan	AJ	Cameroon	CM	Dhekelia	DX	Gibraltar	GI	Jamaica	JM
Bahamas	BF	Canada	CA	Djibouti	DJ	Greece	GR	Jan Mayen	JN
Bahrain	BA	Cape Verde	CV	Dominica	DO	Greenland	GL	Japan	JA
Baker Island	FQ	Cayman Islands	CJ	Dominican Republic	DR	Grenada	GJ	Jarvis Island	DQ
Bangladesh	BG	Central African Republic	CT	East Timor	TT	Guam	GQ	Jersey	JE
Barbados	BB	Chad	CD	Ecuador	EC	Guatemala	GT	Johnston Atoll	JQ
Belarus	BO	Chile	CI	Egypt	EG	Guernsey	GK	Jordan	JO
Belgium	BE	China	CH	El Salvador	ES	Guinea	GV	Kazakhstan	KZ
Belize	BH	Christmas Island	KT	Equatorial Guinea	EK	Guinea-Bissau	PU	Kenya	KE

57



57

Country Name & Code

Kingman Reef	KQ	Midway Islands	MQ	Paracel Islands	PF	South Georgia and the South Sandwich Islands	SX	Turks and Caicos Islands	TK
Kiribati	KR	Moldova	MD	Paraguay	PA	Peru	PE	Tuvalu	TV
Korea, Democratic People's Republic of (North)	KN	Monaco	MN	Philippines	RP	South Sudan	OD	Uganda	UG
Korea, Republic of (South)	KS	Mongolia	MG	Pitcairn Islands	PC	Spain	SP	Ukraine	UP
Kosovo	KV	Montenegro	MJ	Poland	PL	Sprattly Islands	PG	United Arab Emirates	AE
Kuwait	KU	Montserrat	MH	Portugal	PO	Sri Lanka	CE	United Kingdom (England, Northern Ireland, Scotland, and Wales)	UK
Kyrgyzstan	KG	Morocco	MO	Puerto Rico	RQ	St. Helena	SH	Uruguay	UY
Laos	LA	Mozambique	MZ	Qatar	QA	St. Kitts and Nevis	SC	Uzbekistan	UZ
Latvia	LG	Namibia	WA	Romania	RO	St. Lucia Island	ST	Vanuatu	NH
Lebanon	LE	Nauru	NR	Russia	RS	St. Pierre and Miquelon	SB	Venezuela	VE
Lesotho	LT	Nepal	NP	Rwanda	RW	St. Vincent and the Grenadines	VC	Vietnam	VM
Liberia	LI	Netherlands	NL	Saint Barthelemy	TB	Sudan	SU	Virgin Islands	VQ
Libya	LY	New Caledonia	NC	Saint Martin	RN	Swalbard	SV	Wake Island	WQ
Liechtenstein	LS	New Zealand	NZ	Samoa	WS	Swaziland	WZ	Wallis and Futuna	WF
Lithuania	LH	Nicaragua	NU	San Marino	SM	Sweden	SW	Western Sahara	WI
Luxembourg	LU	Niger	NG	Sao Tome and Principe	TP	Syria	SY	Yemen (Aden)	YM
Macau	MC	Nigeria	NI	Saudi Arabia	SA	Taiwan	TW	Zambia	ZA
Macedonia	MK	Niue	NE	Senegal	SG	Tajikistan	TI	Zimbabwe	ZI
Madagascar	MA	Norfolk Island	NF	Serbia	RI	Tanzania	TZ		
Malawi	MI			Seychelles	SE	Thailand	TH		
Malaysia	MY	Northern Mariana Islands	CQ	Sierra Leone	SL	Togo	TO		
Maldives	MV	Norway	NO	Singapore	SN	Tokelau	TL		
Mali	ML	Oman	MU	Sint Maarten	NN	Tonga	TN		
Malta	MT	Other Country	OC	Slovakia	LO	Trinidad and Tobago	TD		
Man, Isle of	IM	Pakistan	PK	Slovenia	SI	Tunisia	TS		
Marshall Islands	RM	Palau	PS	Solomon Islands	BP	Turkey	TU		
Mauritania	MR	Palmyra Atoll	LQ	Somalia	SO	Turkmenistan	TX		
Mauritius	MP	Panama	PM	South Africa	SF				
Mexico	MX	Papua-New Guinea	PP						

58



58

Remitting FIRPTA

59

When is withholding due to IRS?

Must be postmarked no later than **20 days after closing**

- Include
 - Cover letter stating
 - Inventory of contents
 - Request to
 - Stamp "received" enclosed copy of letter &
 - Return it in enclosed SASE
 - Withheld funds
 - 8288 – signed by buyer
 - 8288-A
 - Copies A & B
 - One for each foreign seller
 - Copy of cover letter
 - SASE

Fund Loyal Law Firm
123 Mian Street
Great City, FL

January 10, 2023

Internal Revenue Service
Ogden Service Center
PO Box 409101
Ogden, UT 84409

RE: FIRPTA withholding
Buyer: Betty Buyer – Last 4 SS# 0000
Seller Sam Seller – no ITIN
Address: 1445 Oak Road, Great City FL

Sir/Madam:

60



60

When is withholding due to IRS?

- On each item in package include:
 - Buyer name & last 4 digits of SSN or ITIN
 - Seller name & ITIN
 - Same description used on forms

Fund Loyal Law Firm
123 Main Street
Great City, FL

DATE May 15, 2025

PAY TO THE ORDER OF United States Treasury \$ 75,000.00

Seventy-Five Thousand and 00/100 DOLLARS

Betty Buyer - 0000
Sam Seller -
1445 Oak Road, Great City, FL

MEMO

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61
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61

Withholding Certificate

62

Withholding Certificate

- Foreign Seller may apply for a withholding certificate
 - Application to IRS
 - By Form 8288-B, or
 - Letter
 - Must include many details, which are frequently forgotten
 - Proof that no withholding was due when this foreign seller purchased
 - A copy of the settlement statement will not work
 - Proper proof of adjusted bases
 - IRS may
 - Approve for a reduced rate
 - Approve for zero withholding, or
 - Deny and demand withholding



63

Applying for a Withholding Certificate

- May begin with a signed contract
- Seller may apply for ITIN at the same time
- Seller will need proof that no FIRPTA withholding was due when property was purchased
- Application takes time to complete
- 15% will be withheld at closing
- IRS may take a long time to respond



64

IRS Response Time is Linked to Quality of Application

- Response from 60 days to 2+ years!
 - Fully complete applications have an average turnaround time of 60 - 90 days (pre-COVID & 18 - 30 months post-COVID)
- Application must be postmarked by closing date
 - If postmarked after closing date
 - Will be denied
 - Withheld funds due 20 days after closing
- Application will place **seller on IRS radar**
- All foreign sellers are required to file a tax return



65

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65

FIRPTA

- ONLY 7 exceptions, by law
- ✓ 1. Not a foreign person
- ✓ 2. Foreign person passes the substantial presence test
- ✓ 3. Buyer, use & property qualify for \$300k exemption
- ✓ 4. Contract or transfer price is \$0.00
-
- ~~5. Seller has treaty benefits~~
- ~~6. Governmental purchase~~
- ✓ 7. Receive a withholding certification from IRS

66

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Seller will need to file a Tax Return

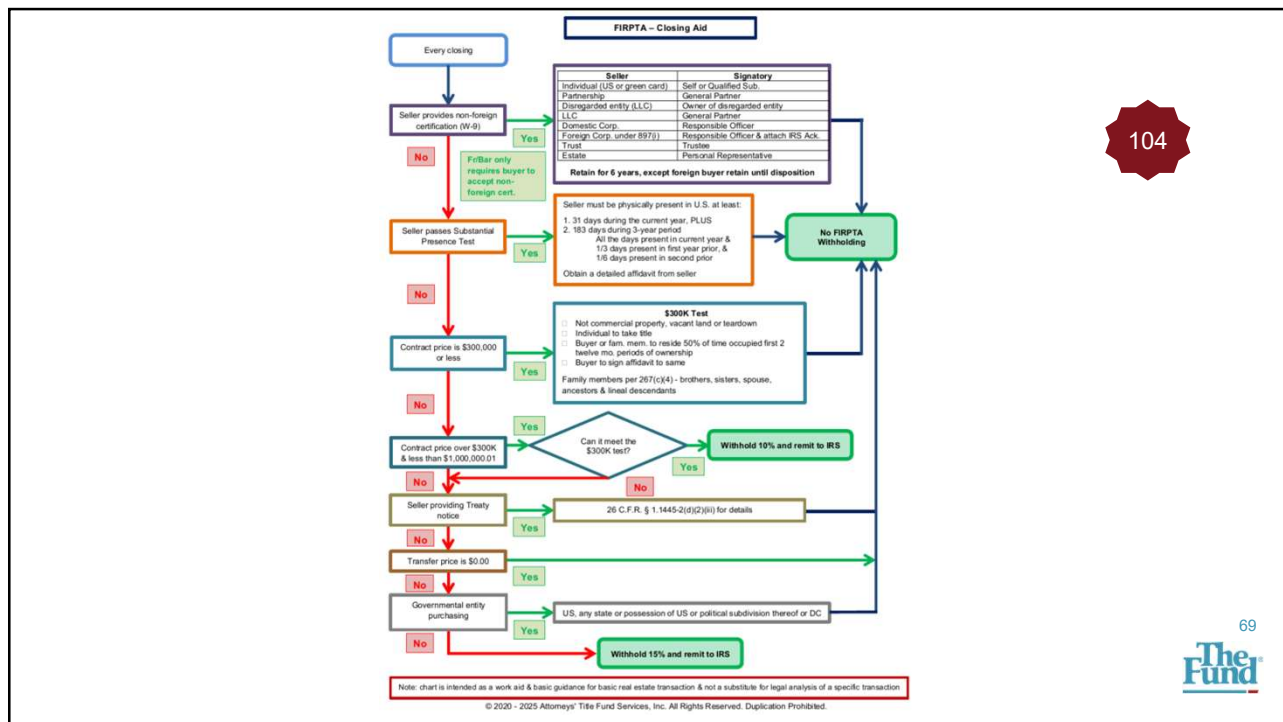
Instructions for Form 1040-NR

U.S. Nonresident Alien Income Tax Return

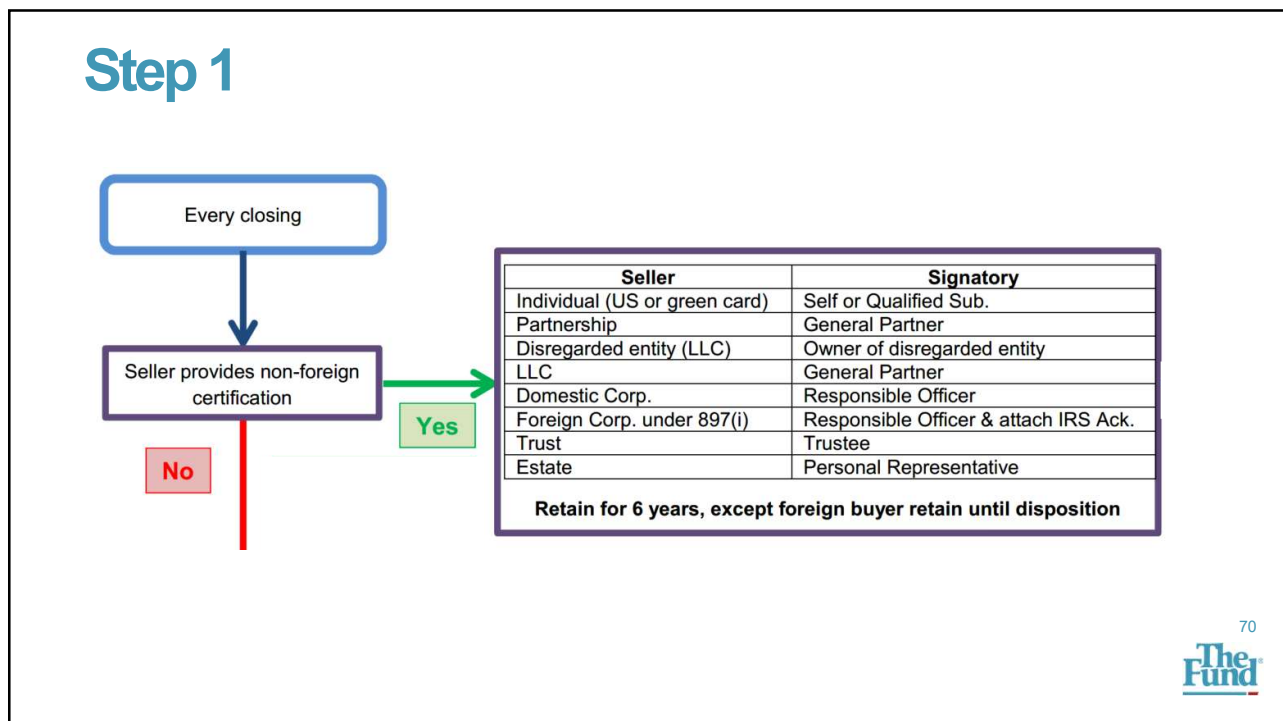
Form 1040-NR	Department of the Treasury—Internal Revenue Service	U.S. Nonresident Alien Income Tax Return	2024	OMB No. 1545-0074	IRS Use Only—Do not write or staple in this space.
For the year Jan. 1–Dec. 31, 2024, or other tax year beginning _____, 2024, ending _____, 20____					See separate instructions.
Your first name and middle initial		Last name		Your identifying number (see instructions)	
Home address (number and street). If you have a P.O. box, see instructions.					Apt. no.
City, town, or post office. If you have a foreign address, also complete spaces below.				State	ZIP code
Foreign country name		Foreign province/state/county		Foreign postal code	



Closing Aid

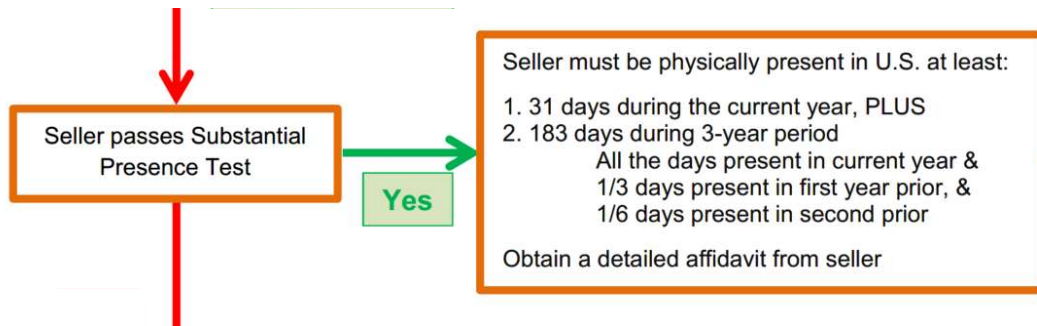


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70

Step 2

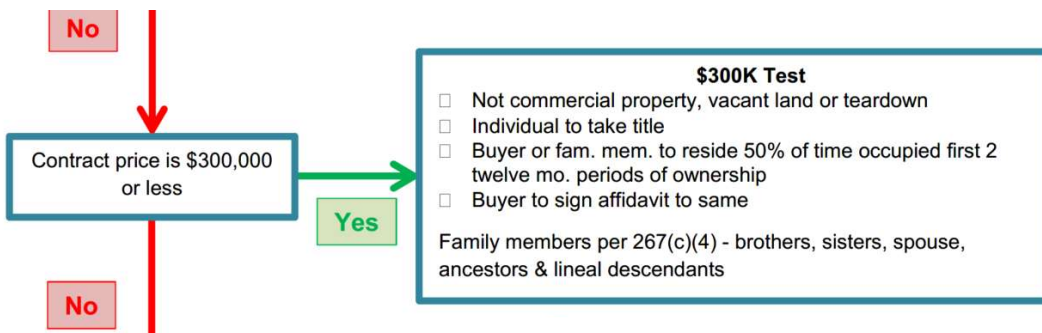


71

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71

Step 3



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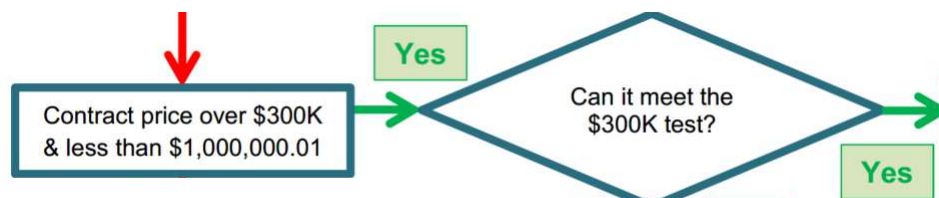
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72

Can you Complete Steps 1, 2 or 3 ?

- If so NO FIRPTA withholding
- If you can complete Step 4 – 10% withholding

Step 4

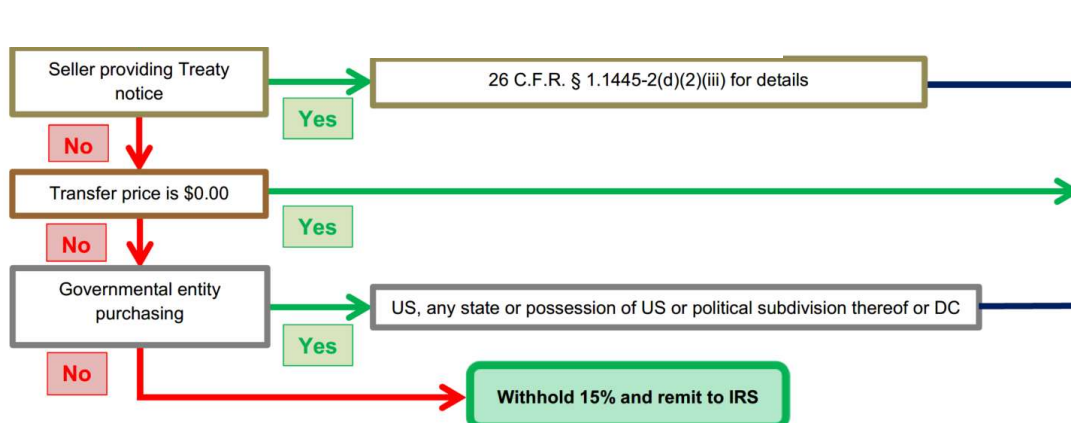


73



73

Remaining Steps - Unlikely



74



74

TIPS – Non-Foreign Certification

105

Non-Foreign Certification

- Seller's name, home (or office address if entity), US identification number (SSN or EIN)
- Signed under penalty of perjury
- Keep for 6 years (five tax years after tax year of acquisition; foreign buyer to keep until disposition of property)
- May rely upon this certification unless you receive written notice from others or have direct information to the contrary – no need to verify

Tres. Reg. Sec. 1.1445-2

75



75

Tips – Substantial Presence Test

Substantial Presence Test - Days of Presence in the United States

You are treated as present in the U.S. on any day you are physically present in the country, at any time during the day.

Do not count the following as days of presence in the U.S. for the substantial presence test.

- Days you commute to work in the U.S. from a residence in Canada or Mexico, if you regularly commute from Canada or Mexico.
- Days you are in the U.S. for less than 24 hours, when you are in transit between two places outside the United States.
- Days you are in the U.S. as a crew member of a foreign vessel.
- Days you are unable to leave the U.S. because of a medical condition that develops while you are in the United States.
- Days you are an exempt individual (see below).

For details on days excluded from the substantial presence test for other than exempt individuals, refer to [Publication 519, U.S. Tax Guide for Aliens](#).

The term United States (U.S.) includes the following areas.

- All 50 states and the District of Columbia.
- The territorial waters of the United States.
- The seabed and subsoil of those submarine areas that are adjacent to U.S. territorial waters and over which the United States has exclusive rights under international law to explore and exploit natural resources.

The term does not include U.S. possessions and territories or U.S. airspace.

76



76

Tips - \$300K Test

\$300K Test

- Must take title in persons name
- May not take in the name of a trustee, company, LLC or other
- No commercial property
- No vacant land
- No property to be torn down
- Buyer or member of his/her family to reside at least 50% of time it is actually occupied – do not count vacant days. Renter or others may occupy but MUST be less days than owner's including family occupancy days – for the first two 12-month periods. Failure to comply may result in IRS collecting 15% plus penalties and interest from Buyer/Owner
- Buyer/owner to sign affidavit to same
- Family member = brothers & sisters half included; spouse, ancestors & lineal descendants

77



77

1099-S

78

Issuing 1099-S

- For details review on-demand webinars available in The Fund Shop on The Fund's website:
 - *"A Closing Agent's Guide to the 1099-S"*
- FIRPTA withholding is a withholding against potential taxes owed
- 1099-S is a reporting of a real estate transaction

E-file With IRIS

E-file any Form 1099.

What You Need

- [Employer Identification Number \(EIN\)](#) and
- [IRIS Transmitter Control Code \(TCC\)](#).

Sign in to IRIS

For system availability, [check IRIS status](#).

79



79

Issue 1099-S Even if:

- Seller was not foreign
- Seller passed the substantial presence test
- A transaction was subject to the \$300,000 exemption
- A transaction was subject to the \$1,000,000 reduced rate
- FIRPTA is withheld
- If the seller does not have an ITIN leave that box blank and review
- **"The Catch-22 of Foreign Sellers and the Form 1099-S,"**
49 Fund Concept 105 (Sep. 2017).

106

80



80

1099-S

7575

☐ VOID

☐ CORRECTED

108

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone number		1 Date of closing	OMB No. 1545-0997 Form 1099-S (Rev. January 2022) For calendar year 20 ____
		2 Gross proceeds	
		\$	
FILER'S TIN	TRANSFEROR'S TIN	3 Address (including city, state, and ZIP code) or legal description	
TRANSFEROR'S name			
Street address (including apt. no.)		4 Check here if the transferor received or will receive property or services as part of the consideration <input type="checkbox"/>	
City or town, state or province, country, and ZIP or foreign postal code		5 Check here if the transferor is a foreign person (nonresident alien, foreign partnership, foreign estate, or foreign trust) <input type="checkbox"/>	
Account number (see instructions)		6 Buyer's part of real estate tax \$	

Proceeds From Real Estate Transactions

Copy A
For Internal Revenue Service Center
File with Form 1096.
For Privacy Act and Paperwork Reduction Act Notice, see the **current General Instructions for Certain Information Returns.**

Form **1099-S** (Rev. 1-2022)

Cat. No. 64292E

www.irs.gov/Form1099S

Department of the Treasury - Internal Revenue Service

81



81

Seller will need to file a Tax Return

Instructions for Form 1040-NR

U.S. Nonresident Alien Income Tax Return

Form 1040-NR		Department of the Treasury—Internal Revenue Service		U.S. Nonresident Alien Income Tax Return		2024		OMB No. 1545-0074		IRS Use Only—Do not write or staple in this space.	
For the year Jan. 1–Dec. 31, 2024, or other tax year beginning _____, 2024, ending _____, 20 ____										See separate instructions.	
Your first name and middle initial				Last name				Your identifying number (see instructions)			
Home address (number and street). If you have a P.O. box, see instructions.										Apt. no.	
City, town, or post office. If you have a foreign address, also complete spaces below.								State		ZIP code	
Foreign country name				Foreign province/state/county				Foreign postal code			

82



82

Additional Information

83

For Additional Information of FIRPTA

- On-demand webinars available in The Fund Shop on The Fund's website:
 - *"Foreign Seller Ahead: Proceed with Caution"*
 - This webinar answers the commonly asked FIRPTA questions that Fund Members pose

**Foreign Seller Ahead!
Proceed with Caution
Top FIRPTA Questions & Answers**

84



84



Taxpayer Identification Numbers (TIN)

A Taxpayer Identification Number (TIN) is an identification number used by the Internal Revenue Service (IRS) in the administration of tax laws. It is issued either by the Social Security Administration (SSA) or by the IRS. A Social Security number (SSN) is issued by the SSA whereas all other TINs are issued by the IRS.

Taxpayer Identification Numbers

- Social Security number "[SSN](#)"
- Employer Identification Number "[EIN](#)"
- Individual Taxpayer Identification Number "[ITIN](#)"
- Taxpayer Identification Number for Pending U.S. Adoptions "[ATIN](#)"
- Preparer Taxpayer Identification Number "[PTIN](#)"

Do I Need One?

A TIN must be furnished on returns, statements, and other tax related documents. For example a number must be furnished:

- When filing your tax returns.
- When claiming treaty benefits.

A TIN must be on a withholding certificate if the beneficial owner is claiming any of the following:

- Tax treaty benefits (other than for income from marketable securities)
- Exemption for effectively connected income
- Exemption for certain annuities

How Do I Get A TIN?

SSN

You will need to complete [Form SS-5, Application for a Social Security Card](#) [PDF](#). You also must submit evidence of your identity, age, and U.S. citizenship or lawful alien status. For more information please see the [Social Security Administration](#) website.

Small Business/Self-Employed

- [Industries Professions](#)
- International Taxpayers
- Self-Employed Individuals Tax Center

Online Tools & Updates

- International Taxpayers Videos
- International Taxpayers Press Releases
- International Taxpayers Interactive Tools

Form SS-5 is also available by calling [800-772-1213](tel:800-772-1213) or visiting your local Social Security office. These services are free.

EIN

An Employer Identification Number (EIN) is also known as a federal tax identification number, and is used to identify a business entity. It is also used by estates and trusts which have income which is required to be reported on [Form 1041, U.S. Income Tax Return for Estates and Trusts](#). Refer to [Employer ID Numbers](#) for more information.

The following form is available only to employers located in Puerto Rico, Solicitud de Número de Identificación Patronal (EIN) [SS-4PR](#) [PDF](#).

ITIN

An ITIN, or Individual Taxpayer Identification Number, is a tax processing number only available for certain nonresident and resident aliens, their spouses, and dependents who cannot get a Social Security Number (SSN). It is a 9-digit number, beginning with the number "9", formatted like an SSN (NNN-NN-NNNN).



You can use the IRS's [Interactive Tax Assistant](#) tool to help determine if you should file an application to receive an Individual Taxpayer Identification Number (ITIN).

To obtain an ITIN, you must complete IRS [Form W-7, IRS Application for Individual Taxpayer Identification Number](#). The Form W-7 requires documentation substantiating foreign/alien status and true identity for each individual. You may either mail the documentation, along with the Form W-7, to the address shown in the Form W-7 Instructions, present it at IRS walk-in offices, or process your application through an [Acceptance Agent](#) authorized by the IRS. Form W-7(SP), [Solicitud de Número de Identificación Personal del Contribuyente del Servicio de Impuestos Internos](#) is available for use by Spanish speakers.

Acceptance Agents are entities (colleges, financial institutions, accounting firms, etc.) who are authorized by the IRS to assist applicants in obtaining ITINs. They review the applicant's documentation and forward the completed Form W-7 to IRS for processing.

NOTE: You cannot claim the earned income credit using an ITIN.

Foreign persons who are individuals should apply for a social security number (SSN, if permitted) on Form SS-5 with the Social Security Administration, or should apply for an Individual Taxpayer Identification Number (ITIN) on Form W-7. Effective immediately, each ITIN applicant must now:

- Apply using the revised Form W-7, Application for IRS Individual Taxpayer Identification Number; and
- Attach a federal income tax return to the Form W-7.

Applicants who meet one of the exceptions to the requirement to file a tax return (see the [Instructions for Form W-7](#)) must provide documentation to support the exception.

New W-7/ITIN rules were issued on December 17, 2003. For a summary of those rules, please see the new Form W-7 and its instructions.

For more detailed information on ITINs, refer to:

- [ITIN FAQs in English](#)
- [ITIN FAQs in Spanish](#)
- [Obtaining an ITIN from Abroad](#)
- [Reminders for Tax Professionals](#)
- [ITIN and FIRPTA Tax Forms](#)
- [Revisions to ITIN Process](#)
- [Filing Forms W-2 and 1042-S Without Payee TINs](#)
- [Acceptance Agent Program for ITINs](#)
- [How to Become an Acceptance Agent for IRS ITIN Numbers](#)
- [Publication 1915, Understanding Your Individual Taxpayer Identification Number](#) [PDF](#)

ATIN

An [Adoption Taxpayer Identification Number \(ATIN\)](#) is a temporary nine-digit number issued by the IRS to individuals who are in the process of legally adopting a U.S. citizen or resident child but who cannot get an SSN for that child in time to file their tax return.

[Form W-7A, Application for Taxpayer Identification Number for Pending U.S. Adoptions](#) is used to apply for an ATIN. (**NOTE:** Do not use Form W-7A if the child is not a U.S. citizen or resident.)

PTIN

Beginning January 1, 2011, if you are a paid tax preparer you must use a valid Preparer Tax Identification Number (PTIN) on returns you prepare. Use of the PTIN no longer is optional. If you do not have a PTIN, you must get one by using the [new IRS sign-up system](#). Even if you have a PTIN but you received it prior to September 28, 2010, you must apply for a new or renewed PTIN by using the new system. If all your authentication information matches, you may be issued the same number. You must have a PTIN if you, for compensation, prepare all or substantially all of any federal tax return or claim for refund.

If you do not want to apply for a PTIN online, use [Form W-12, IRS Paid Preparer Tax Identification Number Application](#). The paper application will take 4-6 weeks to process.

If you are a foreign preparer who is unable to get a U.S. Social Security Number, please see the instructions on [New Requirements for Tax Return Preparers: Frequently Asked Questions](#).

Foreign Persons and IRS Employer Identification Numbers

Foreign entities that are not individuals (i.e., foreign corporations, etc.) and that are required to have a federal Employer Identification Number (EIN) in order to claim an exemption from withholding because of a tax treaty (claimed on Form W-8BEN), need to submit [Form SS-4 Application for Employer Identification Number](#) to the Internal Revenue Service in order to apply for such an EIN. Those foreign entities filing Form SS-4 for the purpose of obtaining an EIN in order to claim a tax treaty exemption and which otherwise have no requirements to file a U.S. income tax return, employment tax return, or excise tax return, should comply with the following special instructions when filling out Form SS-4. When completing line 7b of Form SS-4, the applicant should write "N/A" in the block asking for an SSN or ITIN, unless the applicant already has an SSN or ITIN. When answering question 10 on Form SS-4, the applicant should check the "other" block and write or type in immediately after it one of the following phrases as most appropriate:

"For W-8BEN Purposes Only"

"For Tax Treaty Purposes Only"

"Required under Reg. 1.1441-1(e)(4)(viii)"

"897(i) Election"

If questions 11 through 17 on Form SS-4 do not apply to the applicant because he has no U.S. tax return filing requirement, such questions should be annotated "N/A". A foreign entity that completes Form SS-4 in the manner described above should be entered into IRS records as not having a filing requirement for any U.S. tax returns. However, if the foreign entity receives a letter from the IRS soliciting the filing of a U.S. tax return, the foreign entity should respond to the letter immediately by stating that it has no requirement to file any U.S. tax returns. Failure to respond to the IRS letter may result in a procedural assessment of tax by the IRS against the foreign entity. If the foreign entity later becomes liable to file a U.S. tax return, the foreign entity should not apply for a new EIN, but should instead use the EIN it was first issued on all U.S. tax returns filed thereafter.

To expedite the issuance of an EIN for a foreign entity, please call [267-941-1099](tel:267-941-1099). This is not a toll-free call.

References/Related Topics

- [International Taxpayers](#)
- [Taxation of Nonresident Aliens](#)

Page Last Reviewed or Updated: 03-Oct-2022

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number											
				-				-			
or											
Employer identification number											
					-						

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
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General Instructions

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

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

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

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

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

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

By signing the filled-out form, you:

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

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

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

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

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

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

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

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

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

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

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

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

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

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

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

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

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

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

Updating Your Information

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

Penalties

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

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

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

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

Specific Instructions

Line 1

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

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

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

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

b. Sole proprietor or single-member LLC. Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. Partnership, LLC that is not a single-member LLC, C corporation, or S corporation. Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. Other entities. Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. Disregarded entity. For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

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

Line 3

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

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

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

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

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

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

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

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

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

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

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

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

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

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

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

G—A real estate investment trust

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

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

J—A bank as defined in section 581

K—A broker

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

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

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

Line 5

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

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

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

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

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

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

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

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

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

Part II. Certification

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

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

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

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.

You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

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

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

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

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

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

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

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

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

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

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

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

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

Protect yourself from suspicious emails or phishing schemes.

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

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



Instructions for the Requester of Form W-9

(Rev. October 2018)

Request for Taxpayer Identification Number and Certification

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

Future Developments

For the latest developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/FormW9](https://www.irs.gov/FormW9).

What's New

Backup withholding rate. The backup withholding rate is 24% for reportable payments.

Reminders

FATCA and backup withholding exemptions. FATCA requires a participating foreign financial institution to report all U.S. account holders that are specified U.S. persons. Form W-9 has an *Exemptions* box on the front of the form that includes entry for the *Exempt payee code (if any)* and *Exemption from FATCA Reporting Code (if any)*. The references for the appropriate codes are in the *Exemptions* section of Form W-9, and in the *Payees Exempt From Backup Withholding* and *Payees and Account Holders Exempt From FATCA Reporting* sections of these instructions.

The *Certification* section in Part II of Form W-9 includes certification relating to FATCA reporting.

Backup withholding liability. If you do not collect backup withholding from affected payees as required, you may become liable for any uncollected amount.

TIN matching e-services. The IRS website offers TIN Matching e-services for certain payers to validate name and TIN combinations. See [Taxpayer Identification Number \(TIN\) Matching](https://www.irs.gov/tinmatching), later.

How Do I Know When To Use Form W-9?

Use Form W-9 to request the taxpayer identification number (TIN) of a U.S. person (including a resident alien) and to request certain certifications and claims for exemption. (See *Purpose of Form* on Form W-9.) Withholding agents may require signed Forms W-9 from U.S. exempt recipients to overcome a presumption of foreign status. For federal tax purposes, a U.S. person includes but is not limited to:

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

A partnership may require a signed Form W-9 from its U.S. partners to overcome a presumption of foreign status and to avoid withholding on the partner's allocable share of the

partnership's effectively connected income. For more information, see Regulations section 1.1446-1.

A participating foreign financial institution (PFFI) should request Form W-9 from an account holder that is a U.S. person. If an account is jointly held, the PFFI should request a Form W-9 from each holder that is a U.S. person.

Advise foreign persons to use the appropriate Form W-8 or Form 8233, *Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual*. See Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*, for more information and a list of the W-8 forms.

Electronic Submission of Forms W-9

Requesters may establish a system for payees and payees' agents to submit Forms W-9 electronically, including by fax. A requester is anyone required to file an information return. A payee is anyone required to provide a taxpayer identification number (TIN) to the requester.

Payee's agent. A payee's agent can be an investment advisor (corporation, partnership, or individual) or an introducing broker. An investment advisor must be registered with the Securities and Exchange Commission (SEC) under the Investment Advisers Act of 1940. The introducing broker is a broker-dealer that is regulated by the SEC and the National Association of Securities Dealers, Inc., and that is not a payer. Except for a broker who acts as a payee's agent for "readily tradable instruments," the advisor or broker must show in writing to the payer that the payee authorized the advisor or broker to transmit the Form W-9 to the payer.

Electronic system. Generally, the electronic system must:

- Ensure the information received is the information sent, and document all occasions of user access that result in the submission;
- Make reasonably certain that the person accessing the system and submitting the form is the person identified on Form W-9, the investment advisor, or the introducing broker;
- Provide the same information as the paper Form W-9;
- Be able to supply a hard copy of the electronic Form W-9 if the Internal Revenue Service requests it; and
- Require as the final entry in the submission an electronic signature by the payee whose name is on Form W-9 that authenticates and verifies the submission. The electronic signature must be under penalties of perjury and the perjury statement must contain the language of the paper Form W-9.



For Forms W-9 that are not required to be signed, the electronic system need not provide for an electronic signature or a perjury statement.

For more details, see the following.

- Announcement 98-27, which is on page 30 of Internal Revenue Bulletin 1998-15 at [IRS.gov/pub/irs-irbs/irb98-15.pdf](https://www.irs.gov/pub/irs-irbs/irb98-15.pdf).
- Announcement 2001-91, which is on page 221 of Internal Revenue Bulletin 2001-36 at [IRS.gov/pub/irs-irbs/irb01-36.pdf](https://www.irs.gov/pub/irs-irbs/irb01-36.pdf).

Individual Taxpayer Identification Number (ITIN)

Form W-9 (or an acceptable substitute) is used by persons required to file information returns with the IRS to get the payee's (or other person's) correct name and TIN. For individuals, the TIN is generally a social security number (SSN).

However, in some cases, individuals who become U.S. resident aliens for federal tax purposes are not eligible to obtain an SSN. This includes certain resident aliens who must receive information returns but who cannot obtain an SSN.

These individuals must apply for an ITIN on Form W-7, Application for IRS Individual Taxpayer Identification Number, unless they have an application pending for an SSN. Individuals who have an ITIN must provide it on Form W-9.

Note. ITINs that haven't been included on a U.S. federal tax return at least once in the last 3 consecutive tax years will expire. Expired ITINs must be renewed in order to avoid delays in processing the ITIN holder's tax return. If the IRS deactivates the ITIN because it has expired, the ITIN may still be used on Form W-9. However, the ITIN holder will have to apply to renew the deactivated ITIN if there is a need to file a tax return. For more information, see the Instructions for Form W-7.

Substitute Form W-9

You may develop and use your own Form W-9 (a substitute Form W-9) if its content is substantially similar to the official IRS Form W-9 and it satisfies certain certification requirements.

You may incorporate a substitute Form W-9 into other business forms you customarily use, such as account signature cards. However, the certifications on the substitute Form W-9 must clearly state (as shown on the official Form W-9) that under penalties of perjury:

1. The payee's TIN is correct,
2. The payee is not subject to backup withholding due to failure to report interest and dividend income,
3. The payee is a U.S. person, and
4. The FATCA code entered on this form (if any) indicating that the payee is exempt from FATCA reporting is correct.

You may provide certification instructions on a substitute Form W-9 in a manner similar to the official form. If you are not collecting a FATCA exemption code by omitting that field from the substitute Form W-9 (see [Payees and Account Holders Exempt From FATCA Reporting](#), later), you may notify the payee that item 4 does not apply.

You may not:

1. Use a substitute Form W-9 that requires the payee, by signing, to agree to provisions unrelated to the required certifications, or
2. Imply that a payee may be subject to backup withholding unless the payee agrees to provisions on the substitute form that are unrelated to the required certifications.

A substitute Form W-9 that contains a separate signature line just for the certifications satisfies the requirement that the certifications be clearly stated.

If a single signature line is used for the required certifications and other provisions, the certifications must be highlighted, boxed, printed in bold-face type, or presented in some other manner that causes the language to stand out from all other information contained on the substitute form. Additionally, the following statement must be presented to stand out in the same manner as described above 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 avoid backup withholding."

If you use a substitute form, you are required to provide the Form W-9 instructions to the payee only if he or she requests them. However, if the IRS has notified the payee that backup withholding applies, then you must instruct the payee to strike out the language in the certification that relates to underreporting. This instruction can be given orally or in writing. See item 2 of the *Certification* on Form W-9. You can replace "defined below" with "defined in the instructions" in item 3 of the *Certification* on Form W-9 when the instructions will not be provided to the payee except upon request. For more information, see Rev. Proc. 83-89, 1983-2 C.B. 613; amplified by Rev. Proc. 96-26, which is on page 22 of Internal Revenue Bulletin 1996-8 at [IRS.gov/pub/irs-irbs/irb96-08.pdf](https://www.irs.gov/pub/irs-irbs/irb96-08.pdf).

TIN Applied For

For interest and dividend payments and certain payments with respect to readily tradable instruments, the payee may return a properly completed, signed Form W-9 to you with "Applied For" written in Part I. This is an "awaiting-TIN" certificate. The payee has 60 calendar days, from the date you receive this certificate, to provide a TIN. If you do not receive the payee's TIN at that time, you must begin backup withholding on payments.

Reserve rule. You must backup withhold on any reportable payments made during the 60-day period if a payee withdraws more than \$500 at one time, unless the payee reserves an amount equal to the current year's backup withholding rate on all reportable payments made to the account.

Alternative rule. You also may elect to backup withhold during this 60-day period, after a 7-day grace period, under one of the two alternative rules discussed below.

Option 1. Backup withhold on any reportable payments if the payee makes a withdrawal from the account after the close of 7 business days after you receive the awaiting-TIN certificate. Treat as reportable payments all cash withdrawals in an amount up to the reportable payments made from the day after you receive the awaiting-TIN certificate to the day of withdrawal.

Option 2. Backup withhold on any reportable payments made to the payee's account, regardless of whether the payee makes any withdrawals, beginning no later than 7 business days after you receive the awaiting-TIN certificate.



The 60-day exemption from backup withholding does not apply to any payment other than interest, dividends, and certain payments relating to readily tradable instruments. Any other reportable payment, such as nonemployee compensation, is subject to backup withholding immediately, even if the payee has applied for and is awaiting a TIN.

Even if the payee gives you an awaiting-TIN certificate, you must backup withhold on reportable interest and dividend payments if the payee does not certify, under penalties of perjury, that the payee is not subject to backup withholding.

If you do not collect backup withholding from affected payees as required, you may become liable for any uncollected amount.

Payees Exempt From Backup Withholding

The following payees are exempt from backup withholding with respect to the payments below, and should enter the corresponding exempt payee code on Form W-9. You may rely on the payee's claim of exemption unless you have actual knowledge that the exempt payee code and/or classification selected are not valid, or if they are inconsistent with each other.

In that case, you may rely on the Form W-9 for purposes of obtaining the payee's TIN, but you must treat the payee as non-exempt. If the payee failed to enter an exempt payee code, but the classification selected indicates that the payee is exempt, you may accept the classification and treat the payee as exempt unless you have actual knowledge that the classification is not valid.

If the payee is not exempt, you are required to backup withhold on reportable payments if the payee does not provide a TIN in the manner required or does not sign the certification, if required.

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2);
2. The United States or any of its agencies or instrumentalities;
3. A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions, agencies, or instrumentalities;
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities;
5. A corporation;
6. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession;
7. A futures commission merchant registered with the Commodity Futures Trading Commission;
8. A real estate investment trust;
9. An entity registered at all times during the tax year under the Investment Company Act of 1940;
10. A common trust fund operated by a bank under section 584(a);
11. A financial institution;
12. A middleman known in the investment community as a nominee or custodian; or
13. A trust exempt from tax under section 664 or described in section 4947.

The following types of payments are exempt from backup withholding as indicated for payees listed in 1 through 13 above.

Interest and dividend payments. All listed payees are exempt except the payee in item 7.

Broker transactions. All payees listed in items 1 through 4 and 6 through 11 are exempt. Also, C corporations are exempt. A person registered under the Investment Advisers Act of 1940 who regularly acts as a broker also is exempt.

Barter exchange transactions and patronage dividends. Only payees listed in items 1 through 4 are exempt.

Payments reportable under sections 6041 and 6041A. Payees listed in items 1 through 5 generally are exempt.

However, the following payments made to a corporation and reportable on Form 1099-MISC, Miscellaneous Income, are not exempt from backup withholding.

- Medical and health care payments.
- Attorneys' fees (also gross proceeds paid to an attorney, reportable under section 6045(f)).
- Payments for services paid by a federal executive agency. (See Rev. Rul. 2003-66, which is on page 1115 of Internal Revenue Bulletin 2003-26 at [IRS.gov/pub/irs-irbs/irb03-26.pdf](https://www.irs.gov/pub/irs-irbs/irb03-26.pdf).)

Payments made in settlement of payment card or third party network transactions. Only payees listed in items 1 through 4 are exempt.

Payments Exempt From Backup Withholding

Payments that are not subject to information reporting also are not subject to backup withholding. For details, see sections 6041, 6041A, 6042, 6044, 6045, 6049, 6050A, 6050N, and 6050W and their regulations. The following payments generally are exempt from backup withholding.

Dividends and patronage dividends.

- Payments to nonresident aliens subject to withholding under section 1441.
- Payments to partnerships not engaged in a trade or business in the United States and that have at least one nonresident alien partner.
- Payments of patronage dividends not paid in money.
- Payments made by certain foreign organizations.
- Section 404(k) distributions made by an ESOP.

Interest payments.

- Payments of interest on obligations issued by individuals. However, if you pay \$600 or more of interest in the course of your trade or business to a payee, you must report the payment. Backup withholding applies to the reportable payment if the payee has not provided a TIN or has provided an incorrect TIN.
- Payments described in section 6049(b)(5) to nonresident aliens.
- Payments on tax-free covenant bonds under section 1451.
- Payments made by certain foreign organizations.
- Mortgage or student loan interest paid to you.

Other types of payment.

- Wages.
- Distributions from a pension, annuity, profit-sharing or stock bonus plan, any IRA, an owner-employee plan, or other deferred compensation plan.
- Distributions from a medical or health savings account and long-term care benefits.
- Certain surrenders of life insurance contracts.
- Distribution from qualified tuition programs or Coverdell ESAs.
- Gambling winnings if regular gambling winnings withholding is required under section 3402(q). However, if regular gambling winnings withholding is not required under section 3402(q), backup withholding applies if the payee fails to furnish a TIN.
- Real estate transactions reportable under section 6045(e).
- Cancelled debts reportable under section 6050P.
- Fish purchases for cash reportable under section 6050R.

Payees and Account Holders Exempt From FATCA Reporting

Reporting under chapter 4 (FATCA) with respect to U.S. persons generally applies only to foreign financial institutions (FFI) (including a branch of a U.S. financial institution that is treated as an FFI under an applicable intergovernmental agreement (IGA)). Thus, for example, a U.S. financial institution maintaining an account in the United States does not need to collect an exemption code for FATCA reporting. If you are providing a Form W-9, you may pre-populate the FATCA exemption code with "Not Applicable," "N/A," or a similar indication that an exemption from FATCA reporting does not apply. Any payee that provides such a form, however, cannot be treated as exempt from FATCA reporting. For details on the FATCA reporting requirements, including specific information regarding which financial institutions are required to report, see sections 1471 to 1474 and related regulations. See Regulations section 1.1471-3(d)(2) for when an FFI may rely on documentary

evidence to treat a U.S. person as other than a specified U.S. person and see Regulations section 1.1471-3(f)(3) for when an FFI may presume a U.S. person as other than a specified U.S. person.

If you receive a Form W-9 with a FATCA exemption code and you know or have reason to know the person is a specified U.S. person, you may not rely on the Form W-9 to treat the person as exempt from FATCA reporting. However, you may still rely on an otherwise completed Form W-9 to treat a person as a specified U.S. person. An exemption from FATCA reporting (or lack thereof) does not affect backup withholding as described earlier in these instructions. The following are not specified U.S. persons and are thus exempt from FATCA reporting.

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

B. The United States or any of its agencies or instrumentalities;

C. A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions, agencies, or instrumentalities;

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

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

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

G. A real estate investment trust;

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

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

J. A bank as defined in section 581;

K. A broker;

L. A trust exempt from tax under section 664 or described in section 4947; or

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

Joint Foreign Payees

If the first payee listed on an account gives you a Form W-8 or a similar statement signed under penalties of perjury, backup withholding applies unless:

1. Every joint payee provides the statement regarding foreign status, or
2. Any one of the joint payees who has not established foreign status gives you a TIN.

If any one of the joint payees who has not established foreign status gives you a TIN, use that number for purposes of backup withholding and information reporting.

For more information on foreign payees, see the Instructions for the Requester of Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY.

Names and TINs To Use for Information Reporting

Show the full name and address as provided on Form W-9 on the information return filed with the IRS and on the copy furnished to the payee. If the payee has marked their address "NEW", you should update your records. If you made payments to more than one payee or the account is in more than one name, enter on the first name line of the information return only the name of the payee whose TIN is shown on Form W-9. You may show the names of any other individual payees in the area below the first name line on the information return. Forms W-9 showing an ITIN must have the name exactly as shown on line 1a of the Form W-7 application. If you are a PFFI reporting a U.S. account on Form 8966, FATCA Report, and the account is jointly held by U.S. persons, file a separate Form 8966 for each holder.



For more information on the names and TINs to use for information reporting, see section J of the General Instructions for Certain Information Returns.

Notices From the IRS

The IRS will send you a notice if the payee's name and TIN on the information return you filed do not match the IRS's records. (See *Taxpayer Identification Number (TIN) Matching*, next.) If you receive a backup withholding notice, you may have to send a "B" notice to the payee to solicit another TIN. Pub. 1281, Backup Withholding for Missing and Incorrect Name/TIN(s), contains copies of the two types of "B" notices. If you receive a penalty notice, you also may have to send a solicitation to the payee. See Pub. 1586, Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs.

Taxpayer Identification Number (TIN) Matching

TIN Matching allows a payer or authorized agent who is required to file Forms 1099-B, DIV, INT, K, MISC, OID, and/or PATR to match TIN and name combinations with IRS records before submitting the forms to the IRS. TIN Matching is one of the e-services products that is offered and is accessible through the IRS website. Go to IRS.gov and enter "e-services" in the search box. It is anticipated that payers who validate the TIN and name combinations before filing information returns will receive fewer backup withholding (CP2100) notices and penalty notices.

Additional Information

For more information on backup withholding, see Pub. 1281.

Non-Foreign Certification by Individual Transferor

(Seller's FIRPTA Affidavit)

Transferor: Click or tap here to enter text.

Transferee: Click or tap here to enter text.

Property: Click or tap here to enter text.

Closing Date: Click or tap to enter a date.

Before me, the undersigned authority, personally appeared the person(s) named in paragraph 2(b) below who, after being duly sworn, stated as follows:

1. This certificate is to inform the transferee that withholding Federal Income Tax is not required, upon the sale of the following described real property:

Click or tap here to enter text.

2. The undersigned Transferor certifies and declares as follows:

- a. I am not a foreign person for purposes of United States income taxation and am not subject to the tax withholding requirements of Section 1445 of the Internal Revenue Code of 1954, as amended.
- b. My United States taxpayer identification or Social Security number is: Click or tap here to enter text.
- c. My home address is: Click or tap here to enter text.

3. There are no other persons who have an ownership interest in the above described property other than those persons listed in paragraph 2(b) above.

- a. The undersigned hereby further certifies and declares:
- b. I understand the purchaser of the described property intends to rely on the foregoing representations in connection with the United States Foreign Investment in Real Property Tax Act. (FIRPTA).

4. I understand this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statements contained in this certification may be punished by fine, imprisonment or both.

Under penalties of perjury, I state that this declaration was carefully read and is true and correct.

Print Name: Click or tap here to enter text. (Affiant)

STATE OF Click or tap here to enter text.

COUNTY OF Click or tap here to enter text.

The foregoing instrument was sworn to and subscribed before me by means of ☐ physical presence or ☐ online notarization this Click or tap here to enter text. day of Click or tap here to enter text., Click or tap here to enter text., by Click or tap here to enter text. who ☐ is personally known or ☐ has produced Click or tap here to enter text. as identification.

[Notary Seal]

Notary Public

Printed Name: Click or tap here to enter text. My

Commission Expires: Click or tap to enter a date.

Note: This affidavit is intended as a work aid and basic guidance and not a substitute for legal analysis of a specific transaction.

Non-Foreign Certification by Entity Transferor

(Seller's FIRPTA Affidavit)

Transferor: Click or tap here to enter text.

Transferee: Click or tap here to enter text.

Property: Click or tap here to enter text.

Closing Date: Click or tap to enter a date.

Before me, the undersigned authority, personally appeared the person(s) named below who, after being duly sworn, stated as follows:

Transferor is selling that certain real property located in , which is more particularly described as follows:

Click or tap here to enter text.

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by , the undersigned hereby certifies the following on behalf of :

1. Click or tap here to enter text. is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Click or tap here to enter text. is not a disregarded entity as defined in §1.1445-2(b)(2)(iii);
3. Click or tap here to enter text. 's U.S. employer identification number is ; and
4. Click or tap here to enter text. 's office address is .

Click or tap here to enter text. understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Click or tap here to enter text. .

Print Name: Click or tap here to enter text. (Affiant)

STATE OF Click or tap here to enter text.

COUNTY OF Click or tap here to enter text.

The foregoing instrument was sworn to and subscribed before me by means of ☐ physical presence or

☐ online notarization this Click or tap here to enter text. day of , , by Click or tap here to enter text. who ☐ is personally known or ☐ has produced Click or tap here to enter text. as identification.

[Notary Seal]

Notary Public: _____

Printed Name: Click or tap here to enter text.

My Commission Expires: Click or tap to enter a date.

Note: This affidavit is intended as a work aid and basic guidance and not a substitute for legal analysis of a specific transaction.

Application for IRS Individual Taxpayer Identification Number

OMB No. 1545-0074

► For use by individuals who are not U.S. citizens or permanent residents.
► See separate instructions.

An IRS individual taxpayer identification number (ITIN) is for U.S. federal tax purposes only.

Before you begin:

• **Don't submit this form if you have, or are eligible to get, a U.S. social security number (SSN).**

Application type (check one box):
☐ Apply for a new ITIN
☐ Renew an existing ITIN

Reason you're submitting Form W-7. Read the instructions for the box you check. **Caution:** If you check box **b, c, d, e, f,** or **g,** you must file a U.S. federal tax return with Form W-7 unless you meet one of the exceptions (see instructions).

- a** ☐ Nonresident alien required to get an ITIN to claim tax treaty benefit
b ☐ Nonresident alien filing a U.S. federal tax return
c ☐ U.S. resident alien (**based on days present in the United States**) filing a U.S. federal tax return
d ☐ Dependent of U.S. citizen/resident alien } If **d**, enter relationship to U.S. citizen/resident alien (see instructions) ► _____
e ☐ Spouse of U.S. citizen/resident alien } If **d** or **e**, enter name and SSN/ITIN of U.S. citizen/resident alien (see instructions) ► _____
f ☐ Nonresident alien student, professor, or researcher filing a U.S. federal tax return or claiming an exception
g ☐ Dependent/spouse of a nonresident alien holding a U.S. visa
h ☐ Other (see instructions) ► _____

Additional information for **a** and **f**: Enter treaty country ► _____

and treaty article number ► _____

Name (see instructions) Name at birth if different . . . ►	1a First name	Middle name	Last name
	1b First name	Middle name	Last name

Applicant's Mailing Address	2 Street address, apartment number, or rural route number. If you have a P.O. box, see separate instructions.
	City or town, state or province, and country. Include ZIP code or postal code where appropriate.

Foreign (non-U.S.) Address (see instructions)	3 Street address, apartment number, or rural route number. Don't use a P.O. box number.
	City or town, state or province, and country. Include postal code where appropriate.

Birth Information	4 Date of birth (month / day / year)	Country of birth	City and state or province (optional)	5 <input type="checkbox"/> Male <input type="checkbox"/> Female
	/ /			

Other Information	6a Country(ies) of citizenship	6b Foreign tax I.D. number (if any)	6c Type of U.S. visa (if any), number, and expiration date
	6d Identification document(s) submitted (see instructions) <input type="checkbox"/> Passport <input type="checkbox"/> Driver's license/State I.D. <input type="checkbox"/> USCIS documentation <input type="checkbox"/> Other _____ Issued by: _____ No.: _____ Exp. date: / / Date of entry into the United States (MM/DD/YYYY): / /		
	6e Have you previously received an ITIN or an Internal Revenue Service Number (IRSIN)? <input type="checkbox"/> No/Don't know. Skip line 6f. <input type="checkbox"/> Yes. Complete line 6f. If more than one, list on a sheet and attach to this form (see instructions).		
	6f Enter ITIN and/or IRSIN ► ITIN <input type="text"/> - <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> IRSIN <input type="text"/> - <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> and name under which it was issued ► _____ First name Middle name Last name		
	6g Name of college/university or company (see instructions) ► _____ City and state ► _____ Length of stay ► _____		

Sign Here
Keep a copy for your records.

Under penalties of perjury, I (applicant/delegate/acceptance agent) declare that I have examined this application, including accompanying documentation and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I authorize the IRS to share information with my acceptance agent in order to perfect this Form W-7, Application for IRS Individual Taxpayer Identification Number.

Signature of applicant (if delegate, see instructions)	Date (month / day / year)	Phone number
/ /		
Name of delegate, if applicable (type or print)	Delegate's relationship to applicant	<input type="checkbox"/> Parent <input type="checkbox"/> Court-appointed guardian <input type="checkbox"/> Power of attorney

Acceptance Agent's Use ONLY	Signature	Date (month / day / year)	Phone
	/ /		Fax
	Name and title (type or print)	Name of company	EIN
			Office code

Instructions for Form W-7



Department of the Treasury
Internal Revenue Service

(Rev. November 2021)

Application for IRS Individual Taxpayer Identification Number (Use with the August 2019 revision of Form W-7)

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

Contents	Page
Future Developments	1
What's New	1
Reminders	1
General Instructions	2
Purpose of Form	2
Who Is Eligible To Complete This Form	2
Additional Information	3
Supporting Documentation Requirements	3
Additional Documentation Requirements	4
How To Apply	4
When To Apply	5
Where To Apply	6
Specific Instructions	6
Application Type	6
Reason You're Submitting Form W-7	6
Line Instructions	8
Signature	9
Exceptions Tables	11

Future Developments

For the latest information about developments related to Form W-7 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/FormW7](https://www.irs.gov/FormW7).

What's New

Renewal applications. All Form W-7 renewal applications must include a U.S. federal tax return unless you meet an exception to the requirement. See [Exceptions Tables](#), later, for more information.

Expanded discussion of allowable tax benefit. Spouses and dependents are not eligible for an ITIN or to renew an ITIN unless they are claimed for an allowable tax benefit or they file their own tax return. The discussion of allowable tax benefits has been expanded. See [Allowable tax benefit](#), later, for more information.

Child and dependent care credit (CDCC). An ITIN may be assigned to an alien dependent from Canada or Mexico if that dependent qualifies a taxpayer for a child or dependent care credit (claimed on Form 2441). The Form 2441 must be attached to Form W-7 along with the U.S. federal tax return. See Pub. 503 for more information.

Reminders

Expired ITINs. If your ITIN wasn't included on a U.S. federal tax return at least once for tax years 2018, 2019, and 2020, your ITIN will expire on December 31, 2021.

ITINs with middle digits (the fourth and fifth positions) "70," "71," "72," "73," "74," "75," "76," "77," "78," "79," "80," "81," "82," "83," "84," "85," "86," "87," or "88" have expired. In addition, ITINs with middle digits "90," "91," "92," "94," "95," "96," "97," "98," or "99," **IF assigned before 2013**, have expired.



If you previously submitted a renewal application and it was approved, you do not need to renew again. Otherwise, see [How To Apply](#), later, for more information.

Information returns. If your ITIN is only being used on information returns for reporting purposes, you don't need to renew your ITIN at this time. However, in the future, if you need to use the ITIN to file a U.S. federal tax return, you will need to renew the ITIN at that time.

ITINs for spouses and dependents. For tax years after December 31, 2017, spouses and dependents are not eligible for an ITIN or to renew an ITIN, unless they are claimed for an allowable tax benefit or they file their own tax return. The individual must be listed on an attached U.S. federal tax return with the schedule or form that applies to the allowable tax benefit. See [Allowable tax benefit](#), later, for more information.

Dependent applicants must specify their relationship to the U.S. citizen/resident alien. An applicant who chooses reason d must enter the relationship he or she has to the U.S. citizen/resident alien in the designated space on Form W-7.

The passport isn't a stand-alone document for certain dependents if no date of entry into the United States is present. A passport that doesn't have a date of entry into the United States won't be accepted as a stand-alone identification document for certain dependents. See [Proof of U.S. residency for applicants who are dependents](#) under [Supporting Documentation Requirements](#), later, for more information.

Change of address. It's important that the IRS is aware of your current mailing address. This address is used to mail notices about your Form W-7, including notification of your assigned ITIN, and return your original supporting documentation. If you move before you receive your ITIN, notify us of your current mailing address immediately, so we may update our records. You may send a letter to the IRS using the address under [Where To Apply](#), later.

Taxpayers residing outside of the United States can apply for an ITIN through a certifying acceptance agent. Taxpayers residing outside of the United States can apply for an ITIN using a certifying acceptance agent. See [Certifying Acceptance Agent \(CAA\)](#) for more information.

General Instructions

What's an ITIN. An ITIN is a nine-digit number issued by the IRS to individuals who are required for federal tax purposes to have a U.S. taxpayer identification number but who don't have and aren't eligible to get a social security number (SSN).

Purpose of Form

Use Form W-7 for the following purposes.

- **To apply for a new ITIN.** Individuals applying for an ITIN must include a U.S. federal tax return unless they meet an exception, and the required documentation. For tax years after December 31, 2017, spouses and dependents are not eligible for a new ITIN unless they are claimed for an allowable tax benefit or they file their own tax return.
- **To renew an ITIN.** An ITIN only needs to be renewed if it'll be included on a U.S. federal tax return and it's expired. Individuals renewing an ITIN must include a U.S. federal tax return unless they meet an exception, and the required documentation. For tax years after December 31, 2017, spouses and dependents are not eligible to renew an ITIN unless they are claimed for an allowable tax benefit or they file their own tax return. The individual must be listed on an attached U.S. federal tax return with the schedule or form that applies to the allowable tax benefit. See [How To Apply](#), later, for more information on how to renew your ITIN.



*If your ITIN is **only** used on information returns filed with the IRS by third parties, you don't have to renew your ITIN even if the ITIN has expired for purposes of filing a U.S. federal tax return. However, in the future, if you file an income tax return, you will need to renew your ITIN at that time.*

The ITIN is for federal tax purposes only. An ITIN doesn't entitle you to social security benefits and doesn't change your immigration status or your right to work in the United States.

The ITIN can't be used to claim certain federal tax credits.

Individuals filing tax returns using an ITIN aren't eligible for the earned income credit (EIC). Also, a child who has an ITIN can't be claimed as a qualifying child for purposes of the EIC. For more information, see Pub. 596, Earned Income Credit (EIC). Also, for tax years 2018 through 2025, a child who has an ITIN can't be claimed as a qualifying child for purposes of the child tax credit and the additional child tax credit. For more information, see Schedule 8812 (Form 1040), Credits for Qualifying Children and Other Dependents, and its instructions. If an ITIN is applied for on or before the due date of a return (including extensions) and the IRS issues an ITIN as a result of the application, the IRS will consider the ITIN as issued on or before the due date of the return. See the instructions for your U.S. federal tax return for more information.

The ITIN may not be required for an electing small business trust (ESBT) election. A nonresident alien who is a potential current beneficiary of an ESBT and who is not otherwise required to have a taxpayer identification number for U.S. tax purposes does not need a taxpayer identification number to make a valid ESBT election.

Social security numbers. Don't complete Form W-7 if you have an SSN or if you're eligible to get an SSN. You're eligible for an SSN if you're a U.S. citizen or if you've been admitted by the United States for permanent residence or U.S. employment.

To get an SSN, see Form SS-5, Application for a Social Security Card. To get Form SS-5 or to find out if you're eligible to get an SSN, go to [SSA.gov](#) or contact a Social Security Administration (SSA) office.

If you have an application for an SSN pending, don't file Form W-7. Complete Form W-7 only if the SSA notifies you that you're ineligible for an SSN.

If the SSA determines that you're not eligible for an SSN, you must get a letter of denial and attach it to your Form W-7. This applies whether you're attaching Form W-7 to your U.S. federal tax return or not. However, students, professors, and researchers, see [information for box f](#), later.

Once you are issued an SSN, use it to file your tax return. Use your SSN to file your tax return even if your SSN does not authorize employment or if you have been issued an SSN that authorizes employment and you lose your employment authorization. An ITIN will not be issued to you once you have been issued an SSN. If you received your SSN after previously using an ITIN, stop using your ITIN. Use your SSN instead.

Allowable tax benefit. For tax years after December 31, 2017, spouses and dependents are **NOT** eligible for an ITIN or to renew an ITIN unless they are claimed for an allowable tax benefit or they file their own tax return. Spouses and dependents must be listed on an attached U.S. federal tax return and include the schedule or form that applies to the allowable tax benefit. An allowable tax benefit includes a spouse filing a joint return, [head of household \(HOH\)](#), [American opportunity tax credit \(AOTC\)](#), [premium tax credit \(PTC\)](#), [child and dependent care credit \(CDCC\)](#), or [credit for other dependents \(ODC\)](#).

Head of household (HOH). If Form W-7 is submitted to claim the HOH filing status, then an attached tax return that lists the applicant as a dependent is required. Dependent applicants must be your qualifying children or qualifying relatives and must either:

- Have lived with you for more than half the year (including temporary absences), or
- Be your parent.

See Pub. 501 for more information.



An ITIN will not be assigned or renewed for a HOH qualifying person who is not also claimed as a dependent on an attached tax return.

American opportunity tax credit (AOTC). If Form W-7 is submitted to claim the AOTC, then an attached tax return and Form 8863 that list the applicant are required. Dependent applicants must be qualifying children or qualifying relatives of the taxpayer who claims the AOTC. See Pub. 970 for more information.

Premium tax credit (PTC). If Form W-7 is submitted to claim the PTC, then an attached tax return that lists the applicant and Form 8962 are required. See Pub. 974 for more information.

Child and dependent care credit (CDCC). If Form W-7 is submitted to claim the CDCC, then an attached tax return and Form 2441 that list the applicant as a qualifying person are required. See Pub. 503 for more information.

Credit for other dependents (ODC). If Form W-7 is submitted to claim the ODC, the applicant must be listed on an attached tax return with the "Credit for other dependents" box checked next to their name. Dependent applicants must be your qualifying children or qualifying relatives who are U.S. residents or U.S. nationals. See Schedule 8812 (Form 1040) and its instructions for more information.

Who Is Eligible To Complete This Form

The following individuals are eligible to complete Form W-7.

1. Any individual who isn't eligible to get an SSN but who must furnish a taxpayer identification number for U.S. tax purposes or to file a U.S. federal tax return must apply for an ITIN on Form W-7. Examples include the following.

- A nonresident alien individual claiming reduced withholding under an applicable income tax treaty for which an ITIN is required (see Regulations section 1.1441-1(e)(4)(vii)(A)). Also see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.
- A nonresident alien individual not eligible for an SSN who is required to file a U.S. federal tax return or who is filing a U.S. federal tax return only to claim a refund.
- A nonresident alien individual not eligible for an SSN who elects to file a joint U.S. federal tax return with a spouse who is a U.S. citizen or resident alien. See Pub. 519, U.S. Tax Guide for Aliens.
- A U.S. resident alien (based on the number of days present in the United States, known as the “substantial presence” test) who files a U.S. federal tax return but who isn’t eligible for an SSN. For information about the substantial presence test, see Pub. 519.
- A nonresident alien student, professor, or researcher who is required to file a U.S. federal tax return but who isn’t eligible for an SSN, or who is claiming an exception to the tax return filing requirement. See Pub. 519.
- An alien spouse claimed as an exemption on a U.S. federal tax return who isn’t eligible to get an SSN. See Pub. 501, Dependents, Standard Deduction, and Filing Information, and Pub. 519.



A spouse can be claimed as an exemption only for tax years prior to 2018.

- An alien individual eligible to be claimed as a dependent on a U.S. federal tax return but who isn’t eligible to get an SSN. Your spouse is never considered your dependent. For more information about whether an alien individual is eligible to be claimed as a dependent on a U.S. federal tax return, see Pubs. 501 and 519.



Dependents can be claimed as exemptions only for tax years prior to 2018.

- A dependent/spouse of a nonresident alien U.S. visa holder who isn’t eligible for an SSN. See Pub. 519.



Dependents and spouses can be claimed as exemptions only for tax years prior to 2018.

Note. The deduction for personal exemptions was suspended for tax years 2018 through 2025. For tax years beginning after 2017, spouses or dependents aren’t eligible for an ITIN, unless they are claimed for an allowable tax benefit. The individual must be listed on an attached U.S. federal tax return with the schedule or form that applies to the allowable tax benefit. See the instructions for your U.S. federal tax return for more information.

2. Persons who must renew their ITIN to file a U.S. federal tax return. See [Renewal of an existing ITIN](#) under *How To Apply*, later.

Additional Information

For more information, visit [IRS.gov/ITIN](https://www.irs.gov/ITIN).

Publications. See Pubs. 501, 515, 519, and 1915 for more information.

You can visit [IRS.gov/Forms](https://www.irs.gov/Forms) to download these publications as well as other forms at no cost. Otherwise, you can go to [IRS.gov/OrderForms](https://www.irs.gov/OrderForms) to order current and prior-year forms and instructions. Your order should be mailed to you within 10 business days. You can also call 800-TAX-FORM (800-829-3676) if you’re in the United States to order forms and publications.

Telephone help. If, after reading these instructions and our free publications, you’re not sure how to complete your application or have additional questions, call 800-829-1040 if you’re in the United States. If you’re outside of the United States, call 267-941-1000 (not a toll-free number) for assistance.

Supporting Documentation Requirements

Whether you are applying for a new ITIN or renewing an existing ITIN, you must provide documentation that meets the following requirements.

1. You must submit documentation to establish your identity and your connection to a foreign country (“foreign status”). Applicants claimed as dependents must also prove U.S. residency unless the applicant is from Canada or Mexico or the applicant is a dependent of U.S. military personnel stationed overseas.

2. You must submit original documents, or certified copies of these documents from the issuing agency, that support the information provided on Form W-7. A certified copy of a document is one that the **original issuing agency** provides and certifies as an exact copy of the original document and contains an official stamped seal from the agency. You may be able to request a certified copy of documents at an embassy or consulate. However, services may vary between countries, so it’s recommended that you contact the appropriate consulate or embassy for specific information.



Original documents you submit will be returned to you at the mailing address shown on your Form W-7. You don’t need to provide a return envelope. Applicants are permitted to include a prepaid Express Mail or courier envelope for faster return delivery of their documents and to ensure the secure delivery of valuable documents, such as passports. The IRS will then return the documents in the envelope provided by the applicant. If your original documents aren’t returned within 60 days, you can call the IRS (see [Telephone help](#), earlier). If you will need your documents for any purpose within 60 days of submitting your ITIN application, you may wish to apply in person at an IRS Taxpayer Assistance Center or a CAA. See [Where To Apply](#), later.

3. The documentation you provide must be current (that is, not expired).

There are 13 acceptable documents, as shown in the following table. At least one document must contain your photograph, unless you’re a dependent under age 14 (under age 18 if a student). You may later be required by the IRS to provide a certified translation of foreign-language documents.

Supporting Documentation	Can be used to establish:	
	Foreign status	Identity
Passport (the only stand-alone document*)	x	x
U.S. Citizenship and Immigration Services (USCIS) photo identification	x	x
Visa issued by the U.S. Department of State	x	x
U.S. driver's license		x
U.S. military identification card		x
Foreign driver's license		x
Foreign military identification card	x	x
National identification card (must contain name, photograph, address, date of birth, and expiration date)	x	x
U.S. state identification card		x
Foreign voter's registration card	x	x
Civil birth certificate	x**	x
Medical records (valid only for dependents under age 6)	x**	x
School records (valid only for a dependent under age 18, if a student)	x**	x
<p>* Applicants claimed as dependents who need to prove U.S. residency must provide additional original documentation if the passport doesn't have a date of entry into the United States. See Proof of U.S. residency for applicants who are dependents below.</p> <p>** May be used to establish foreign status only if documents are foreign.</p>		

If you submit an original valid passport or a certified copy from the issuing agency, you don't need to submit any other documents from the table, unless the passport is for a dependent and it doesn't include a date of entry into the United States.

Proof of U.S. residency for applicants who are dependents. A passport that doesn't have a date of entry into the United States won't be accepted as a stand-alone identification document for dependents, unless they are from Canada or Mexico, or are dependents of U.S. military personnel stationed overseas. In these cases, applicants will be required to submit at least one of the following original documents in addition to the passport to prove U.S. residency.

- **If under 6 years of age:** A U.S. medical record, U.S. school record, or U.S. state identification card that lists the applicant's name and U.S. address, or a U.S. visa.
- **If at least 6 years of age but under 18 years of age:** A U.S. school record, U.S. state identification card or driver's license that lists the applicant's name and U.S. address, or a U.S. visa.
- **If 18 years of age or older:** A U.S. school record, rental statement from a U.S. property, utility bill for a U.S. property, or a U.S. bank statement, U.S. state identification card or driver's license that lists the applicant's name and U.S. address, or a U.S. visa.

If you check box d for a dependent of a U.S. citizen or resident alien, then you may submit an original valid passport (or a certified copy from the issuing agency) without any other documents to prove your "foreign status" or "identity" only if the passport has a date of entry into the United States. Otherwise, you must submit one of the additional documents listed earlier in the "Supporting Documentation" table with your passport to prove residency. If you don't have one of the additional documents listed earlier in the "Supporting Documentation" table to submit with your passport, you can't use your passport as a stand-alone supporting document and must submit at least two

types of documents listed in the "Supporting Documentation" table that prove residency, identity, and foreign status, and that meet the photograph requirement explained earlier.

Additional Documentation Requirements

Civil birth certificate. An original birth certificate is required if the applicant is under age 18 and hasn't provided a valid passport. Civil birth certificates are considered current at all times because they don't contain an expiration date.

Passports and national identification cards. These documents will be considered current only if their expiration date hasn't passed prior to the date the Form W-7 is submitted.

Note. Certified copies of a passport from the issuing agency must include the U.S. visa pages if a visa is required for your Form W-7 application.

Medical records. Medical records will be accepted for dependents under 6 years of age. A medical record consists only of a shot/immunization record that documents the patient's name and chronological dates of the patient's medical history and care. The medical record must contain the child's name, date of birth, and verifiable address. Shot/immunization records will be accepted only if they document the applicant's name and chronological dates of the applicant's medical history and care. In addition, the medical record must document the name, address, and phone number of the doctor, hospital, or clinic where treatment was last administered. If this information isn't printed on the medical record, the medical record must be accompanied by a dated letter providing the required information on official letterhead from the federal authority, physician, hospital, or clinic that administered the latest care of the child. The medical record must be dated no more than 12 months before the date of the Form W-7 application. If the passport doesn't have a date of entry into the United States, the medical record must be from a U.S. facility, unless the applicant is a dependent of U.S. military personnel stationed overseas or is from Canada or Mexico and the applicant is claimed for an allowable tax benefit.

School records. School records will be accepted only if they are for a school term ending no more than 12 months from the date of the Form W-7 application. The school record must consist of an official report card or transcript issued by the school or the equivalent of a Ministry of Education. The school record must also be signed by a school official or ministry official. The record must be dated and contain the student's name, coursework with grades (unless under age 6), date of grading period(s) (unless under age 6) for a term ending no more than 12 months from the date of the Form W-7 application, and school name and address. If the passport doesn't have a date of entry into the United States, the school record must be from a U.S. facility, unless the applicant is a dependent of U.S. military personnel stationed overseas or is from Canada or Mexico and the applicant is claimed for an allowable tax benefit.

How To Apply

Follow the guidelines below if you're applying for a new ITIN or renewing an existing ITIN.



For your convenience, you can access fillable Form W-7 at [IRS.gov/pub/irs-pdf/fw7.pdf](https://irs.gov/pub/irs-pdf/fw7.pdf), complete, print, then sign the Form W-7.


Note. Keep a copy of your application for your records.

Applying for an ITIN for the first time. If you've never had an ITIN before and are submitting an application for a new ITIN, include the following in your **Application Package**.

1. Your completed Form W-7.


Note. If you submit a Form W-7, all future ITIN notices and correspondence that you receive will be in English. If you prefer to receive them in Spanish, submit Form W-7(SP).

2. Your original tax return(s) for which the ITIN is needed. Attach Form W-7 to the front of your tax return. If you're applying for more than one ITIN for the same tax return (such as for a spouse or dependent(s)), attach all Forms W-7 to the same tax return. Leave the area of the SSN blank on the tax return for each person who is applying for an ITIN. After your Forms W-7 have been processed, the IRS will assign an ITIN to the return and process the return.

 **TIP** There are exceptions to the requirement to include a U.S. federal tax return. If you claim one of these exceptions, you must submit the documentation required instead of a tax return. See [Exceptions Tables](#), later.


3. Original documents, or certified copies of these documents from the issuing agency, required to support the information provided on Form W-7. The required supporting documentation must be consistent with each applicant's information provided on Form W-7. For example, the name, date of birth, and country(ies) of citizenship shown in the documentation must be the same as on Form W-7, lines 1a, 1b, 4, and 6a. See [Supporting Documentation Requirements](#), earlier, for a list of the documents to be submitted with your application package.

Renewal of an existing ITIN. If your ITIN has expired and the ITIN will be included on a U.S. federal tax return, follow the guidelines below to submit your renewal application. If your ITIN won't be included on a U.S. federal tax return, you don't need to renew your ITIN at this time.

 **CAUTION** If you don't renew the expired ITIN and you file a U.S. federal tax return with the expired ITIN, there may be a delay in processing your tax return.

Include the following in your **Renewal Application Package**.

1. Your completed Form W-7. You must check a box to indicate the reason you're completing the Form W-7 even if you're applying to renew your ITIN.
2. Your original tax return(s) for which the ITIN is listed. Attach Form W-7 to the front of your tax return. If you're renewing more than one ITIN for the same tax return (such as for a spouse or dependent(s)), attach all Forms W-7 to the same tax return. After your Forms W-7 have been processed, the IRS will process the return.
3. Original documents, or certified copies of these documents from the issuing agency, required to support the information provided on Form W-7. The required supporting documentation must be consistent with each applicant's information provided on Form W-7. For example, the name, date of birth, and country(ies) of citizenship shown in the documentation must be the same as on Form W-7, lines 1a, 1b, 4, and 6a. See [Supporting Documentation Requirements](#), earlier, for a list of the documents to be submitted with your renewal application package.

 **CAUTION** Spouses and dependents who renew their ITIN to be claimed for an allowable tax benefit must be listed on an attached U.S. federal tax return with the schedule or form that applies to the allowable benefit or, in the case of the credit for other dependents, the box next to their name must be checked on the attached tax return.

Certified copies. You can submit copies of original documents if you do any of the following.

- Have the copies certified by the issuing agency.
- Have the officers at U.S. embassies and consulates overseas provide certification and authentication services. Contact the

Consular Section, American Citizens Services of the U.S. Embassy or Consulate in advance to determine the hours of operation for these services.


Deceased taxpayers. When requesting an ITIN for a deceased taxpayer, the deceased must meet all of the requirements established to get an ITIN. Also, you must write "Deceased" and the date of death across the top of the Form W-7 and include the documentation shown in the following chart.

IF you're:	THEN you must include:
The surviving spouse filing an original or amended joint return with their deceased spouse	<ul style="list-style-type: none">• Form W-7,• A U.S. individual income tax return, and• Documentation substantiating the identity and foreign status of the deceased.
The court-appointed executor or administrator of the deceased's estate filing an original tax return on behalf of the deceased	<ul style="list-style-type: none">• Form W-7,• A U.S. individual income tax return,• Documentation substantiating the identity and foreign status of the deceased*, and• A court certificate showing your appointment.
Neither the surviving spouse nor the court-appointed executor or administrator of the deceased's estate	<ul style="list-style-type: none">• Form W-7,• A U.S. individual income tax return,• Documentation substantiating the identity and foreign status of the deceased*,• Form 1310 (if a refund is due), and• A copy of the certificate of death.

* If Form W-7 is for a deceased individual under 18 years of age, one of the documents proving identity, foreign status, and/or U.S. residency must be a birth certificate, unless a passport with a date of entry into the United States is submitted.

ITIN not needed for Forms 4868, 1040-ES, or 1040-ES (NR).


If you're filing an application for an extension of time to file using Form 4868, or making an estimated tax payment using Form 1040-ES or Form 1040-ES (NR), don't file Form W-7 with those forms. Enter "ITIN TO BE REQUESTED" wherever your SSN or ITIN is requested. An ITIN will be issued only after you file a tax return and meet all other requirements.

 **CAUTION** If you attached your tax return to your Form W-7, leave the area of the SSN blank on the new tax return for each person who is applying for an ITIN.

When To Apply

First-time ITIN applications. If you're applying for a new ITIN, complete and attach Form W-7 to the front of your tax return and file your application package with your tax return for which the ITIN is needed on or before the due date for the return. If you're unable to file your tax return by the due date, you must file an application for an extension of time to file by the due date of the return. Failure to timely file the tax return with a complete Form W-7 and required documentation may result in the denial of refundable credits, such as the additional child tax credit (available for tax years prior to 2018) and the American opportunity tax credit, if you otherwise qualify. Don't file your tax return without Form W-7 and required documentation.

If you meet one of the exceptions described in [Exceptions Tables](#) at the end of these instructions, you may complete and submit Form W-7 at any time.

 **CAUTION** You can't electronically file (e-file) a return using an ITIN in the calendar year the ITIN is assigned. If you need to file multiple-year returns, you can attach them all to your Form W-7 and submit them to the IRS using one of the methods described below in [Where To Apply](#). Once your ITIN is assigned, you can e-file returns in the following years. For example, if you apply for and receive an ITIN in 2021, you may not e-file any tax return using that ITIN (including prior-year returns) until 2022.

Renewal ITIN applications. If you're renewing an existing ITIN, you must submit your Form W-7 renewal application with your U.S. federal tax return using one of the methods described below in [Where To Apply](#). Spouses and dependents who renew their ITIN must be listed on an attached U.S. federal tax return with the schedule or form that applies to the allowable tax benefit. If you don't renew your expired ITIN and you file a U.S. federal tax return with the expired ITIN, there may be a delay in processing your tax return.

Where To Apply

By mail. Mail Form W-7, your tax return (if applicable) or other documents required by an exception, and the documentation described under [Supporting Documentation Requirements](#), earlier, to:

Internal Revenue Service
ITIN Operation
P.O. Box 149342
Austin, TX 78714-9342



*If you mail your application, **don't** use the mailing address in the instructions for your tax return (for example, Form 1040-NR). Your tax return will be processed after it is mailed as part of your application package to the address in these instructions.*

By private delivery services. If you use a private delivery service, submit your Form W-7, your tax return (if applicable) or other documents required by an exception, and the documentation described under [Supporting Documentation Requirements](#), earlier, to:

Internal Revenue Service
ITIN Operation
Mail Stop 6090-AUSC
3651 S. Interregional, Hwy 35
Austin, TX 78741-0000

The private delivery service can tell you how to get written proof of the mailing date.

In person. You can apply for your ITIN by visiting designated IRS Taxpayer Assistance Centers (TACs). They can verify original documentation and certified copies of the documentation from the issuing agency for primary and secondary applicants and their dependents. For dependents, TACs can verify passports, national identification cards, and birth certificates. These documents will be returned to you immediately. Service at TACs is by appointment only. Appointments can be scheduled by calling 844-545-5640. See [IRS.gov/W7DocumentVerification](#) for a list of designated TACs that offer ITIN document authentication service. TACs that don't offer ITIN document authentication service will mail the original documents, Form W-7, and the tax return to the IRS Austin Service Center for processing.

Through an acceptance agent. You can also apply through one of the two types of acceptance agents authorized by the IRS.

1. Acceptance Agent (AA).
2. Certifying Acceptance Agent (CAA).

Acceptance Agent (AA). An Acceptance Agent (AA) can help you complete and file Form W-7. To get a list of agents, visit [IRS.gov](#) and enter "acceptance agent program" in the search box. An AA will need to submit original documentation or certified copies of the documentation from the issuing agency to the IRS for all applicants.

Certifying Acceptance Agent (CAA). A Certifying Acceptance Agent (CAA) can verify original documentation and certified copies of the documentation from the issuing agency for primary and secondary applicants and their dependents, except for foreign military identification cards. For dependents, CAAs can **only** verify passports and birth certificates. The CAA will return the documentation immediately after reviewing its authenticity. Taxpayers residing outside of the United States can apply for an ITIN through a CAA.

Processing times. Allow 7 weeks for the IRS to notify you of your ITIN application status (9 to 11 weeks if you submit the application during peak processing periods (January 15 through April 30) or if you're filing from overseas). If you haven't received your ITIN or correspondence at the end of that time, you can call the IRS to find out the status of your application (see [Telephone help](#), earlier).

Specific Instructions

If you're completing this form for someone else, answer the questions as they apply to that individual.

Application Type

Check the applicable box to indicate if you're:

1. a first-time applicant applying for a **new** ITIN, or
2. seeking to **renew** an ITIN that you already have.

If you check *Renew an existing ITIN*, you must answer the question on line 6e and include your ITIN information on line 6f. See the instructions for lines 6e and 6f for more information.

Reason You're Submitting Form W-7

You must check the box to indicate the reason you're completing Form W-7 even if you're applying to renew your ITIN. If more than one box applies to you, check the box that best explains your reason for submitting Form W-7. **A selection must be made in this section.**

Note. If you check box a or f, then box h may also be checked. If applicable, you must also enter the treaty country and treaty article. For more information on treaties, see Pub. 901, U.S. Tax Treaties.

a. Nonresident alien required to get an ITIN to claim tax treaty benefit. Certain nonresident aliens must get an ITIN to claim certain tax treaty benefits even if they don't have to file a U.S. federal tax return. If you check this box to claim the benefits of a U.S. income tax treaty with a foreign country, also check box h. On the dotted line next to box h, enter the appropriate designation for Exception 1 or 2, whichever applies (see [Exception 1](#) and [Exception 2](#), later). Identify the exception by its number, alpha subsection, and category under which you're applying (for example, enter "Exception 1d-Pension Income" or "Exception 2d-Gambling Winnings"). Also, enter the name of the treaty country and treaty article number in the appropriate entry spaces below box h and attach the documents required under whichever exception applies. For more details on tax treaties, see Pub. 901.

b. Nonresident alien filing a U.S. federal tax return. This category includes:

- A nonresident alien who must file a U.S. federal tax return to report income effectively or not effectively connected with the conduct of a trade or business in the United States, and
- A nonresident alien who is filing a U.S. federal tax return only to get a refund. See Pub. 519.



*If you choose reason b, you **must** provide a complete foreign address on line 3.*

c. U.S. resident alien (based on days present in the United States) filing a U.S. federal tax return. A foreign individual living or present in the United States for a certain number of days (that is, meeting the test known as the “substantial presence” test) who doesn’t have permission to work from the USCIS, and is ineligible for an SSN, may still be required to file a U.S. federal tax return. These individuals must check this box and include a date of entry into the United States on line 6d. For information about the substantial presence test, see Pub. 519.

d. Dependent of U.S. citizen/resident alien. This is an individual who can be claimed as a dependent on a U.S. federal tax return and isn’t eligible to get an SSN. Your spouse is never considered your dependent. See Pubs. 501 and 519. Dependents of U.S. military personnel can submit original documents, certified copies or notarized copies of identification documents. A copy of the servicemember’s U.S. military ID will be required or the applicant must be applying from an overseas APO/FPO address. A copy of the servicemember’s U.S. military ID is required to be included with the application if the documents are notarized.

If you’re applying for an ITIN under this category, you **must** provide the relationship (for example, parent, child, grandchild, etc.) of the dependent to the U.S. citizen/resident alien. Enter the information on the dotted line in the space provided.

Also, if you’re applying for an ITIN under this category, you **must** provide the **full name and SSN or ITIN** of the U.S. citizen/resident alien. Enter the information on the dotted line in the space provided and include a date of entry into the United States on line 6d, unless the applicant is a dependent of U.S. military personnel stationed overseas **or** is from Canada or Mexico and the applicant is claimed for an allowable tax benefit.

Note. If you live abroad and requested an adoption taxpayer identification number (ATIN) for a foreign child you adopted or who has been legally placed in your home pending adoption and that request was denied, your dependent may be eligible for an ITIN. When submitting your Form W-7, make sure that you include a copy of the legal documents verifying your relationship to the child.



Dependents can be claimed as personal exemptions only for tax years prior to 2018. However, the credit for other dependents (ODC) for your child and other qualifying relatives (excluding your spouse) who live in the United States may be available. See the instructions for your U.S. federal tax return for more information.

e. Spouse of U.S. citizen/resident alien. This category includes:

- A resident or nonresident alien spouse who isn’t filing a U.S. federal tax return (including a joint return) and who isn’t eligible to get an SSN but who, as a spouse, is claimed as an exemption; and
- A resident or nonresident alien spouse who isn’t eligible to get an SSN but who is electing to file a U.S. federal tax return jointly with a spouse who is a U.S. citizen or resident alien. For more information about this category, see Pubs. 501 and 519.

Spouses of U.S. military personnel can submit original documents, certified copies, or notarized copies of identification documents. A copy of the servicemember’s U.S. military ID will be required or the applicant must be applying from an overseas APO/FPO address. A copy of the servicemember’s U.S. military ID is required to be included with the application if the documents are notarized.

If you’re applying for an ITIN under this category, you **must** provide the **full name and SSN or ITIN** of the U.S. citizen/resident alien. Enter the information on the dotted line in the space provided.



A spouse can be claimed as a personal exemption only for tax years prior to 2018.

f. Nonresident alien student, professor, or researcher filing a U.S. federal tax return or claiming an exception. This is an individual who hasn’t abandoned his or her residence in a foreign country and who is a bona fide student, professor, or researcher coming temporarily to the United States solely to attend classes at a recognized institution of education, to teach, or to perform research. For more information about the U.S. tax rules that apply to foreign students, professors, or researchers, see Pub. 519.

If you check this box, you must complete lines 6a, 6c, 6d, and 6g, and provide your passport with a valid U.S. visa. No U.S. visa needs to be provided if the foreign address is Canada, Mexico, or Bermuda. If you’re present in the United States on a work-related visa (F-1, J-1, or M-1), but won’t be employed (that is, your presence in the United States is study related), you can choose to attach a letter from the Designated School Official (DSO) or Responsible Officer (RO) instead of applying to the SSA for an SSN. The letter must clearly state that you won’t be securing employment while in the United States and your presence here is solely study related. This letter can be submitted instead of a Social Security Administration denial letter if you’re filing a tax return with this Form W-7 or claiming [Exception 2](#) (explained later).

Nonresident alien students and exchange visitors, their spouses, and dependents under the Student Exchange Visitors Program (SEVP) claiming Exception 2 (no tax return attached) can have their original ID certified by an SEVP-approved institution, rather than mailing originals to the IRS. These are individuals admitted to the United States under an F, J, or M visa who receive taxable scholarships, fellowships, or other grants.

If you check this box to claim an exception under the benefits of a U.S. income tax treaty with a foreign country, also check box h. On the dotted line next to box h, enter the appropriate designation for [Exception 2](#), explained later. Identify the exception by its number, alpha subsection, and category under which you’re applying (for example, enter “Exception 2b-Scholarship Income and claiming tax treaty benefits” or “Exception 2c-Scholarship Income”). Also, enter the name of the treaty country and the treaty article number in the appropriate entry spaces below box h (if applicable) and attach the documents required under [Exception 2](#).

g. Dependent/spouse of a nonresident alien holding a U.S. visa. This is an individual who can be claimed as a dependent for any tax year, or is a spouse on a U.S. federal tax return for a tax year before 2018, who is unable, or not eligible, to get an SSN, and who has entered the United States with a nonresident alien who holds a U.S. visa. If you apply for an ITIN under this category, remember to attach a copy of your visa to your Form W-7 and include a date of entry into the United States on line 6d.



Dependents and spouses can be claimed as personal exemptions only for tax years prior to 2018.

h. Other. If the reason for your ITIN request isn’t described in boxes a through g, check this box. Describe in detail your reason for requesting an ITIN and attach supporting documents.

Frequently, third parties (such as banks and other financial institutions) that are subject to information-reporting and withholding requirements will request an ITIN from you to enable them to file information returns required by law. If you’re requesting an ITIN for this reason, you may be able to claim one of the exceptions described later. Enter on the dotted line next to box h the exception that applies to you. Identify the exception by its number, alpha subsection (if applicable), and category under

which you're applying (for example, enter "Exception 1a-Partnership Income" or "Exception 3-Mortgage Interest"). Examples of completed Forms W-7 for "Exceptions" can be found in Pub. 1915. You won't need to attach a tax return to your Form W-7.

Exception 1. Passive income—third-party withholding or tax treaty benefits. This exception may apply if you're the recipient of partnership income, interest income, annuity income, rental income, or other passive income that's subject to third-party withholding or covered by tax treaty benefits. See [Exceptions Tables](#), later, for more details on Exception 1.

Information returns applicable to Exception 1 may include the following.

- Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.
- Form 1099-INT, Interest Income.
- Form 1099-MISC, Miscellaneous Information.
- Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax.
- Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc.



Applicants receiving compensation for personal services performed in the United States, or issued a U.S. visa that's valid for employment, should first apply for an SSN with the SSA. Unless you're denied an SSN by the SSA and attach the denial letter to your Form W-7, you aren't eligible for an ITIN.



If you're required to file a federal tax return, then you aren't eligible for Exception 1.

Exception 2. Other income. This exception may apply if:

1. You're claiming the benefits of a U.S. income tax treaty with a foreign country and you receive any of the following.
 - a. Wages, salary, compensation, and honoraria payments;
 - b. Scholarships, fellowships, and grants; and/or
 - c. Gambling income; or
2. You're receiving taxable scholarship, fellowship, or grant income, but not claiming the benefits of an income tax treaty.

See [Exceptions Tables](#), later, for more details on Exception 2. Information returns applicable to Exception 2 may include Form 1042-S.

Exception 3. Mortgage interest—third-party reporting. This exception may apply if you have a home mortgage loan on real property you own in the United States that's subject to third-party reporting of mortgage interest. See [Exceptions Tables](#), later, for more details on Exception 3. Information returns applicable to Exception 3 may include Form 1098, Mortgage Interest Statement.

Exception 4. Dispositions by a foreign person of U.S. real property interest—third-party withholding. This exception may apply if you're a party to a disposition of a U.S. real property interest by a foreign person, which is generally subject to withholding by the transferee or buyer (withholding agent). This exception may also apply if you have a notice of non-recognition under Regulations section 1.1445-2(d)(2). See [Exceptions Tables](#), later, for more details on Exception 4.

Information returns applicable to Exception 4 may include the following.

- Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests.
- Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests.
- Form 8288-B, Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.

Exception 5. Treasury Decision (T.D.) 9363. This exception may apply if you have an IRS reporting requirement as a non-U.S. representative of a foreign corporation who needs to obtain an ITIN for the purpose of meeting their e-filing requirement under T.D. 9363 and you are submitting Form W-7. See [Exceptions Tables](#), later, for more details on Exception 5.

If you're applying for an ITIN under this exception, enter "Exception 5, T.D. 9363" on the dotted line next to box h.

Line Instructions

Enter "N/A" (not applicable) on all sections of each line that don't apply to you. **Don't** leave any section blank. For example, line 4 should have three separate entries.

Line 1a. Enter your legal name on line 1a as it appears on your identifying documents. This entry should reflect your name as it'll appear on a U.S. federal tax return.

Note. If you're renewing your ITIN and your legal name has changed since the original assignment of your ITIN, you'll need to submit documentation to support your legal name change, such as your marriage certificate or a court order, which may include a divorce decree. Attach supporting documentation to Form W-7.



Your ITIN will be established using this name. If you don't use this name on the U.S. federal tax return, the processing of the U.S. federal tax return may be delayed.

Line 1b. Enter your name as it appears on your birth certificate if it's different from your entry on line 1a.

Line 2. Enter your complete mailing address on line 2. This is the address the IRS will use to return your original documents and send written notification of your ITIN application status.

The IRS won't use the address you enter to update its records for other purposes unless you include a U.S. federal tax return with your Form W-7. If you aren't including a U.S. federal tax return with your Form W-7 and you changed your home mailing address since you filed your last U.S. federal tax return, also file Form 8822, Change of Address, with the IRS at the address listed in the Form 8822 instructions.

Note. If the U.S. Postal Service won't deliver mail to your physical location, enter the U.S. Postal Service's post office box number for your mailing address. Contact your local U.S. Post Office for more information. Don't use a post office box owned and operated by a private firm or company.

Line 3. Enter your complete foreign (non-U.S.) address in the country where you permanently or normally reside, even if it's the same as the address on line 2. If you no longer have a permanent foreign residence due to your relocation to the United States, enter only the foreign country where you last resided on line 3. If you're claiming a benefit under an income tax treaty with the United States, the income tax treaty country must be the same as the country listed on line 3.



*If you choose reason b, you **must** provide a complete foreign address on line 3.*



Don't use a post office box or an "in care of" (c/o) address instead of a street address on line 2 if you're entering just a "country" name on line 3. If you do, your application may be rejected.

Line 4. Enter your date of birth in the month/day/year (MM/DD/YYYY) format, where MM = 1 to 12 and DD = 1 to 31. To be eligible for an ITIN, your birth country must be recognized as a foreign country by the U.S. Department of State.

Line 6a. Enter the country or countries (in the case of dual citizenship) in which you're a citizen. Enter the complete country name; don't abbreviate.

Line 6b. If your country of residence for tax purposes has issued you a tax identification number, enter that number on line 6b. For example, if you're a resident of Canada, enter your Canadian social security number (known as the Canadian Social Insurance Number).

Line 6c. Enter only U.S. nonimmigrant visa information. Include the USCIS classification, number of the U.S. visa, and the expiration date in month/day/year format. For example, if you have an F-1/F-2 visa with the number 123456 that has an expiration date of December 31, 2021, enter "F-1/F-2," "123456," and "12/31/2021" in the entry space. Individuals in possession of an I-20/I-94 document(s) should attach a copy to their Form W-7.

Line 6d. Check the box indicating the type of document(s) you're submitting to prove your identity. Enter the name of the state or country or other issuer, the identification number (if any) appearing on the document(s), the expiration date, and the date on which you entered the United States. Dates must be entered in the month/day/year format.

Note. If you're submitting a passport, or a certified copy of a passport from the issuing agency, no other documentation is required to prove your identity and foreign status. Ensure any visa information shown on the passport is entered on line 6c and the pages of the passport showing the U.S. visa (if a visa is required for your Form W-7) are included with your Form W-7. A passport that doesn't have a date of entry into the United States will no longer be accepted as a stand-alone identification document for dependents, unless the dependents are from Canada, Mexico, or are dependents of U.S. military personnel stationed overseas.

If you're submitting more than one document, enter only the information for the first document on this line. Attach a separate sheet showing the required information for the additional document(s). On the separate sheet, be sure to write your name and "Form W-7" at the top.



The "Date of entry into the United States" must contain the complete date on which you entered the country for the purpose for which you're requesting an ITIN (if applicable). If you've never entered the United States, enter "Never entered the United States" on this line. A passport without an entry date doesn't prove U.S. residency and may not be used as a stand-alone document for certain dependents. See [Supporting Documentation Requirements](#), earlier.

Example. You entered the United States on August 1, 2021, to work for Company X. You want to file a return for the income you earned in the United States in 2021. You aren't eligible to get a social security number. You file Form W-7 with your 2021 return. Enter "08/01/2021" as the Date of entry into the United States on line 6d of Form W-7.

Line 6e. If you ever received an ITIN and/or an Internal Revenue Service Number (IRSIN), check the "Yes" box and complete line 6f. If you never had an ITIN or an IRSIN, or if you don't know your ITIN or IRSIN, check the *No/Don't know* box.

An IRSIN is a nine-digit number issued by the IRS to persons who file a return or make a payment without providing a taxpayer identification number. You would've been issued this number if you filed a U.S. federal tax return and didn't have an SSN. This IRSIN will appear on any correspondence the IRS sent you concerning that return.

If you're submitting Form W-7 to renew your ITIN, you must include your previously assigned ITIN on line 6f to avoid delays in processing your Form W-7.

Line 6f. If you have an ITIN and/or an IRSIN, list them in the space(s) provided. Identify your first, middle, and last name under which the ITIN and/or IRSIN was issued. If you were issued more than one IRSIN, attach a separate sheet listing all the IRSINs you received. On the separate sheet, be sure to write your name and "Form W-7" at the top.

If you're submitting Form W-7 to renew your ITIN, the name under which you applied for your ITIN must be included on line 6f to avoid delays in processing your Form W-7.

Note. If you're renewing your ITIN and your legal name has changed since the original assignment of your ITIN, you'll need to submit documentation to support your legal name change, such as your marriage certificate or a court order, which may include a divorce decree. Attach supporting documentation to Form W-7.

Line 6g. If you checked reason f, you must enter the name of the educational institution and the city and state in which it's located. You must also enter your length of stay in the United States.

If you're temporarily in the United States for business purposes, you must enter the name of the company with whom you're conducting your business and the city and state in which it's located. You must also enter your length of stay in the United States.

Signature

Who Can Sign Form W-7

Generally, the applicant is required to sign Form W-7. The following are exceptions to this requirement.

Applicant is a dependent under 18 years of age. If the applicant is a dependent under 18 years of age, his or her parent or court-appointed guardian can sign if the child can't sign. The parent or court-appointed guardian must type or print his or her name in the space provided and check the appropriate box that indicates his or her relationship to the applicant. If the individual is signing as a court-appointed guardian, a copy of the court-appointment papers showing the legal guardianship must be attached.

Adults, other than a parent or court-appointed guardian, can sign Form W-7 only if a Form 2848, Power of Attorney and Declaration of Representative, has been signed by a parent or court-appointed guardian authorizing the individual to sign for the applicant.

Applicant is a dependent 18 years of age or older. If an applicant is 18 years of age or older, the applicant or a court-appointed guardian can sign or appoint a parent or another individual to sign. The individual (if other than the applicant) must type or print their name in the space provided and check the appropriate box that indicates their relationship to the applicant. If the individual is signing as a court-appointed guardian, a copy of the court-appointment papers showing the legal guardianship must be attached. Individuals other than the applicant or a court-appointed guardian must attach a Form 2848 from the applicant or court-appointed guardian authorizing them to sign the Form W-7.



*A spouse **can't** sign for his or her spouse, unless the Power of attorney box is checked and Form 2848 has been attached to Form W-7.*

Applicant can't sign their name. If an applicant can't sign his or her name, then the applicant must sign his or her mark (for example, an "X" or a thumbprint) in the presence of a witness. The witness's signature is also required and must be identified as that of a witness.

Note. All Powers of Attorney (POAs) submitted to the IRS must be in English. Any POAs received in a foreign language will be considered invalid unless accompanied by a certified English translation. The POA must clearly state the purpose for which it's intended under the *Acts authorized* section. For more information, go to IRS.gov.

Acceptance Agent's Use ONLY

Complete all fields as appropriate and enter the eight-digit office code that was issued to you by the ITIN Program Office.

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 Internal Revenue Code section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

Exceptions Tables

Exception #1		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
Third-Party Withholding on Passive Income	Persons who are eligible to claim Exception 1 include:	Documentation you must submit if you're eligible to claim Exception 1:
	1(a) Individuals who are partners of a U.S. or foreign partnership that invests in the United States and that owns assets that generate income subject to IRS information-reporting and federal tax withholding requirements; or	1(a) A copy of the portion of the partnership or LLC agreement displaying the partnership's employer identification number and showing that you're a partner in the partnership that's conducting business in the United States.
	1(b) Individuals who have opened an interest-bearing bank deposit account that generates income that's effectively connected with their U.S. trade or business and is subject to IRS information reporting and/or federal tax withholding; or	1(b) An original signed letter from the bank on its official letterhead, displaying your name and stating that you've opened a business account that's subject to IRS information reporting and/or federal tax withholding on the interest generated during the current tax year.
	1(c) Individuals who are "resident aliens" for tax purposes and have opened an interest-bearing bank deposit account that generates income subject to IRS information reporting and/or federal tax withholding; or	1(c) An original signed letter from the bank on its official letterhead, displaying your name and stating that you've opened an individual deposit account that's subject to IRS information reporting and/or federal tax withholding on the interest generated during the current tax year.
	1(d) Individuals who are receiving distributions during the current tax year of income such as pensions, annuities, rental income, royalties, dividends, etc., and are required to provide an ITIN to the withholding agent (for example, an investment company, insurance company, financial institution, etc.) for the purposes of tax withholding and/or reporting requirements.	1(d) An original document or signed letter from the withholding agent, on official letterhead, showing your name and verifying that an ITIN is required to make distributions to you during the current tax year that are subject to IRS information reporting and/or federal tax withholding. Self-generated income statements will only be accepted with a copy of the contract or a letter with a postmarked envelope addressed from the withholding agent.

Exception #2		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
2(a). Wages, Salary, Compensation, and Honoraria Payments	Persons who are eligible to claim Exception 2(a) include:	Documentation you must submit if you're eligible to claim Exception 2(a):
<i>Claiming the benefits of a tax treaty</i>	<p>Individuals claiming the benefits of a tax treaty who:</p> <ul style="list-style-type: none"> Are either exempt or subject to a reduced rate of withholding of tax on their wages, salary, compensation, and honoraria payments; <p style="text-align: center;">and</p> <ul style="list-style-type: none"> Will be submitting Form 8233 to the payer of the income. 	<ul style="list-style-type: none"> An original letter of employment from the payer of the income; or A copy of the employment contract; or A letter requesting your presence for a speaking engagement, etc.; <p style="text-align: center;">along with:</p> <ul style="list-style-type: none"> Evidence (information) on the Form W-7 that you're entitled to claim the benefits of a tax treaty, and A copy of the completed withholding agent's portion of Form 8233 attached to Form W-7.

Exceptions Tables (continued)

Exception #2 (continued)		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
2(b). Scholarships, Fellowships, and Grants	Persons who are eligible to claim Exception 2(b) include:	Documentation you must submit if you're eligible to claim Exception 2(b):
<p><i>Claiming the benefits of a tax treaty</i></p>	<p>Individuals claiming the benefits of a tax treaty who:</p> <ul style="list-style-type: none"> • Are either exempt from or subject to a reduced rate of tax on their income from scholarships, fellowships, or grants (that is, foreign students, scholars, professors, researchers, foreign visitors, or any other individual); <p style="text-align: center;">and</p> <ul style="list-style-type: none"> • Will be submitting Form W-8BEN to the withholding agent. <p>Note. Student and Exchange Visitor Program (SEVP)-approved institutions for nonresident alien students and exchange visitors and their spouses and dependents classified under section 101(a)(15)(F), (M), or (J) of the Immigration and Nationality Act {8 U.S.C. 1101(a)(15)(F), (M), or (J)}: A certification letter is required for each Form W-7 application: primary, associated secondary (spouse), and dependent(s).¹</p> <p>¹ The original certification letter from an SEVP-approved institution serves as a substitute for submission of original supporting identification documents with Form W-7. The certification letter must:</p> <ul style="list-style-type: none"> • Be on original, official college, university, or institution letterhead with a verifiable address; • Provide the applicant's full name and Student Exchange Visitor's Information System (SEVIS) number; • Certify the applicant's registration in SEVIS; • Certify that the student presented an unexpired passport, visa, or other identification documents for review (Exception: a U.S. visa isn't required if the foreign address is in Canada or Mexico); • List the identification documents provided to verify identity and foreign status; • Be signed and dated by a SEVIS official: Principal Designated School Official (PDSO), Designated School Official (DSO), Responsible Officer (RO), or Alternate Responsible Officer (ARO) of a certified school exchange program with a verifiable contact telephone number; • Attach copies of documents used to verify the applicant's identity and foreign status from the approved list of documents presented in the Form W-7 instructions (passport must include a copy of the valid visa issued by the U.S. Department of State). A U.S. visa isn't required if the foreign address is in Canada or Mexico; • Attach a copy of Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status and/or a copy of Form I-20, Certificate of Eligibility for Nonimmigrant Student Status; • Form W-7 must include the treaty country and article number that supports claiming a tax treaty benefit; and • Include a letter from the DSO or RO stating that the applicant won't be securing employment in the United States or receiving any type of income from personal services. 	<ul style="list-style-type: none"> • An original letter or official notification from the college or university awarding the noncompensatory scholarship, fellowship, or grant; or • A copy of a contract with a college, university, or educational institution; <p style="text-align: center;">along with:</p> <ul style="list-style-type: none"> • An original or copy certified by the issuing agency of passport showing the valid visa issued by the U.S. Department of State, • Evidence (information) on the Form W-7 that you're entitled to claim the benefits of a tax treaty, • A copy of the Form W-8BEN that was submitted to the withholding agent, and • A letter from the Social Security Administration² stating that you're ineligible to receive a social security number (SSN). <p>² If you're a student on an F-1, J-1, or M-1 visa who won't be working while studying in the United States, you won't have to apply for an SSN. You will be permitted to provide a letter from the Designated School Official (DSO) or Responsible Officer (RO) stating that you won't be securing employment in the United States or receiving any type of income from personal services.</p>

Exceptions Tables (continued)

Exception #2 (continued)		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
2(c). Scholarships, Fellowships, and Grants	Persons who are eligible to claim Exception 2(c) include:	Documentation you must submit if you're eligible to claim Exception 2(c):
<p><i>Not claiming benefits of a tax treaty</i></p>	<p>Individuals (that is, foreign students, scholars, professors, researchers, or any other individuals) receiving noncompensatory income from scholarships, fellowships, or grants that's subject to IRS information-reporting and/or withholding requirements during the current year.</p> <p>Note. Student and Exchange Visitor Program (SEVP)-approved institutions for nonresident alien students and exchange visitors and their spouses and dependents classified under section 101(a)(15)(F), (M), or (J) of the Immigration and Nationality Act {8 U.S.C. 1101(a)(15)(F), (M), or (J)}: A certification letter is required for each Form W-7 application: primary, associated secondary (spouse), and dependent(s).¹</p> <p>¹ The original certification letter from an SEVP-approved institution serves as a substitute for submission of original supporting identification documents with Form W-7. The certification letter must:</p> <ul style="list-style-type: none"> • Be on original, official college, university, or institution letterhead with a verifiable address; • Provide the applicant's full name and Student Exchange Visitor's Information System (SEVIS) number; • Certify the applicant's registration in SEVIS; • Certify that the student presented an unexpired passport, visa, or other identification documents for review (Exception: a U.S. visa isn't required if the foreign address is in Canada or Mexico); • List the identification documents provided to verify identity and foreign status; • Be signed and dated by a SEVIS official: Principal Designated School Official (PDSO), Designated School Official (DSO), Responsible Officer (RO), or Alternate Responsible Officer (ARO) of a certified school exchange program with a verifiable contact telephone number; • Attach copies of documents used to verify the applicant's identity and foreign status from the approved list of documents presented in the Form W-7 instructions (passport must include a copy of the valid visa issued by the U.S. Department of State). A U.S. visa isn't required if the foreign address is in Canada or Mexico; • Attach a copy of Form DS-2019, Certificate of Eligibility for Exchange Visitor (J-1) Status and/or a copy of Form I-20, Certificate of Eligibility for Nonimmigrant Student Status; • Form W-7 must include the treaty country and article number that supports claiming a tax treaty benefit; and • Include a letter from the DSO or RO stating that the applicant won't be securing employment in the United States or receiving any type of income from personal services. 	<ul style="list-style-type: none"> • An original letter or official notification from the educational institution (that is, college or university) awarding the noncompensatory scholarship, fellowship, or grant; or • A copy of a contract with a college, university, or educational institution; <p>along with:</p> <ul style="list-style-type: none"> • An original or copy certified by the issuing agency of passport showing a valid visa issued by the U.S. Department of State (a U.S. visa isn't required if the foreign address is in Canada or Mexico); • An original letter from the DSO or RO stating that you're receiving noncompensatory income from scholarships, fellowships, or grants that's subject to IRS information-reporting and/or federal tax withholding requirements during the current year (this letter must be attached to your Form W-7 or your application for an ITIN will be denied); and • A letter from the Social Security Administration² stating that you're ineligible to receive a social security number (SSN). <p>² If you're a student on an F-1, J-1, or M-1 visa who won't be working while studying in the United States, you won't have to apply for an SSN. You will be permitted to provide a letter from the DSO or RO stating that you won't be securing employment in the United States or receiving any type of income from personal services.</p>

Exception #2 (continued)		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
2(d). Gambling Income	Persons who are eligible to claim Exception 2(d) include:	Documentation you must submit if you're eligible to claim Exception 2(d):
<p><i>Claiming the benefits of a tax treaty</i></p>	<p>Nonresident aliens visiting the United States who:</p> <ul style="list-style-type: none"> • Have gambling winnings, • Are claiming the benefits of a tax treaty for an exempt or reduced rate of federal tax withholding on that income, and • Will be utilizing the services of a gaming official as an IRS ITIN Acceptance Agent. 	<p>Your Form W-7, which must be submitted through the services of an appropriate gaming official serving as an IRS ITIN Acceptance Agent to apply for an ITIN under Exception 2(d).</p> <p>Note. If you don't secure the services of a gaming official, you may still file Form 1040-NR at the end of the tax year with a Form W-7, attaching a copy of Form 1042-S displaying the amount of tax withheld. Your Form 1040-NR should also display the tax treaty article number and country under which you're claiming the treaty benefits.</p>

Exceptions Tables (continued)

Exception #3		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
Third-Party Reporting of Mortgage Interest	Persons who are eligible to claim Exception 3 include:	Documentation you must submit if you're eligible to claim Exception 3:
	Individuals with a home mortgage loan on real property located in the United States.	<ul style="list-style-type: none"> Documentation showing evidence of a home mortgage loan. This includes a copy of the contract of sale or similar documentation showing evidence of a home mortgage loan on real property located in the United States.

Exception #4		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
Third-Party Withholding—Disposition by a Foreign Person of U.S. Real Property Interest	Persons who are eligible to claim Exception 4 include:	Documentation you must submit if you're eligible to claim Exception 4:
	An individual who is a party to the disposition of U.S. real property interest by a foreign person (buyer or other transferee such as a withholding agent) or notice of non-recognition ¹ under Regulations section 1.1445-2(d)(2) from the transferor.	<ul style="list-style-type: none"> A completed Form 8288, Form 8288-A, or Form 8288-B; and A copy of the real estate sales contract, Settlement Statement (HUD-1), or Closing Disclosure. In the case of notice of non-recognition¹, document(s) that evidence a transaction for which a notice of non-recognition is applicable. <p>Note. For the seller of the property, copies of the sales contract, Settlement Statement (HUD-1), or Closing Disclosure, and copies of Forms 8288 and 8288-A submitted by the buyer need to be attached to Form W-7.</p> <p>¹ For notices of non-recognition, the document must show the date of the transaction, the parties involved, and the type of transfer that took place. For example, for transfers involving real estate, valid documents include the deed, Direction to Convey form, or a document that identifies the replacement property in a like-kind exchange. For transfers involving stock, an example of a valid document is the document that facilitates the transaction.</p>

Exception #5		
Note. Federal tax withholding and/or information reporting must take place within the current tax year.		
Reporting Obligations under T.D. 9363	Persons who are eligible to claim Exception 5 include:	Documentation you must submit if you're eligible to claim Exception 5:
	A non-U.S. representative of a foreign corporation who needs to obtain an ITIN for the purpose of meeting their e-filing requirements.	<ul style="list-style-type: none"> Along with your Form W-7, include an original signed letter from your employer on corporate letterhead stating that an ITIN is needed for T.D. 9363, and you have been designated as the person responsible for ensuring compliance with IRS information-reporting requirements.



Substantial Presence Test

You will be considered a United States resident for tax purposes if you meet the substantial presence test for the calendar year. To meet this test, you must be physically present in the United States (U.S.) on at least:

1. 31 days during the current year, and
2. 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
 - All the days you were present in the current year, and
 - 1/3 of the days you were present in the first year before the current year, and
 - 1/6 of the days you were present in the second year before the current year.

Example:

You were physically present in the U.S. on 120 days in each of the years 2019, 2020 and 2021. To determine if you meet the substantial presence test for 2021, count the full 120 days of presence in 2021, 40 days in 2020 (1/3 of 120), and 20 days in 2019 (1/6 of 120). Since the total for the 3-year period is 180 days, you are not considered a resident under the substantial presence test: for 2021.

Days of Presence in the United States

You are treated as present in the U.S. on any day you are physically present in the country, at any time during the day. However, there are exceptions to this rule. Do not count the following as days of presence in the U.S. for the substantial presence test:

- Days you commute to work in the U.S. from a residence in Canada or Mexico if you regularly commute from Canada or Mexico.
- Days you are in the U.S. for less than 24 hours, when you are in transit between two places outside the United States.
- Days you are in the U.S. as a crew member of a foreign vessel.
- Days you are unable to leave the U.S. because of a medical condition that develops while you are in the United States.
- Days you are an exempt individual (see below).

For details on days excluded from the substantial presence test for other than exempt individuals, refer to [Publication 519, U.S. Tax Guide for Aliens](#).

Individuals Topic

- Tools
- Taxpayer Advocate
- Affordable Care Act

Online Tools & Updates

- International Taxpayers Videos
- International Taxpayers Press Releases
- International Taxpayers Interactive Tools

The term United States (U.S.) includes the following areas:

- All 50 states and the District of Columbia.
- The territorial waters of the United States.
- The seabed and subsoil of those submarine areas that are adjacent to U.S. territorial waters and over which the United States has exclusive rights under international law to explore and exploit natural resources.

The term does not include U.S. territories or U.S. airspace.

Exempt Individual

Do not count days for which you are an exempt individual. The term "exempt individual" does **not** refer to someone exempt from U.S. tax, but to anyone in the following categories:

- An individual temporarily present in the U.S. as a [foreign government-related individual](#) under an "A" or "G" visa, other than individuals holding "A-3" or "G-5" class visas.
- A [teacher or trainee](#) temporarily present in the U.S. under a "J" or "Q" visa, who substantially complies with the requirements of the visa.
- A [student](#) temporarily present in the U.S. under an "F," "J," "M," or "Q" visa, who substantially complies with the requirements of the visa.
- A [professional athlete](#) temporarily in the U.S. to compete in a charitable sports event.

If you exclude days of presence in the U.S. for purposes of the substantial presence test because you were an exempt individual or were unable to leave the U.S. because of a medical condition or medical problem, you must include [Form 8843, Statement for Exempt Individuals and Individuals With a Medical Condition](#), with your income tax return. If you do not have to file an income tax return, send Form 8843 to the address indicated in the instructions for Form 8843 by the due date for filing an income tax return.

If you do not timely file Form 8843, you cannot exclude the days you were present in the U.S. as an exempt individual or because of a medical condition that arose while you were in the U.S. This does not apply if you can show, by clear and convincing evidence that you took reasonable actions to become aware of the filing requirements and significant steps to comply with those requirements.

Closer Connection Exception to the Substantial Presence Test

Even if you met the substantial presence test you can still be treated as a nonresident of the United States for U.S. tax purposes if you qualify for one of the following exceptions:

1. The closer connection exception. Please refer to [Closer Connection Exception to the Substantial Presence Test](#).

2. The closer connection exception available only to students. Please refer to [The Closer Connection Exception to the Substantial Presence Test for Foreign Students](#).

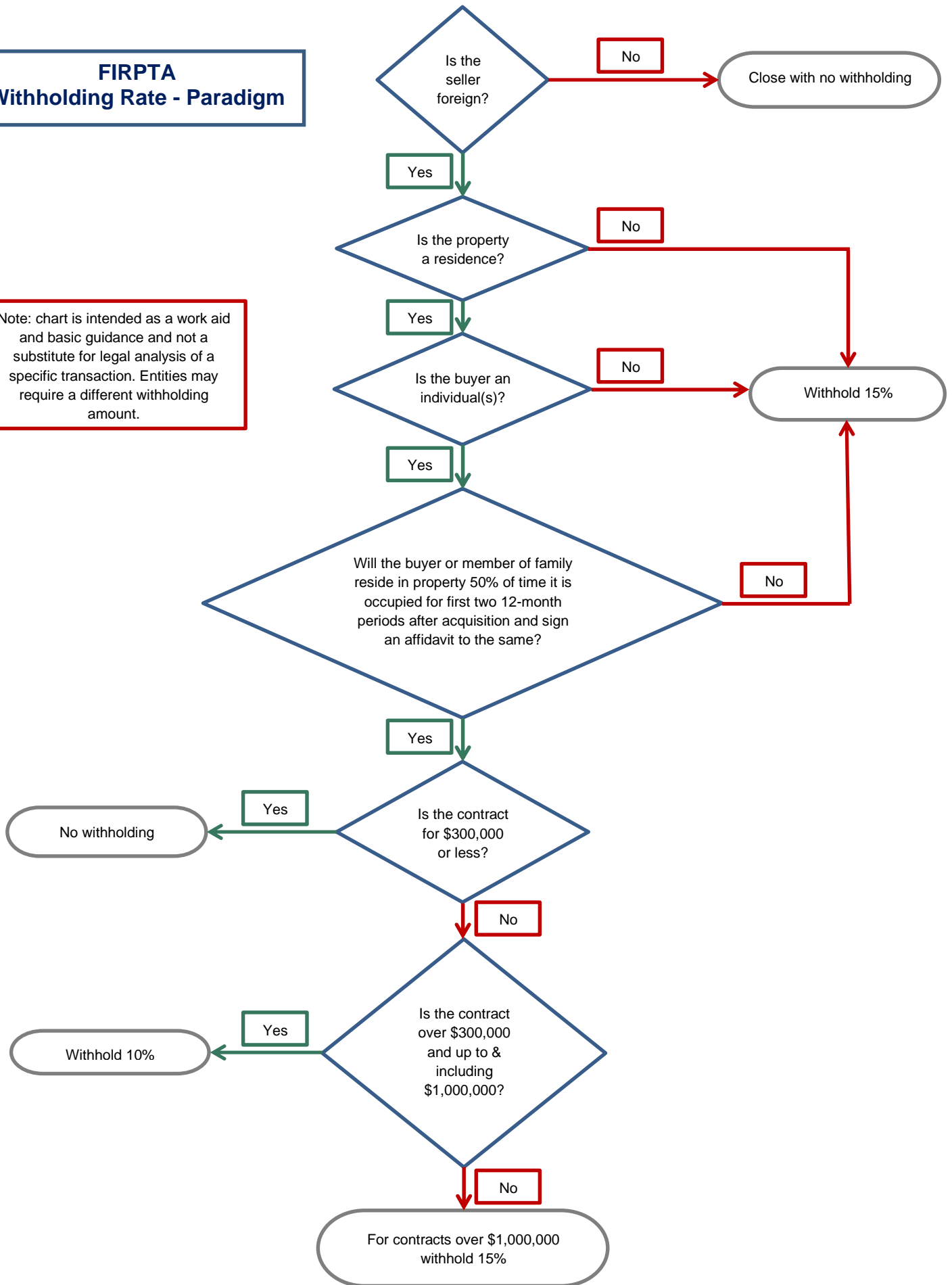
References/Related Topics

- [Determining an Individual's Tax Residency Status](#)

Page Last Reviewed or Updated: 27-Jul-2022

FIRPTA Withholding Rate - Paradigm

Note: chart is intended as a work aid and basic guidance and not a substitute for legal analysis of a specific transaction. Entities may require a different withholding amount.



U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons

Go to www.irs.gov/Form8288 for instructions and the latest information.

OMB No. 1545-0902

If this is a corrected return, check here ☐

Complete the withholding agent information and Part I through Part V, as applicable. Also, complete and attach Copies A and B of Form(s) 8288-A or Copy A or B, as applicable, of Form(s) 8288-C. Attach additional sheets if you need more space.

Note: Report only one disposition on each Form 8288 filed.

Withholding Agent Information

1a Name of buyer or other party responsible for withholding. See instructions.	b U.S. taxpayer identification number (TIN)
c Street address, apt. or suite no., or rural route. Do not use a P.O. box.	
d City or town, state or province, country, and ZIP or foreign postal code	e Phone number (optional)
2 Description and location of the U.S. real property interest acquired, transferred or distributed, or description of transferred partnership interest. See instructions.	
3 Date of transfer	4 Date of withholding certificate or date of distribution (see instructions)
5 Number of Forms 8288-A or 8288-C attached	

Part I To Be Completed by the Buyer or Other Transferee Required To Withhold Under Section 1445(a)

6 Amount subject to withholding	6 \$	
7 Withholding tax liability. Multiply line 6 by the applicable withholding rate on line 7a or 7b. Otherwise, check the box on line 7c.		
a 10% (0.10)	7a \$	
b 15% (0.15)	7b \$	
c Withholding at an adjusted amount (see instructions) <input type="checkbox"/>	7c \$	
8 Amount withheld	8 \$	

Part II To Be Completed by an Entity Subject to the Provisions of Section 1445(e)

9 Large trust election to withhold at distribution (see instructions) <input type="checkbox"/>		
10 Amount subject to withholding	10 \$	
11 Withholding tax liability. Multiply line 10 by the applicable withholding rate on line 11a, 11b, or 11c. Otherwise, check the box on line 11d.		
a 10% (0.10)	11a \$	
b 15% (0.15)	11b \$	
c 21% (0.21) (or 35% (0.35) for distributions made before January 1, 2018)	11c \$	
d Withholding at an adjusted amount (see instructions) <input type="checkbox"/>	11d \$	
12 Amount withheld	12 \$	

Part III To Be Completed by Buyer/Transferee Required To Withhold Under Section 1446(f)(1)

13 Amount subject to withholding	13 \$	
14 Withholding tax liability. Multiply line 13 by the applicable withholding rate on line 14a or check the box on line 14b.		
a 10% (0.10)	14a \$	
b Withholding at an adjusted amount (see instructions) <input type="checkbox"/>	14b \$	
15 Amount withheld	15 \$	

Part IV To Be Completed by the Partnership Required To Withhold Under Section 1446(f)(4)**16 Partnership distributions.** Complete the following items.

a	Total number of distributions	16a		
b	Total amount of distributions	16b	\$	
c	Total amount of other withholding	16c	\$	
17	Transferee's liability under section 1446(f)(1) (if known)	17	\$	
18	Total amounts withheld	18	\$	

Part V To Be Completed by Buyer/Transferee Claiming a Refund of Withholding Under Section 1446(f)(4)

19	Amount subject to withholding	19	\$	
20	Amount withheld (see instructions)	20	\$	
21	Withholding tax liability. Multiply line 19 by the applicable withholding rate on line 21a or check the box on line 21b.			
a	10% (0.10)	21a	\$	
b	Withholding at an adjusted amount (see instructions) <input type="checkbox"/>	21b	\$	
22	Amount of refund requested	22	\$	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of withholding agent, partner, fiduciary, or corporate officer

Title (if applicable)

Date

Paid Preparer Use Only

Print/Type preparer's name

Preparer's signature

Date

Check ☐ if self-employed

PTIN

Firm's name

Firm's EIN

Firm's address

Phone no.

Instructions for Form 8288

(Rev. January 2023)



Department of the Treasury
Internal Revenue Service

(Use with the January 2023 revision of Form 8288)

U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons

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

Contents	Page
What's New	1
Purpose of Form	2
General Instructions for Section 1445	
Withholding	3
Who Must File	3
Amount To Withhold	3
When To File	3
Where To File	3
Forms 8288-A Must Be Attached	3
Penalties	4
Definitions for Section 1445 Withholding	4
Exceptions to Section 1445 Withholding	5
Withholding at a Reduced Rate	5
Withholding Not Required	5
Late Filing of Certification or Notice	7
Liability of Agents	7
Entities Subject to Section 1445(e)	7
Section 1445(e)(1) Transactions	7
Section 1445(e)(2) Transactions	8
Section 1445(e)(3) Transactions	8
Section 1445(e)(4) Transactions	8
Section 1445(e)(5) Transactions	8
Section 1445(e)(6) Transactions	8
General Instructions for Section 1446(f)(1)	
Withholding	8
Who Must File	8
Amount To Withhold	8
When To File	9
Where To File	9
Forms 8288-A Must Be Attached	9
Penalties	9
Definitions for Section 1446(f)(1) Withholding	9
Exceptions to Section 1446(f)(1) Withholding on Transfers of Non-PTP Interests	9
Exceptions	10
Determining the Amount To Withhold	10
Transfers of Partnership Interests Subject to Withholding Under Sections 1445(e)(5) and 1446(f)(1)	11
Liability of Agents	11
General Instructions for Section 1446(f)(4)	
Withholding	11
Who Must File	11
Amount To Withhold	12
When To File	12

Contents	Page
Where To File	12
Form 8288-C Must Be Attached	12
Penalties	12
Exceptions to Section 1446(f)(4) Withholding	12
Withholding under Section 1446(f)(4)	12
Buyer/Transferee Claiming Refund of Section 1446(f)(4) Withholding	13
Specific Instructions for Form 8288	13
Withholding Agent Information	13
Part I—To Be Completed by the Buyer or Other Transferee Required To Withhold Under Section 1445(a)	14
Part II—To Be Completed by an Entity Subject to the Provisions of Section 1445(e)	14
Part III—To Be Completed by Buyer/Transferee Required To Withhold Under Section 1446(f)(1)	14
Part IV—To Be Completed by the Partnership Required To Withhold Under Section 1446(f)(4)	15
Part V—To Be Completed by Buyer/Transferee Claiming a Refund of Withholding Under Section 1446(f)(4)	15
Paid Preparer	16

Future Developments

For the latest information about developments related to Form 8288 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form8288](https://www.irs.gov/Form8288).

What's New

- The Tax Cuts and Jobs Act added section 1446(f), effective January 1, 2018, which generally requires that if any portion of the gain on a disposition of an interest in a partnership would be treated under section 864(c)(8) as gain effectively connected with the conduct of a trade or business in the United States, the transferee purchasing the interest in the partnership from a non-U.S. transferor must withhold a tax equal to 10% of the amount realized on the disposition unless an exception to withholding applies.
- Notice 2018-08, 2018-07 I.R.B. 352, available at [IRS.gov/IRB/2018-07_IRB#NOT-2018-08](https://www.irs.gov/IRB/2018-07_IRB#NOT-2018-08), temporarily suspended the application of section 1446(f) to the transfer of publicly traded partnership (PTP) interests.
- Notice 2018-29, 2018-16 I.R.B. 495, available at [IRS.gov/IRB/2018-16_IRB#NOT-2018-29](https://www.irs.gov/IRB/2018-16_IRB#NOT-2018-29), provided interim guidance under section 1446(f)(1) on withholding

related to transfers of non-PTP interests and temporarily suspended withholding under section 1446(f)(4).

- Proposed regulations under section 1446(f), available at [IRS.gov/IRB/2019-27_IRB#REG-105476-18](https://www.irs.gov/irb/2019-27_IRB#REG-105476-18), were issued on May 7, 2019, for transfers of both non-PTP and PTP interests. During the period that [Notice 2018-29](https://www.irs.gov/irb/2018-29_IRB#NOT-2018-29) applied, instead of applying the rules described in the Notice, taxpayers and other affected persons may choose to apply Regulations sections 1.1446(f)-1, 1.1446(f)-2, and 1.1446(f)-5 of the proposed regulations in their entirety to all transfers as if they were final regulations.
- T.D. 9926, published on November 30, 2020, available at [IRS.gov/IRB/2020-51_IRB#TD-9926](https://www.irs.gov/irb/2020-51_IRB#TD-9926), contains final regulations (the section 1446(f) regulations) relating to withholding and reporting required under section 1446(f)(1), including requirements that apply to brokers effecting transfers of PTP interests and partnership withholding under section 1446(f)(4) (on distributions to a transferee that failed to properly withhold under section 1446(f)(1)). The section 1446(f) regulations also revise certain requirements under section 1446(a) relating to withholding and reporting on distributions made by PTPs.
- The section 1446(f) regulations generally apply to transfers occurring on or after January 29, 2021. However, in accordance with Notice 2021-51, 2021-36 I.R.B. 361, available at [IRS.gov/IRB/2021-36_IRB#NOT-2021-51](https://www.irs.gov/irb/2021-36_IRB#NOT-2021-51), the following provisions of the section 1446(f) regulations apply to transfers occurring on or after January 1, 2023:

- a. Withholding and reporting on transfers of PTP interests,
 - b. The revisions included in the section 1446(f) regulations relating to withholding on PTP distributions under section 1446(a), and
 - c. Partnership withholding under section 1446(f)(4) on distributions to a transferee that failed to properly withhold under section 1446(f)(1).
- To reflect the withholding and reporting requirements under sections 1446(f)(1) and (f)(4), applicable to transfers occurring on or after January 1, 2023, updated Forms 8288 and 8288-A and a new Form 8288-C are being released.
 - These instructions have been updated to incorporate the use of this form for a transferee of a non-PTP interest required to withhold under section 1446(f)(1) on the amount realized from the transfer and for partnership withholding under section 1446(f)(4) on distributions to a transferee that failed to withhold under section 1446(f)(1).
 - The *General Instructions* have been subdivided into three major sections:

- a. The [General Instructions for Section 1445 Withholding](#),
- b. The [General Instructions for Section 1446\(f\)\(1\) Withholding](#), and
- c. The [General Instructions for Section 1446\(f\)\(4\) Withholding](#).

General Instructions

Purpose of Form

Form 8288 is used to report and transmit amounts withheld on certain dispositions and distributions that are

subject to sections 1445 and 1446(f)(1). It is also used to report and transmit amounts withheld under section 1446(f)(4) or to claim a credit or refund for amounts withheld under section 1446(f)(4) for transfers occurring on or after January 1, 2023.

Section 1445 withholding. A withholding obligation under section 1445 is generally imposed on the buyer or other transferee (withholding agent) when a U.S. real property interest (USRPI) is acquired from a foreign person. The withholding obligation also applies to foreign and domestic corporations, qualified investment entities (QIEs), and the fiduciaries of certain trusts and estates that make certain distributions. This withholding serves to collect U.S. tax that may be owed by the foreign person.



If an exception applies, you may be required to withhold at a reduced rate or you may not be required to withhold. See [Exceptions to Section 1445 Withholding](#), later.

Section 1446(f)(1) withholding. Section 1446(f)(1) generally imposes a withholding obligation on the buyer or other transferee (withholding agent) on a transfer of an interest in a partnership (including a distribution made with respect to such interest) by a foreign person (transferor) if:

1. The transferor realized a gain on the sale, and
2. Any portion of the gain would be treated under section 864(c)(8) as effectively connected with the conduct of a trade or business within the United States.



If an exception applies, you may be required to withhold at a reduced rate or you may not be required to withhold. See [Exceptions to Section 1446\(f\)\(1\) Withholding on Transfers of Non-PTP Interests](#), later.

Section 1446(f)(4) withholding. Section 1446(f)(4) generally imposes a withholding obligation on a partnership that makes a distribution with respect to the transferee of a partnership interest that failed to withhold the required amount under section 1446(f)(1). A transferee may claim a refund for the excess amount if the partnership has withheld amounts in excess of the tax and interest owed by the transferee.



If an exception applies, the partnership may not be required to withhold. See [Exceptions to Section 1446\(f\)\(4\) Withholding](#), later.

When not to use Forms 8288 and 8288-A. Do not use Forms 8288 and 8288-A, instead use Forms 1042 and 1042-S to report and pay over these withheld amounts for any of the following.

1. A distribution with respect to gains from the disposition of a USRPI from a trust that is regularly traded on an established securities market is subject to section 1445 but is not reported on Forms 8288 and 8288-A.
2. A dividend distribution by a qualified investment entity (QIE) to a nonresident alien or a foreign corporation that is attributable to gains from sales or exchanges of a USRPI by the QIE. However, a dividend distribution by a QIE is not subject to withholding under section 1445 as a gain from the sale or exchange of a USRPI if:

- a. The distribution is on stock regularly traded on a securities market in the United States, and
- b. The nonresident alien or foreign corporation did not own more than 10% (for dispositions and distributions before December 17, 2015, did not own more than 5% of such stock in the case of a real estate investment trust (REIT)) of that stock at any time during the 1-year period ending on the date of the distribution.

The dividend distribution, however, may be subject to withholding under section 1441 or 1442.

3. A distribution of effectively connected taxable income by a PTP that is subject to the withholding requirements of section 1446(a).
4. The transfer of a PTP interest (including a distribution made with respect to the PTP interest) that is subject to withholding under section 1446(f)(1).

General Instructions for Section 1445 Withholding

A withholding obligation under section 1445 is generally imposed on the buyer or other transferee (withholding agent) when a USRPI is acquired from a foreign person. The withholding obligation also applies to foreign and domestic corporations, QIEs, and the fiduciaries of certain trusts and estates.

Who Must File

A buyer or other transferee of a USRPI must complete and file Part I of Form 8288 to report and transmit the amount withheld. A corporation, QIE, or fiduciary that is required to withhold tax under section 1445(e) must complete and file Part II of Form 8288 to report and transmit the amount withheld. If two or more persons are joint transferees, each is obligated to withhold. However, the obligation of each will be met if one of the joint transferees withholds and transmits the required amount to the IRS.

Amount To Withhold

Generally, you must withhold 15% of the amount realized on the disposition by the [transferor](#), defined later.

Note. Prior to February 17, 2016, the transferor was generally required to withhold 10% of the amount realized on the disposition.

For information about:

- Withholding at 21% (35% for distributions made before January 1, 2018), see [Entities Subject to Section 1445\(e\)](#), later;
- Withholding at a reduced amount, see [Purchase of residence for \\$1 million or less](#); and
- Applying for reduction or elimination of withholding, see [Withholding certificate issued by the IRS](#), later.

Joint transferors. If one or more foreign persons and one or more U.S. persons jointly transfer a USRPI, you must determine the amount subject to withholding in the following manner.

1. Allocate the amount realized from the transfer among the transferors based on their capital contribution to the property. For this purpose, a husband and wife are treated as having contributed 50% each.

2. Withhold on the total amount allocated to foreign transferors.

3. Credit the amount withheld among the foreign transferors as they mutually agree. The transferors must request that the withholding be credited as agreed upon by the 10th day after the date of transfer. If no agreement is reached, credit the withholding by evenly dividing it among the foreign transferors.

When To File

A transferee must file Form 8288 and transmit the tax withheld to the IRS by the 20th day after the date of transfer.

You must withhold even if an application for a withholding certificate is or has been submitted to the IRS on the date of transfer. However, you do not have to file Form 8288 and transmit the withholding until the 20th day after the day the IRS mails you a copy of the withholding certificate or notice of denial. But, if the principal purpose for filing the application for a withholding certificate was to delay paying the IRS the amount withheld, interest and penalties will apply to the period beginning on the 21st day after the date of transfer and ending on the day full payment is made.

Installment payments. You must withhold the full amount at the time of the first installment payment. If you cannot because the payment does not involve sufficient cash or other liquid assets, you may obtain a withholding certificate from the IRS. See the instructions for Form 8288-B for more information.

Where To File

Send Form 8288 with the amount withheld, and copies A and B of Form(s) 8288-A to:

Ogden Service Center
P.O. Box 409101
Ogden, UT 84409

Forms 8288-A Must Be Attached

Anyone who completes Form 8288 must also complete a Form 8288-A for each person subject to withholding. Copies A and B of Form 8288-A must be attached to Form 8288. Copy C is for your records. Multiple Forms 8288-A related to a single transaction can be filed with one Form 8288. You are not required to furnish a copy of Form 8288 or 8288-A directly to the transferor.

The IRS will stamp Copy B of each Form 8288-A and will forward the stamped copy to the foreign person subject to withholding at the address shown on Form 8288-A. To receive credit for the withheld amount, the transferor must generally attach the stamped Copy B of Form 8288-A to a U.S. income tax return (for example, Form 1040-NR or 1120-F) or application for early refund filed with the IRS.

Transferor's taxpayer identification number (TIN) missing. If you do not have the transferor's TIN, you must still file Forms 8288 and 8288-A. A stamped copy of Form 8288-A will not be provided to the transferor if the transferor's TIN is not included on that form. The IRS will send a letter to the transferor requesting the TIN and

providing instructions for how to get a TIN. When the transferor provides the IRS with a TIN, the IRS will provide the transferor with a stamped Copy B of Form 8288-A.

Penalties

Under section 6651, penalties apply for failure to file Form 8288 when due and for failure to pay the withholding when due. In addition, if you are required to but do not withhold tax under section 1445, the tax, including interest, may be collected from you. Under section 7202, you may be subject to a penalty of up to \$10,000 for willful failure to collect and pay over the tax. Corporate officers or other responsible persons may be subject to a penalty under section 6672 equal to the amount that should have been withheld and paid over to the IRS.

Definitions for Section 1445 Withholding

Agent. An agent is any person who represents the transferor or transferee in any negotiation with another person (or another person's agent) relating to the transaction or in settling the transaction.

Amount realized. The sum of the cash paid or to be paid (not including interest or original issue discount), the fair market value of other property transferred or to be transferred, and the amount of any liability assumed by the transferee or to which the USRPI is subject immediately before and after the transfer. Generally, the amount realized for purposes of this withholding is the sales or contract price.

Date of transfer. The first date on which consideration is paid or a liability is assumed by the transferee. However, for purposes of sections 1445(e)(2), (3), and (4), and Regulations sections 1.1445-5(c)(1)(iii) and 1.1445-5(c)(3), the date of transfer is the date of distribution that creates the obligation to withhold. Payment of consideration does not include the payment before passage of legal or equitable title of earnest money (other than pursuant to an initial purchase contract), a good-faith deposit, or any similar amount primarily intended to bind the parties to the contract and subject to forfeiture. A payment that is not forfeitable may also be considered earnest money, a good-faith deposit, or a similar sum.

Domestically controlled QIE. A QIE is domestically controlled if at all times during the testing period less than 50% in value of its stock was held, directly or indirectly, by foreign persons. The testing period is the shorter of:

- The 5-year period ending on the date of the disposition (or distribution), or
- The period during which the entity was in existence.

For the purpose of determining whether a QIE is domestically controlled, the following rules apply.

1. A person holding less than 5% of any class of stock of a QIE which is regularly traded on an established securities market in the United States at all times during the testing period will be treated as a U.S. person unless the QIE has actual knowledge that such person is not a U.S. person.

2. Any stock in a QIE that is held by another QIE will be treated as held by a foreign person if:

- Any class of stock of such other QIE is regularly traded on an established securities market, or

- Such other QIE is a regulated investment company (RIC) that issues certain redeemable securities.

Notwithstanding the above, the stock of the QIE will be treated as held by a U.S. person if such other QIE is domestically controlled.

3. Stock in a QIE that is held by any other QIE not described above will be treated as held by a U.S. person in proportion to the stock ownership of such other QIE which is (or is treated as) held by a U.S. person.

Foreign person. A nonresident alien individual, a foreign corporation that does not have a valid election under section 897(i) to be treated as a domestic corporation, a foreign partnership, a foreign trust, or a foreign estate. A resident alien individual is not a foreign person.

A qualified foreign pension fund or any entity wholly owned by such fund is not a foreign person for purposes of section 1445. See sections 897(l) and 1445(f)(3) for more information.

Qualified investment entity (QIE). A QIE is:

- Any REIT, and
- Any RIC which is a U.S. real property holding corporation or which would be a U.S. real property holding corporation.

In determining if a RIC is a U.S. real property holding corporation, the RIC is required to include as USRPIs its holdings of stock in a RIC or REIT that is a U.S. real property holding company, even if such stock is regularly traded and the RIC did not own more than 10% of such stock in the case of a REIT (5% for dispositions before December 17, 2015) or 5% of such stock in the case of a RIC, and even if such stock is domestically controlled.

For more information, see [Pub. 515](#).

Qualified substitute. For this purpose, a qualified substitute is:

- The person (including any attorney or title company) responsible for closing the transaction, other than the transferor's agent; and
- The transferee's agent.

Transferee. Any person, foreign or domestic, that acquires a USRPI by purchase, exchange, gift, or any other transfer.

Transferor. For purposes of this withholding, this means any foreign person that disposes of a USRPI by sale, exchange, gift, or any other disposition. A disregarded entity cannot be the transferor for purposes of section 1445. Instead, the person considered as owning the assets of the disregarded entity for federal tax purposes is regarded as the transferor. A **disregarded entity** for these purposes means an entity that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, a qualified REIT subsidiary as defined in section 856(i), or a qualified subchapter S subsidiary under section 1361(b)(3)(B).

Transferee's or transferor's agent. For purposes of section 1445(e), a transferee's or transferor's agent is any person who represents or advises an entity, a holder of an interest in an entity, or a fiduciary with respect to the planning, arrangement, or completion of a transaction described in sections 1445(e)(1) through (4).

U.S. real property interest (USRPI). Any interest, other than an interest solely as a creditor, in the following.

1. Real property located in the United States or the U.S. Virgin Islands.
2. Certain personal property associated with the use of real property.
3. A domestic corporation, unless it is shown that the corporation was not a U.S. real property holding corporation during the previous 5 years (or during the period in which the transferor held the interest, if shorter).

A USRPI does not include the following.

1. An interest in a domestically controlled QIE.
2. An interest in a REIT that is held by a qualified shareholder. For the definition of a qualified shareholder, see section 897(k)(3). But see section 897(k)(2)(B) for the cut-back rule if the qualified shareholder has one or more applicable investors.
3. An interest in a corporation that:
 - Did not hold any USRPI as of the date the interest in such corporation is disposed,
 - Has disposed of all its USRPIs in transactions in which the full amount of any gain was recognized as provided in section 897(c)(1)(B), and
 - Neither such corporation nor any predecessor of such corporation was a REIT or a RIC at any time during the shorter of the previous 5 years or the period in which the transferor held the interest.
4. An interest in certain publicly traded corporations, partnerships, and trusts.

See Regulations sections 1.897-1 and 1.897-2 for more information. Also see [Transferred property that isn't a USRPI](#), later.

Withholding agent. For purposes of this return, this means the buyer or other transferee who acquires a USRPI from a foreign person.

Exceptions to Section 1445 Withholding

Withholding at a Reduced Rate

Purchase of residence for \$1 million or less.

Withholding is required at a reduced rate of 10% in the case of a disposition of:

- A property which is acquired by the transferee for use by the transferee as a residence, and
- The amount realized for the property is \$1 million or less. However, see *Purchase of residence for \$300,000 or less*, next.

Withholding Not Required

Purchase of residence for \$300,000 or less. If one or more individuals acquire U.S. real property for use as a residence and the amount realized (in most cases, the sales price) is \$300,000 or less, no withholding is required.

A USRPI is acquired for use as a residence if you or a member of your family has definite plans to reside in the property for at least 50% of the number of days the property is used by any person during each of the first two 12-month periods following the date of transfer. Do not

take into account the number of days the property will be vacant in making this determination. No form or other document is required to be filed with the IRS for this exception. However, if you do not in fact use the property as a residence, the withholding tax may be collected from you.

This exception applies whether or not the transferor (seller) is an individual, partnership, trust, corporation, or other transferor. However, this exception does not apply if the actual transferee (buyer) is not an individual, even if the property is acquired for an individual.

Transferor not a foreign person. Generally, no withholding is required if you receive a certification of nonforeign status from the transferor, signed under penalties of perjury, stating that the transferor is not a foreign person and containing the transferor's name, address, and TIN (social security number (SSN) or employer identification number (EIN)). A certification of nonforeign status includes a valid Form W-9 submitted by the transferor. The transferor can give the certification to a [qualified substitute](#) (defined earlier). The qualified substitute gives you a statement, under penalties of perjury, that the certification is in the qualified substitute's possession.

If you receive a certification (or statement), the withholding tax cannot be collected from you unless you knew that the certification (or statement) was false or you received a notice from your agent, the transferor's agent, or the qualified substitute that it was false. The certification must be signed by the individual, a responsible officer of a corporation, a general partner of a partnership, or the trustee, executor, or fiduciary of a trust or estate.

A disregarded entity may not certify that it is the transferor for U.S. tax purposes. Rather, the owner of the disregarded entity is treated as the transferor of the property and must provide the certificate of nonforeign status to avoid withholding under section 1445.

A foreign corporation electing to be treated as a domestic corporation under section 897(i) must attach to the certification a copy of the acknowledgment of the election received from the IRS. The acknowledgment must state that the information required by Regulations section 1.897-3 has been determined to be complete. If the acknowledgment is not attached, you may not rely on the certification. Keep any certification of nonforeign status you receive in your records for 5 years after the year of transfer.

A qualified foreign pension fund or any entity wholly owned by such fund may provide a certification of nonforeign status to establish that it is not a foreign person for purposes of section 1445. See sections 897(l) and 1445(f)(3) for more information.

You may also use other means to determine that the transferor is not a foreign person. But if you do and it is later determined that the transferor is a foreign person, the withholding tax may be collected from you.

Late notice of false certification. If, after the date of transfer, you receive a notice from your agent, the transferor's agent, or the qualified substitute that the certification of nonforeign status is false, you do not have

to withhold on consideration paid before you received the notice. However, you must withhold the full 15% of the amount realized from any consideration that remains to be paid, if possible. You must do this by withholding and paying over the entire amount of each successive payment of consideration until the full 15% has been withheld and paid to the IRS. These amounts must be reported and transmitted to the IRS by the 20th day following the date of each payment.

Transferred property that isn't a USRPI. If you acquire an interest in property that is not a USRPI (defined under [U.S. real property interest \(USRPI\)](#), earlier), withholding is generally not required. A USRPI includes certain interests in U.S. corporations, as well as direct interests in real property and certain associated personal property.

No withholding is required on the acquisition of an interest in a domestic corporation if (a) any class of stock of the corporation is regularly traded on an established securities market, or (b) the transferee receives a statement issued by the corporation that the interest is not a USRPI, unless you know that the statement is false or you receive a notice from your agent or the transferor's agent that the statement is false. A corporation's statement may be relied on only if it is dated not more than 30 days before the date of transfer.

Late notice of false statement. If, after the date of transfer, you receive a notice indicating that the statement is false, see [Late notice of false certification](#), earlier.

Generally, no withholding is required on the acquisition of an interest in a foreign corporation. However, withholding may be required if the foreign corporation has made the election under section 897(i) to be treated as a domestic corporation.

Transferor's nonrecognition of gain or loss. You may receive a notice from the transferor signed under penalties of perjury stating that the transferor is not required to recognize gain or loss on the transfer because of a nonrecognition provision of the Internal Revenue Code (see Temporary Regulations section 1.897-6T(a)(2)) or a provision in a U.S. tax treaty. You may rely on the transferor's notice, and not withhold, unless (a) only part of the gain qualifies for nonrecognition, or (b) you know or have reason to know that the transferor is not entitled to the claimed nonrecognition treatment.

No particular form is required for this notice. By the 20th day after the date of transfer, you must send a copy of the notice of nonrecognition (with a cover letter giving your name, address, and TIN) to:

Ogden Service Center
P.O. Box 409101
Ogden, UT 84409

See Regulations section 1.1445-2(d)(2) for more information on the transferor's notice of nonrecognition.



A notice of nonrecognition cannot be used for the exclusion from income under section 121, like-kind exchanges that do not qualify for nonrecognition treatment in their entirety, and deferred like-kind exchanges that have not been completed when it is time to file Form 8288. In these cases, a withholding certificate issued by the IRS, as described next, must be obtained.

Withholding certificate issued by the IRS. A withholding certificate may be issued by the IRS to reduce or eliminate withholding on dispositions of USRPIs by foreign persons. Either a transferee or transferor may apply for the certificate. The certificate may be issued if:

- Reduced withholding is appropriate because the 10%, 15%, or 21% (35% for distributions made before January 1, 2018) amount exceeds the transferor's maximum tax liability;
- The transferor is exempt from U.S. tax or nonrecognition provisions apply; or
- The transferee or transferor enters into an agreement with the IRS for the payment of the tax.

An application for a withholding certificate must comply with the provisions of Regulations sections 1.1445-3 and 1.1445-6, and Rev. Proc. 2000-35, 2000-35 I.R.B. 211. You can find Rev. Proc. 2000-35 at [IRS.gov/pub/irs-irbs/irb00-35.pdf](https://www.irs.gov/pub/irs-irbs/irb00-35.pdf). In certain cases, you may use Form 8288-B to apply for a withholding certificate. The IRS will normally act on an application by the 90th day after a complete application is received.

If you receive a withholding certificate from the IRS that excuses withholding, you are not required to file Form 8288. However, if you receive a withholding certificate that reduces (rather than eliminates) withholding, there is no exception to withholding, and you are required to file Form 8288. Attach a copy of the withholding certificate to Form 8288. See [When To File](#) under *General Instructions for Section 1445 Withholding*, earlier, for more information.

No consideration paid. Withholding is not required if the amount realized by the transferor is zero (for example, the property is transferred as a gift and the recipient does not assume any liabilities or furnish any other consideration to the transferor).

Options to acquire USRPIs. No withholding is required with respect to any amount realized by the grantor on the grant or lapse of an option to acquire a USRPI. However, withholding is required on the sale, exchange, or exercise of an option.

Property acquired by a governmental unit. If the property is acquired by the United States, a U.S. state or possession or political subdivision, or the District of Columbia, withholding is generally not required.

For rules that apply to foreclosures, see Regulations section 1.1445-2(d)(3).

Applicable wash sale transaction. If a distribution from a domestically controlled QIE is treated as a distribution of a USRPI only because an interest in the entity was disposed of in an applicable wash sale transaction, withholding is generally not required. See section 897(h)(5).

Late Filing of Certification or Notice

You may be eligible for relief for a late filing if a statement or notice was not provided to the relevant person or the IRS by the specified deadline and if you have reasonable cause for the failure to make a timely filing. Once you become aware that you have failed to timely file certain certificates or notices, you must file the required certification or notice with the appropriate person or the IRS. Also include the following.

- A statement at the top of the document(s) that it is “FILED PURSUANT TO REV. PROC. 2008-27.”
- An explanation describing why the failure was due to reasonable cause. Within the explanation, provide that you filed with, or obtained from, an appropriate person the required certification or notice.

The completed certification or notice attached to the explanation must be sent to:

Ogden Service Center
P.O. Box 409101
Ogden, UT 84409

For more information, see Rev. Proc. 2008-27, 2008-21 I.R.B. 1014, available at [IRS.gov/IRB/2008-21_IRB#RP-2008-27](https://www.irs.gov/irb/2008-21_IRB#RP-2008-27).

Liability of Agents

If you (or the [qualified substitute](#)) received (a) a transferor’s certification of nonforeign status, or (b) a corporation’s statement that an interest is not a USRPI, and the [transferee’s or transferor’s agent](#), or the substitute, knows the document is false, the agent (or substitute) must notify you. If notification is not provided, the agent (or substitute) will be liable for the tax that should have been withheld, but only to the extent of the agent’s (or substitute’s) compensation from the transaction.

If you (or the substitute) receive a notice of false certification or statement from your [agent](#), the transferor’s agent, or the qualified substitute, you must withhold tax as if you had not received a certification or statement. See [Late notice of false certification](#), earlier.

A person is not treated as an agent if the person only performs one or more of the following acts in connection with the transaction.

1. Receiving and disbursing any part of the consideration.
2. Recording any document.
3. Typing, copying, and other clerical tasks.
4. Obtaining title insurance reports and reports concerning the condition of the property.
5. Transmitting documents between the parties.
6. Functioning exclusively in his or her capacity as a representative of a condominium association or cooperative housing corporation. This exemption includes the board of directors, the committee, or other governing body.

Entities Subject to Section 1445(e)

Withholding under section 1445(e) is required on certain distributions and other transactions by domestic or foreign

corporations, QIEs, trusts, and estates. A domestic trust or estate must withhold 21% (35% for distributions made before January 1, 2018) of the amount distributed to a foreign beneficiary from a “U.S. real property interest account” that it is required to establish under Regulations section 1.1445-5(c)(1)(iii). A foreign corporation that has not made the election under section 897(i) must withhold 21% (35% for distributions made before January 1, 2018) of the gain it recognizes on the distribution of a USRPI to its shareholders. Certain domestic corporations are required to withhold tax on distributions to foreign shareholders.

No withholding is required on the transfer of an interest in a domestic corporation if any class of stock of the corporation is regularly traded on an established securities market. Also, no withholding is required on the transfer of an interest in a PTP or trust.

No withholding will be required with respect to an interest holder if the entity or fiduciary receives a certification of nonforeign status from the interest holder. A certification of nonforeign status includes a valid Form W-9 submitted by the transferor. An entity or fiduciary may also use other means to determine that an interest holder is not a foreign person, but if it does so and it is later determined that the interest holder is a foreign person, the withholding may be collected from the entity or fiduciary.

Section 1445(e)(1) Transactions

Partnerships. A domestic partnership that is not publicly traded must withhold tax under section 1446(a) on effectively connected taxable income allocated to its foreign partners and must file Forms 8804 and 8805. A PTP or nominee must generally withhold tax under section 1446(a) on distributions to its foreign partners and must file Forms 1042 and 1042-S. Because a domestic partnership that disposes of a USRPI is required to withhold under section 1446(a), it is not required to withhold under section 1445(e)(1).

Trusts and estates. If a domestic trust or estate disposes of a USRPI, the amount of gain realized must be paid into a separate “USRPI account.” For these purposes, a domestic trust is one that does not make the large trust election (explained next), is not a QIE, and is not publicly traded. The fiduciary must withhold 21% (35% for distributions made before January 1, 2018) of the amount distributed to a foreign person from the account during the tax year of the trust or estate in which the disposition occurred. The withholding must be paid over to the IRS within 20 days of the date of distribution. Special rules apply to grantor trusts. See Regulations section 1.1445-5 for more information and how to compute the amount subject to withholding.

Large trust election. Trusts with more than 100 beneficiaries may make an election to withhold upon distribution rather than at the time of transfer. The amount to be withheld from each distribution is 21% (35% for distributions made before January 1, 2018) of the amount attributable to the foreign beneficiary’s proportionate share of the current balance of the trust’s section 1445(e)(1) account. This election does not apply to any QIE or to any publicly traded trust. Special rules apply to large trusts that make recurring sales of growing crops and timber.

A trust's section 1445(e)(1) account is the total net gain realized by the trust on all section 1445(e)(1) transactions after the date of the election, minus the total of all distributions made by the trust after the date of the election from such total net gain. See Regulations section 1.1445-5(c)(3) for more information.

Section 1445(e)(2) Transactions

A foreign corporation that distributes a USRPI must generally withhold 21% (35% for distributions made before January 1, 2018) of the gain recognized by the corporation. No withholding or reduced withholding is required if the corporation receives a withholding certificate from the IRS.

Section 1445(e)(3) Transactions

Generally, a domestic corporation that distributes any property to a foreign person that holds an interest in the corporation must withhold 15% (10% for distributions before February 17, 2016) of the fair market value of the property distributed if:

- The foreign person's interest in the corporation is a USRPI under section 897; and
- The property is distributed in redemption of stock under section 302, in liquidation of the corporation under sections 331 through 346, or with respect to stock under section 301 that is not made out of the earnings and profits of the corporation.

No withholding or reduced withholding is required if the corporation receives a withholding certificate from the IRS.

Section 1445(e)(4) Transactions

No withholding is required under section 1445(e)(4), relating to certain taxable distributions by domestic or foreign partnerships, trusts, and estates, until the effective date of a Treasury Decision under section 897(e)(2)(B)(ii) and (g).



Though withholding is not currently required under section 1445(e)(4), withholding may be required under section 1446(f)(1) on the amount realized when a domestic or foreign partnership makes a distribution to a foreign partner.

Section 1445(e)(5) Transactions

The transferee of a partnership interest must withhold 15% (10% for dispositions before February 17, 2016) of the amount realized on the disposition by a foreign partner of an interest in a domestic or foreign partnership in which at least 50% of the value of the gross assets consists of USRPIs and at least 90% of the value of the gross assets consists of U.S. real property, interests plus any cash or cash equivalents. However, no withholding is required under section 1445(e)(5) for dispositions of interests in other partnerships, trusts, or estates until the effective date of a Treasury Decision under section 897(g). No withholding is required if, no earlier than 30 days before the transfer, the transferee receives a statement signed by a general partner under penalties of perjury that at least 50% of the value of the gross assets of the partnership does not consist of USRPIs or that at least 90% of the value of the gross assets does not consist of USRPIs, plus

cash or cash equivalents. The transferee may rely on the statement unless the transferee knows it is false or the transferee receives a false statement notice pursuant to Regulations section 1.1445-4.



A disposition of a partnership interest that meets this exception may instead be subject to withholding under section 1446(f)(1). See [Transfers of Partnership Interests Subject to Withholding Under Sections 1445\(e\)\(5\) and 1446\(f\)\(1\)](#), later.

Section 1445(e)(6) Transactions

A QIE must withhold 21% (35% for distributions made before January 1, 2018) of a distribution to a nonresident alien or a foreign corporation that is treated as gain realized from the sale or exchange of a USRPI. No withholding under section 1445 is required on a distribution to a nonresident alien or foreign corporation if the distribution is on stock regularly traded on a securities market in the United States and the alien or corporation did not own more than 10% (for distributions before December 17, 2015, did not own more than 5% of such stock in case of a REIT) of that stock at any time during the 1-year period ending on the date of distribution.

A distribution made after December 17, 2015, by a REIT is generally not treated as gain from the sale or exchange of a USRPI if the shareholder is a qualified shareholder (as described in section 897(k)(3)).

General Instructions for Section 1446(f)(1) Withholding

Section 1446(f)(1) generally imposes a 10% withholding obligation on the buyer or other transferee (withholding agent) when an interest in a partnership is acquired from a foreign person (transferor) if:

1. The transferor realized a gain on the sale, and
2. Any portion of the gain would be treated under section 864(c)(8) as effectively connected with the conduct of a trade or business within the United States (effectively connected gain).

A transfer can occur when a partnership distribution results in gain under section 731. Under section 1446(f)(4), if the transferee fails to withhold any required amount, the partnership must deduct and withhold from distributions to the transferee the amount that the transferee failed to withhold (plus interest). See [General Instructions for Section 1446\(f\)\(4\) Withholding](#), later.

Who Must File

Unless any of exceptions 1 through 6 of the [Exceptions to Section 1446\(f\)\(1\) Withholding on Transfers of Non-PTP Interests](#), later, applies, a buyer or other transferee of a partnership interest must complete and file Part III of Form 8288 to report and transmit the amount withheld. However, if [exception 6](#) applies, the transferee has a separate filing obligation.

Amount To Withhold

Generally, you must withhold 10% of the [transferor's](#) amount realized on the [transfer](#), defined later.

When To File

A transferee must file Form 8288 and transmit the tax withheld to the IRS by the 20th day after the date of transfer.

Where To File

Send Form 8288 with the amount withheld, and copies A and B of Form(s) 8288-A to:

Ogden Service Center
P.O. Box 409101
Ogden, UT 84409

Forms 8288-A Must Be Attached

Anyone who completes Form 8288 must also complete a Form 8288-A for each person subject to withholding. Copies A and B of Form 8288-A must be attached to Form 8288. Copy C is for your records. Multiple Forms 8288-A related to a single transaction can be filed with one Form 8288. You are not required to furnish a copy of Form 8288 or 8288-A directly to the transferor.

The IRS will stamp Copy B of each Form 8288-A and will forward the stamped copy to the foreign person subject to withholding at the address shown on Form 8288-A. To receive credit for the withheld amount, the transferor must generally attach the stamped Copy B of Form 8288-A to a U.S. income tax return (for example, Form 1040-NR or 1120-F).

Transferor's taxpayer identification number (TIN) missing. If you do not have the transferor's TIN, you must still file Forms 8288 and 8288-A. A stamped copy of Form 8288-A will not be provided to the transferor if the transferor's TIN is not included on that form. The IRS will send a letter to the transferor requesting the TIN and provide instructions for how to get a TIN. When the transferor provides the IRS with a TIN, the IRS will provide the transferor with a stamped Copy B of Form 8288-A.

Penalties

Under section 6651, penalties apply for failure to file Form 8288 when due and for failure to pay the withholding when due. In addition, if you are required to but do not withhold tax under section 1446(f)(1), the tax, including interest, may be collected from you. Under section 7202, you may be subject to a penalty of up to \$10,000 for willful failure to collect and pay over the tax. Corporate officers or other responsible persons may be subject to a penalty under section 6672 equal to the amount that should have been withheld and paid over to the IRS. See Regulations section 1.1461-3 for other penalties that may apply.

Definitions for Section 1446(f)(1) Withholding

Amount realized. See [Determining the Amount To Withhold](#), later.

Controlling partner. A partner that, together with any person that bears a relationship described in section 267(b) or 707(b)(1) to the partner, owns directly or indirectly a 50% or greater interest in the capital, profits, deductions, or losses of the partnership at any time within the 12 months before the determination date.

Foreign person. A person that is not a U.S. person, including a qualified intermediary (QI) branch of a U.S. financial institution (as defined in Regulations section 1.1471-1(b)(109)).

TIN. The TIN assigned to a person under section 6109.

Transfer. A sale, exchange, or other disposition, which includes a distribution from a partnership to a partner, as well as a transfer treated as a sale or exchange under section 707(a)(2)(B).

Transferee. Any person, foreign or domestic, that acquires a partnership interest through a transfer, and includes a partnership that makes a distribution.

Transferor. Generally means any person, foreign or domestic, that transfers a partnership interest. In the case of a trust, to the extent all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679 (such trust, a grantor trust), the term "transferor" means the grantor or such other person.

Transferor's agent or transferee's agent. Any person who represents the transferor or transferee (respectively) in any negotiation with another person relating to the transaction or in settling the transaction. A person will not be treated as a transferor's agent or a transferee's agent solely because it performs one or more of the activities described in Regulations section 1.1445-4(f)(3) (relating to activities of settlement officers and clerical personnel).

U.S. person. A person described in section 7701(a)(30).

Exceptions to Section 1446(f)(1) Withholding on Transfers of Non-PTP Interests

A transferee, including a partnership when the partner is a distributee, is not required to withhold on the transfer of a non-PTP interest if it properly relies on one of the following six certifications, the requirements of which are more fully described in Regulations section 1.1446(f)-2(b) and [Pub. 515](#). A transferee may not rely on a certification if it has actual knowledge that the certification is incorrect or unreliable. A certification must provide the name and address of the person providing it, be signed under penalties of perjury, and generally include the TIN of the transferor. See Regulations sections 1.1446(f)-1(c)(2)(i) and 1.1446(f)-2(b)(1). Only the certification for exception 6 (related to claims for treaty benefits) must be submitted to the IRS.

A partnership that is a transferee because it makes a distribution may generally rely on a certification from a transferor in the same manner, with the following modifications.

- For exception 2, a distributing partnership may rely on its books and records or on a certification from the distributee partner.
- For exception 3, a distributing partnership may only rely on its books and records.
- For exception 4, a distributing partnership may only rely on its books and records but must also obtain a representation from the distributee partner stating that the distributee partner satisfies the reporting and tax payment requirements with respect to the partnership's ECI for the look-back period.

A partnership may not rely on its books and records if it knows, or has reason to know, that the information in its own books and records is incorrect or unreliable.

Exceptions

The relevant information for many of the exceptions is based on a determination date. See Regulations section 1.1446(f)-1(c)(4) and [Pub. 515](#) for more information regarding the determination date.

1. Certification of nonforeign status. The transferor provides a certification of nonforeign status signed under penalties of perjury that states that the transferor is not a foreign person, and provides the transferor's name, TIN, and address. A certification of nonforeign status includes a valid Form W-9 (including a valid form that the transferee already has in its possession).

2. Certification of no realized gain. The transferor provides a certification that, on the transfer of the partnership interest, there was no realized gain (including no ordinary income arising from the application of section 751 and Regulations section 1.751-1) as of the determination date.

3. Certification of less than 10% effectively connected gain. The transferor provides a certification from the partnership stating that:

1. On the deemed sale of the partnership assets in the manner described in Regulations section 1.864(c)(8)-1(c) as of the determination date either:

a. The partnership would have no effectively connected gain (or the net amount of its effectively connected gain would be less than the 10% of the total net gain), or

b. The transferor's distributive share of net effectively connected gain resulting from the deemed sale would be less than 10% of the transferor's distributive share of the total net gain; or

2. The partnership was not engaged in a trade or business within the United States at any time during the tax year of the partnership until the date of transfer.

4. Certification of less than 10% effectively connected income (ECI). The transferor provides a certification that:

1. The transferor was a partner in the partnership for the transferor's immediately prior tax year (for which it has already received a Schedule K-1 (Form 1065)) and the 2 preceding tax years (the look-back period) and had a distributive share of gross income from the partnership in each of these years;

2. The transferor's distributive share of gross ECI from the partnership, and from certain persons related to the transferor, as reported on a Schedule K-1 (Form 1065) or other statement required by the partnership, was less than \$1 million for each of the tax years during the look-back period;

3. The transferor's distributive share of partnership gross ECI, as reported on a Schedule K-1 (Form 1065) or other statement required by the partnership, for each year

during the look-back period, was less than 10% of its total distributive share of partnership gross income; and

4. For each year during the look-back period, the transferor's distributive share of partnership ECI or gain (or losses properly allocated and apportioned to that income) has been timely reported on a federal income tax return of the transferor (or if the transferor was a partnership, its direct or indirect nonresident alien and foreign corporate partners) and any tax due with respect to such amounts has been timely paid, provided the return was required to be filed when the transferor furnishes the certification.

5. Certification of nonrecognition. The transferor provides a certification that it is not required to recognize any gain or loss with respect to the transfer by reason of the operation of a nonrecognition provision of the Internal Revenue Code. The certification must briefly describe the transfer and provide the relevant law and facts relating to the certification.

This exception does not apply if only a portion of the gain is not recognized. In that case, the transferor may be able to provide a [Certification of maximum tax liability](#), later, if the requirements under Regulations section 1.1446(f)-2(c)(4)(v) are met.

6. Certification that an income tax treaty applies. The transferor provides a certification using Form W-8BEN or W-8BEN-E, as applicable, or applicable substitute form that meets the requirements under Regulations section 1.1446-1(c)(5) that the transferor is not subject to tax on any gain from the transfer pursuant to an income tax treaty. The form should contain the information necessary to support the claim for treaty benefits. Within 30 days after the date of the transfer, the transferee must mail a copy of the certificate, together with a cover letter providing the name, TIN, and address of the transferee and the partnership in which the interest was transferred to the IRS, at the address in [Where To File](#), earlier. See Regulations section 1.1446(f)-2(b)(7).

The transferor may not provide this certification if any portion of the gain is subject to tax. In that case, the transferor may be able to provide a [Certification of maximum tax liability](#), later, if the requirements under Regulations section 1.1446(f)-2(c)(4)(vi) are met.

Determining the Amount To Withhold

In general, the transferee must withhold 10% of the amount realized. The amount realized includes the following.

1. The cash paid (or to be paid),
2. The fair market value of property transferred (or to be transferred),
3. The amount of any liabilities assumed by the transferee or to which the partnership is subject, and
4. The reduction in the transferor's share of partnership liabilities.

The rules for determining the amount to withhold are contained in Regulations section 1.1446(f)-2(c). See also [Pub. 515](#). If certain requirements are met, the transferee may rely on a certification of the amount of the transferor's share of partnership liabilities reported on the most recent

Schedule K-1 (Form 1065) issued by the partnership or a certification from a partnership that provides the amount of the transferor's share of partnership liabilities as of the determination date.

Modified amount realized. If a foreign partnership is the transferor, separate rules may apply to determine a modified amount realized. The modified amount realized is determined by multiplying the amount realized by the aggregate percentage computed as of the determination date. The aggregate percentage is the percentage of the gain (if any) arising from the transfer that would be allocated to any presumed foreign taxable persons. For this purpose, a presumed foreign taxable person is any person that has not provided a certification of nonforeign status, as previously described in the [exception 1](#) to withholding, or a certification that, pursuant to a tax treaty, no portion of the foreign taxable person's gain is subject to tax. The foreign partnership claims the modified amount realized by providing a certification on Form W-8IMY as provided under Regulations section 1.1446(f)-2(c)(2)(iv). The transferee should not submit the certification to the IRS for approval.

Lack of money or property or lack of knowledge regarding liabilities. Under certain circumstances, the amount that the transferee must withhold equals 100% of the amount realized without regard to any decrease in the transferor's share of the partnership liabilities. These circumstances are if:

1. The amount otherwise required to be withheld would exceed the amount realized determined without regard to the decrease in the transferor's share of partnership liabilities, or
2. The transferee is unable to determine the amount realized because it does not have actual knowledge of the transferor's share of partnership liabilities (and has not received or cannot rely on a certification of the transferor's share of partnership liabilities received from the transferor (including the most recent Schedule K-1 (Form 1065)) or a certification of the transferor's share of liabilities received from the partnership).

Certification of maximum tax liability. A transferor that meets certain requirements can certify its maximum tax liability to the transferee. The maximum tax liability is the amount of the transferor's effectively connected gain multiplied by the applicable percentage described in Regulations section 1.1446-3(a)(2). The applicable percentage for foreign corporations is the highest rate of tax under section 11(b) and for non-corporations is the highest rate of tax under section 1. This certification may be used if a nonrecognition provision or an income tax treaty excludes only a portion of the effectively connected gain. While the certification should not be submitted to the IRS for approval, if a portion of the gain on the transfer is not subject to tax pursuant to an income tax treaty, the certification requirements described in [exception 6](#) must be met.

Transfers of Partnership Interests Subject to Withholding Under Sections 1445(e)(5) and 1446(f)(1)

The transfer of a partnership interest may be subject to withholding under section 1445(e)(5) or Regulations section 1.1445-11T(d)(1) if 50% or more of the value of the partnership's gross assets consists of USRPIs, and 90% or more of the value of its gross assets consists of USRPIs plus any cash or cash equivalents. The transfer of a partnership interest may also be subject to withholding under section 1446(f)(1) and Regulations section 1.1446(f)-2, if the partnership also holds other property used in the conduct of a trade or business within the United States. If both sections 1445(e)(5) and 1446(f)(1) could apply to the same transfer, the transfer is subject to the payment and reporting requirements of section 1445 only and not section 1446(f)(1). However, if the transferor has applied for a withholding certificate under the last sentence of Regulations section 1.1445-11T(d)(1), the transferee must withhold the greater of the amounts required under section 1445(e)(5) or 1446(f)(1). A transferee that has complied with the withholding requirements under either section 1445(e)(5) or 1446(f)(1), as described in this paragraph, will be deemed to satisfy its withholding requirement.

Liability of Agents

A transferee's or transferor's agent must provide notice to a transferee (or other person required to withhold) if that agent is furnished with a certification described in Regulations 1.1446(f)-1 or 1.1446(f)-2 that the agent knows is false. A person required to withhold may not rely on a certification if it receives the notice described in Regulations section 1.1446(f)-5(c)(1). An agent's liability is limited to the amount of compensation that the agent derives from the transaction. In addition, an agent that assists in the preparation of, or fails to disclose knowledge of, a false certification may be liable for civil and criminal penalties. For more information, see Regulations section 1.1446(f)-5.

General Instructions for Section 1446(f)(4) Withholding

Section 1446(f)(4) generally imposes a withholding obligation on a partnership that makes a distribution to a transferee partner that failed to withhold the required amount under section 1446(f)(1) when it acquired an interest in the partnership. Withholding under section 1446(f)(4) applies to transfers of interests in partnerships, other than publicly traded partnerships (PTPs), that occur on or after January 1, 2023.

Who Must File

Unless an exception applies (see [Exceptions to Section 1446\(f\)\(4\) Withholding](#), later), a partnership that makes a distribution to a transferee partner that failed to properly withhold under section 1446(f)(1) must complete and file Part IV of Form 8288 to report and transmit the amount withheld.

Amount To Withhold

The partnership must generally withhold the entire amount of each distribution made to the transferee partner until it has met its withholding obligation under section 1446(f)(4). Generally, the partnership's withholding obligation will be 10% of the amount realized on the transfer, plus interest. See [Withholding under Section 1446\(f\)\(4\)](#), later.

When To File

A partnership must file Form 8288 and transmit the tax withheld to the IRS by the 20th day after the date of the distribution to the transferee.

Where To File

Send Form 8288 with the amount withheld, and copy A of Form(s) 8288-C to:

Ogden Service Center
P.O. Box 409101
Ogden, UT 84409

Form 8288-C Must Be Attached

A partnership should file a separate Form 8288 with Part IV completed and only one Form 8288-C attached for each distribution per transferee partner subject to the withholding requirements of section 1446(f)(4). Copy A of Form 8288-C must be attached to Form 8288. Copy B is sent to the transferee(s). Copy C is for your records.

Transferor's taxpayer identification number (TIN) missing. If you do not have the transferee's TIN, you must still file Forms 8288 and 8288-C. The IRS will send a letter to the transferee requesting the TIN and provide instructions for how to get a TIN.



For the definitions of transfer, transferee, and transferor, see Definitions for Section 1446(f)(1) Withholding, earlier.

Penalties

Under section 6651, penalties apply for failure to file Form 8288 when due and for failure to pay the withholding when due. In addition, if you are required to but do not withhold tax under section 1446(f)(4), the tax, including interest, may be collected from you. Under section 7202, you may be subject to a penalty of up to \$10,000 for willful failure to collect and pay over the tax. The general partner(s) or other responsible persons may be subject to a penalty under section 6672 equal to the amount that should have been withheld and paid over to the IRS.

Exceptions to Section 1446(f)(4) Withholding

Withholding has been satisfied by transferee. A partnership is not required to withhold under section 1446(f)(4) if it relies on a timely certification of withholding received from the transferee that states that an exception to withholding applies or that the transferee withheld the full amount required to be withheld.

PTP interests. A PTP is not required to withhold under section 1446(f)(4).

Distributing partnerships. A partnership that is a transferee because it made a distribution subject to

section 1446(f)(1) is not required to withhold under section 1446(f)(4).

Withholding under Section 1446(f)(4)

Certification of withholding. A partnership must determine the amount realized on the transfer and any amount withheld by the transferee based on a certification of withholding from the transferee, without regard to whether the certification is received timely. A partnership may not rely on the certification of withholding if it knows or has reason to know that it is incorrect or unreliable. A partnership that already possesses a certification of nonforeign status (including a Form W-9) for the transferor may instead rely on this certification to determine that it has no withholding obligation. However, if the partnership receives a certification of withholding that is inconsistent with the information on the certification of nonforeign status in its possession, the partnership is treated as having actual knowledge, or reason to know, that the certification of nonforeign status is incorrect or unreliable.

A partnership that does not receive or cannot rely on a certification from the transferee must withhold under section 1446(f)(4) until it receives a certification that it can rely on.

Notification from the IRS. A partnership that receives notification from the IRS that a transferee has provided incorrect information regarding the amount realized or amount withheld on the certification or has failed to pay the IRS the amount reported as withheld on the certification must withhold the amount prescribed in the notification on any distributions made to the transferee on or after the date that is 15 days after it receives the notification. The IRS will not issue a notification on the basis that the amount realized on the certification is incorrect if it determines that the transferee properly relied on a certification that included the incorrect information to compute the amount realized.

Subsequent transferees. A partnership is not required to withhold on distributions that are made after the date on which the transferee disposes of the transferred interest, unless the partnership has actual knowledge that any person that acquires the transferee's interest in the partnership is a related person, that is, a person that bears a relationship described in section 267(b) or 707(b)(1) with respect to the transferee or the transferor from which the transferee acquired the interest.

When to withhold. A partnership must withhold on distributions made with respect to a transferred interest beginning on the later of:

- The date that is 30 days after the date of transfer, or
- The date that is 15 days after the date on which the partnership acquires actual knowledge that the transfer has occurred.

A partnership is treated as satisfying its withholding obligation and may stop withholding on distributions with respect to a transferred interest on the earlier of:

- The date on which the partnership completes withholding and paying the amount required to be withheld, or
- The date on which the partnership receives and may rely on a certification from the transferee (without regard

to whether such certification is timely received) that claims an [exception](#) to section 1446(f)(1) withholding.

Amount of withholding. A partnership required to withhold under section 1446(f)(4) must withhold the full amount of each distribution made with respect to the transferred interest until it has withheld:

- A tax of 10% of the amount realized (generally the amount realized on the transfer determined solely under Regulations section 1.1446(f)-2(c)(2)(i)), reduced by any amount withheld by the transferee; plus
- Any interest computed on the amount that should have been withheld.

However, any amount of a distribution that is required to be withheld under another withholding provision (such as under section 1441 or 1442) is not also required to be withheld under section 1446(f)(4).

Withholding following a notification from the IRS. A partnership that receives [notification from the IRS](#) (discussed earlier) must withhold the amount prescribed in the notification on any distributions made to the transferee on or after the date that is 15 days after it receives the notification.

Computation of interest. The amount of interest required to be withheld is the amount of interest that would be required to be paid under section 6601 and Regulations section 301.6601-1 if the amount that should have been withheld by the transferee was considered an underpayment of tax. Interest is payable between the date that is 20 days after the date of the transfer and the date on which the transferee's withholding tax liability due under section 1446(f)(1) is satisfied.

Buyer/Transferee Claiming Refund of Section 1446(f)(4) Withholding

A transferee may claim a refund for an excess amount if it has been overwithheld upon under section 1446(f)(4). An excess amount is the amount of tax and interest withheld that exceeds the transferee's withholding tax liability plus any interest owed by the transferee with respect to such liability. The transferee may also be liable for any applicable penalties or additions to tax. A transferee must complete Part V of Form 8288 and attach Form(s) 8288-C it received from the partnership when making a claim for refund of section 1446(f)(4) withholding.

Specific Instructions for Form 8288

Corrected return. Check the box at the top of the page to indicate the Form 8288 you are filing is a corrected return.

Withholding Agent Information

Line 1. Name, address, and TIN of the withholding agent. For purposes of Form 8288, the withholding agent is:

- The buyer/transferee of a USRPI liable for section 1445(a) withholding,
- The entity or fiduciary liable for section 1445(e) withholding,

- The buyer/transferee of a partnership interest liable for section 1446(f)(1) withholding,
- The partnership liable for section 1446(f)(4) withholding, or
- The buyer/transferee of a partnership interest making a claim of refund of section 1446(f)(4) withholding.

Do not enter the name, address, or TIN of a title company, mortgage company, etc., unless it happens to be the actual person or entity responsible for withholding.



IRS will contact the person or entity listed on line 1 to resolve any problems that may arise concerning underwithholding and/or penalties.

Name and address. If you are a fiduciary for either section 1445(a) or 1446(f)(1) withholding, list your name and the name of the trust or estate. Enter the home address of an individual or the office address of an entity.

Taxpayer Identification Number (TIN). For a U.S. individual, the TIN is a social security number (SSN). For any person other than an individual (for example, corporation, QIE, estate, or trust), the TIN is an employer identification number (EIN). If you do not have an EIN, you can apply for one. For more information on how to apply for an EIN, go to [IRS.gov/Businesses/Small-Businesses-Self-Employed/How-to-Apply-for-an-EIN](https://www.irs.gov/Businesses/Small-Businesses-Self-Employed/How-to-Apply-for-an-EIN).

For a nonresident alien individual who is not eligible for an SSN, the TIN is an IRS individual taxpayer identification number (ITIN). For more information on the requirements and how to apply for an ITIN, go to [IRS.gov/ITIN](https://www.irs.gov/ITIN).

Even if the individual does not already have an ITIN, he or she should complete Forms 8288 and 8288-A and mail the forms along with any payment to the address shown under [Where To File](#), earlier.

Line 2. Enter the location and a description of the property, including any substantial improvements (for example, "12-unit apartment building"). For an interest in a corporation that constitutes a USRPI, enter the class or type and amount of the interest (for example, "10,000 shares Class A Preferred Stock XYZ Corporation"). For an interest in a partnership, enter the type of partnership interest (such as capital or preferred) transferred and, if there are multiple classes of the same type of partnership interest, enter the class of interest transferred. Also, enter the percentage interest in the partnership or the number of units in the partnership that were transferred. For example, "40% of the Class B capital interest in the ABC Partnership."

Line 3. Enter the date of the transfer that is subject to withholding. If you are completing Part II and are a QIE, a domestic trust or estate, or you make a large trust election, enter the date of distribution. If you are completing Part III and are a partnership that made a distribution subject to withholding under section 1446(f)(1), enter the date of the distribution.

Line 4. If you are completing Part II and the IRS issued a withholding certificate for this transfer under Regulations section 1.1445-3 or 1.1445-6 and [Rev. Proc. 2000-35](#), provide the date that the withholding certificate was issued. If a partnership is completing Part IV because it is

withholding under section 1446(f)(4), enter the date of the applicable distribution.

Line 5. Enter the number of Forms 8288-A or 8288-C attached, as applicable. If the partnership is completing Part IV, the number of Forms 8288-C attached will always be one. Copies A and B of each Form 8288-A should be counted as one form.



Complete only one part of Parts I through V.

Part I—To Be Completed by the Buyer or Other Transferee Required To Withhold Under Section 1445(a)

Line 6. Enter the amount subject to withholding, generally the amount realized on the transfer.

Line 7. Withholding tax liability. Enter an amount on only one of lines 7a, 7b, or 7c.

Line 7a. Enter the amount subject to withholding multiplied by 10% (0.10). Amounts entered on line 7a include the following:

- Withholding under section 1445(a) for the purchase of a residence with an amount realized of more than \$300,000, but less than or equal to \$1 million. Generally, no withholding is required for the purchase of a residence if the amount realized is \$300,000 or less. For more information, see [Exceptions to Section 1445 Withholding](#), earlier.
- Any dispositions of property prior to February 17, 2016, subject to a 10% rate of withholding under section 1445(a).

Line 7b. Enter the amount subject to withholding multiplied by 15% (0.15). Generally, this is the rate of withholding for transactions required to be reported under section 1445(a) in Part I. Include withholding for the purchase of a residence with an amount realized of more than \$1 million.

Line 7c. If withholding is at a reduced rate, enter the adjusted withholding amount, and check the box. Attach a copy of the withholding certificate. See [Exceptions to Section 1445 Withholding](#), earlier.

Line 8. Enter the amount you actually withheld.

Example 1. B, a corporation, purchases a USRPI from F, a foreign person. On settlement day, the settlement agent pays off existing loans, withholds 15% of the amount realized by F on the sale, and disburses the remaining amount to F. B, not the settlement agent, is the withholding agent and must complete Form 8288 and Form 8288-A.

Part II—To Be Completed by an Entity Subject to the Provisions of Section 1445(e)

Line 9. If withholding is from a large trust election to withhold upon distribution, check the box. See [Large trust election](#) under *Section 1445(e)(1) Transactions*, earlier.

Line 10. Enter the amount subject to withholding.

Line 11. Withholding tax liability. Enter an amount on only one of lines 11a, 11b, 11c, or 11d.

Line 11a. Enter the amount subject to withholding multiplied by 10% (0.10). This rate is used for any dispositions of property prior to February 17, 2016, subject to a 10% rate of withholding under section 1445(e).

Line 11b. Enter the amount subject to withholding multiplied by 15% (0.15). Generally, this is the rate of withholding for transactions required to be reported under section 1445(e) in Part II. However, see the discussion of various section 1445(e) transactions under [Entities Subject to Section 1445\(e\)](#), earlier.

Line 11c. Enter the amount subject to withholding multiplied by 21% (0.21) (35% (0.35) for distributions made before January 1, 2018). See the discussion of various section 1445(e) transactions under [Entities Subject to Section 1445\(e\)](#), earlier.

Line 11d. If withholding is at a reduced rate, enter the adjusted withholding amount, and check the box. Attach a copy of the withholding certificate. See the discussion of various section 1445(e) transactions under [Entities Subject to Section 1445\(e\)](#), earlier.

Line 12. Enter the amount you actually withheld.

Example 2. C, a domestic corporation, distributes property to F, a foreign shareholder whose interest in C is a USRPI. The distribution is in redemption of C's stock (section 1445(e)(3) transaction). C must withhold 15% of the fair market value of the property distributed to F. C must complete Form 8288 and Form 8288-A.

Part III—To Be Completed by Buyer/Transferee Required To Withhold Under Section 1446(f)(1)



Each separate transfer subject to the withholding requirements of section 1446(f)(1) requires the filing of a separate Form 8288.

Line 13. Amount subject to withholding, generally, the amount realized by the transferor. However, see the discussion earlier regarding [modified amount realized](#).

Line 14. Withholding tax liability. Enter an amount on line 14a or 14b but not both.

Line 14a. Enter the amount subject to withholding multiplied by 10% (0.10). Generally, this is the rate of withholding for transactions required to be reported under section 1446(f)(1) in Part III.

Line 14b. If withholding is at an adjusted amount, enter the adjusted withholding amount, and check the box. For circumstances when withholding is at an adjusted amount, see discussion earlier under [Determining the Amount To Withhold](#).

Line 15. Enter the amount you actually withheld.

Part IV—To Be Completed by the Partnership Required To Withhold Under Section 1446(f)(4)



File a separate Form 8288 for each distribution made to a transferee partner that is subject to the withholding requirements of section 1446(f)(4). Only attach the Form 8288-C applicable to the current distribution.

Line 16. Line 16 is used to report the cumulative number and amounts related to this distribution plus any prior distributions that you have made to a transferee that failed to properly withhold with respect to a transfer under section 1446(f)(1). These distributions are subject to withholding under section 1446(f)(4) and Regulations section 1.1446(f)-3.

Line 16a. Enter the total number of distributions, including this one, made to the transferee. This amount should equal the total number of Forms 8288-C that you filed, including this one, for the transferee with respect to the transfer.

Line 16b. Enter the total amount of distributions, including this one, made to the transferee. This amount should equal the total of the amounts in box 5 of the Form(s) 8288-C you have filed, including this one, for the transferee with respect to the transfer.

Line 16c. If any portion of a distribution, including this one, was subject to withholding under another provision of the Internal Revenue Code (such as section 1441 or 1442), enter the total amount of other withholding on these distributions. This amount should equal the total of the amount(s) in box 6 of the Form(s) 8288-C you have filed, including this one, for the transferee with respect to the transfer.

Line 17. If known, enter the total amount of the transferee's liability under section 1446(f)(1), without regard to any withholding you performed under section 1446(f)(4). Generally, this amount will be 10% of the amount realized on the transfer.

Line 18. Enter the total amount of section 1446(f)(4) tax that you have withheld on the transferee with respect to this transfer. This should equal the total of the amounts in box 5 of the Form(s) 8288-C you have filed, including this one, for the transferee with respect to the transfer.

Example 3. On a transfer of an interest in Partnership, Transferee had a section 1446(f)(1) withholding obligation of \$110, but failed to withhold any tax on the transfer or to provide a certification of withholding to Partnership. Partnership has actual knowledge of the transfer at the time that it occurred. For its first distribution following the date on which it is required to withhold under section 1446(f)(4), Partnership distributes \$100 of income described in section 871(a) to Transferee. Partnership is required to withhold \$30 under section 1441 on the \$100 distribution. Partnership must withhold the remaining \$70 (\$100 - \$30) from the distribution under section 1446(f)(4). Transferee receives net \$0 on the distribution. Partnership must file a Form 8288 and complete Part IV by entering "1" on line 16a; entering "\$100" on line 16b; entering "\$30" on line 16c; leaving line 17 blank since it has not received

a certification of withholding from Transferee; and entering "\$70" on line 18. Partnership must also attach Copy A of Form 8288-C to its Form 8288 and send Copy B of Form 8288-C to the transferee. Partnership should retain Copy C of Form 8288-C for its records.

Partnership must continue to withhold under section 1446(f)(4) on future distributions made to Transferee until it can rely on a certification of withholding from Transferee and it has withheld the required amount plus interest. For each distribution, it must file a Form 8288 and complete Part IV with the cumulative amounts related to all distributions Partnership has made to Transferee. It must also complete Form 8288-C with the amounts specific to this distribution.

Part V—To Be Completed by Buyer/Transferee Claiming a Refund of Withholding Under Section 1446(f)(4)



The IRS can process your refund claim only if you either (a) previously filed Form 8288 with Part III completed under section 1446(f)(1) or (b) file this Form 8288 with both Parts III and V completed. If you are filing under the latter case, because you have not withheld any amounts under section 1446(f)(1), do not attach a Form 8288-A.

Line 19. Enter the amount that was subject to withholding under section 1446(f)(1) on the transfer, generally the amount realized by the transferor.

Line 20. Enter the total of the amount(s) that the partnership has withheld under section 1446(f)(4) (attach a copy of Copy B of Form(s) 8288-C).

Line 21. Withholding tax liability. Enter the amount you were required to withhold under section 1446(f)(1) on either line 21a or 21b (but not both). Do not reduce this line by:

- Amounts you withheld on the transfer as reflected on Form(s) 8288-A,
- An amount of tax you paid pursuant to an IRS Notice, or
- Tax that the transferor has paid for which you have obtained proof, such as on Form 4669.

Instead, attach copies of these documents to Form 8288 along with any other information relevant to determining your outstanding withholding tax liability.

Line 21a. Enter the amount subject to withholding multiplied by 10% (0.10). Generally, this is the rate of withholding for transactions required to be reported under section 1446(f)(1) in Part III.

Line 21b. If withholding is at a reduced rate, enter the adjusted withholding amount, and check the box. See the instructions for line 14b, earlier, for circumstances when withholding is at an adjusted amount.

Line 22. Enter the excess of line 20 over line 21a or 21b. Note that you are also liable for interest on any withholding tax liability reported on line 21. The IRS will compute that amount and reduce your claimed excess amount accordingly. You may also be liable for any penalties or additions to tax.

Paid Preparer

Generally, anyone you pay to prepare Form 8288 must sign it and include their Preparer Tax Identification Number (PTIN) in the space provided.

Privacy Act and Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Section 1445 generally imposes a withholding obligation on the withholding agent (the buyer or other transferee) when a USRPI is acquired from a foreign person. Section 1445 also imposes a withholding obligation on certain foreign and domestic corporations, QIEs, and the fiduciaries of certain trusts and estates. Section 1446(f)(1) generally imposes a withholding obligation on the withholding agent (the buyer or other transferee, including a partnership that makes a distribution resulting in gain under section 731) when an interest in a partnership is acquired from a foreign person (transferor) that results in gain any portion of which would be treated under section 864(c)(8) as effectively connected with the conduct of a trade or business within the United States. Section 1446(f)(4) generally imposes a withholding obligation on a partnership if a transferee fails to withhold any amount required to be withheld under section 1446(f)(1). This form is used to report and transmit the amount withheld.

You are required to provide this information. Section 6109 requires you to provide your taxpayer identification number. We need this information to ensure that you are complying with the Internal Revenue laws and to allow us to figure and collect the right amount of tax. Failure to provide this information in a timely manner, or providing false information, may subject you to penalties. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for administration of their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law

enforcement and intelligence agencies to combat terrorism.

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

The time needed to complete and file these forms will vary depending on individual circumstances. The estimated burden for business taxpayers filing this form is approved under OMB control number 1545-0123. The estimated burden for all other taxpayers who file these forms is shown next.

	Form 8288	Form 8288-A	Form 8288-C
Record keeping	9hrs., 5 min.	3 hrs., 6 min.	2hrs., 52 min.
Learning about the law or the form	5 hrs., 13 min.	35 min.	24 min.
Preparing and sending the form to the IRS	6 hrs., 48 min.	40 min.	27 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can send us comments from [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see [Where To File](#), earlier.

WITHHOLDING AGENT'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and phone no.		1 Date of transfer (mm/dd/yyyy) / /	OMB No. 1545-0902	Statement of Withholding on Certain Dispositions by Foreign Persons
		2 Gain recognized by foreign corporation \$	Form 8288-A (Rev. January 2023)	
WITHHOLDING AGENT'S U.S. TIN	U.S. TIN of FOREIGN PERSON subject to withholding (see instructions)	3 Amount realized \$	4 Federal income tax withheld \$	Copy A For Internal Revenue Service Center For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 8288.
FOREIGN PERSON'S name subject to withholding		5 Withholding under section: a 1445 <input type="checkbox"/> b 1446(f)(1) <input type="checkbox"/>	6 FOREIGN PERSON subject to withholding: a Individual <input type="checkbox"/> b Corporation <input type="checkbox"/> c Partnership <input type="checkbox"/> d Other <input type="checkbox"/> (specify) _____	
Foreign address (number, street, and apt. or suite no.)				
City or town, state or province, country (not U.S.), and ZIP or foreign postal code		7 Country code of FOREIGN PERSON subject to withholding		
Mailing address of FOREIGN PERSON subject to withholding (if different)		8 Description of property transferred		

Form **8288-A** (Rev. 1-2023)

Cat. No. 62261L

Attach Copies A and B to Form 8288

Department of the Treasury - Internal Revenue Service

WITHHOLDING AGENT'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and phone no.		1 Date of transfer (mm/dd/yyyy) / /	OMB No. 1545-0902	Statement of Withholding on Certain Dispositions by Foreign Persons
		2 Gain recognized by foreign corporation \$	Form 8288-A (Rev. January 2023)	
WITHHOLDING AGENT'S U.S. TIN	U.S. TIN of FOREIGN PERSON subject to withholding (see instructions)	3 Amount realized \$	4 Federal income tax withheld \$	Copy B Send to Internal Revenue Service Center (For Use by Foreign Person Subject to Withholding) This information is being furnished to the Internal Revenue Service.
FOREIGN PERSON'S name subject to withholding		5 Withholding under section: a 1445 <input type="checkbox"/> b 1446(f)(1) <input type="checkbox"/>	6 FOREIGN PERSON subject to withholding: a Individual <input type="checkbox"/> b Corporation <input type="checkbox"/> c Partnership <input type="checkbox"/> d Other <input type="checkbox"/> (specify) _____	
Foreign address (number, street, and apt. or suite no.)		7 Country code of FOREIGN PERSON subject to withholding		
City or town, state or province, country (not U.S.), and ZIP or foreign postal code		8 Description of property transferred		
Mailing address of FOREIGN PERSON subject to withholding (if different)				

Form **8288-A** (Rev. 1-2023)

Department of the Treasury - Internal Revenue Service

Instructions for the Foreign Person Subject to Withholding

Generally, if you are a foreign person that disposes of real property located in the United States as seller or transferor, the buyer or other transferee must withhold 15% of the amount realized under section 1445. Certain foreign interest holders that are beneficiaries or shareholders are subject to federal income tax withholding at a rate of 21%. If you are a foreign person that transfers an interest in a partnership that is engaged in a trade or business in the United States, the buyer or transferee must withhold 10% of the amount realized under section 1446(f)(1).

How to report. You must file a U.S. tax return (Form 1040-NR, 1041, 1065, or 1120-F) to report the sale or other disposition as effectively connected with the conduct of a trade or business in the United States. To receive credit for any federal income tax withheld shown in box 4, attach Form 8288-A to your tax return, unless you make a request for early refund. Foreign partnerships should report the credit for withholding on Form 8804 and attach Form 8288-A. See Pub. 515 and Pub. 519 for more information.

Applying for an early refund.

Caution: The early refund procedures discussed next are not available for withholding under section 1446(f)(1) or 1446(f)(4).

If box 5a is checked and the amount shown in box 4 is greater than your maximum tax liability, you may apply for an early refund. However, you must still file your tax return when due. To apply for an early refund, you must first apply for and receive a withholding certificate from the IRS. After you have received your withholding certificate, you may apply for an early refund by sending a statement that must include the following information in separate paragraphs numbered as shown below.

1. Your name, address, and U.S. taxpayer identification number (TIN);
2. The amount required to be withheld as stated in the withholding certificate issued by the IRS;
3. The amount withheld shown in box 4 (attach a copy of this Form 8288-A); and
4. The amount to be refunded.

Where to apply. Send your application for a withholding certificate and/or application for early refund to:

Ogden Service Center
P.O. Box 409101
Ogden, UT 84409

See Pub. 515 and Form 8288-B for information about withholding certificates.

WITHHOLDING AGENT'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and phone no.		1 Date of transfer (mm/dd/yyyy) / /	OMB No. 1545-0902	Statement of Withholding on Certain Dispositions by Foreign Persons
		2 Gain recognized by foreign corporation \$	Form 8288-A (Rev. January 2023)	
WITHHOLDING AGENT'S U.S. TIN	U.S. TIN of FOREIGN PERSON subject to withholding (see instructions)	3 Amount realized \$	4 Federal income tax withheld \$	Copy C For Withholding Agent For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 8288.
FOREIGN PERSON'S name subject to withholding		5 Withholding under section: a 1445 <input type="checkbox"/> b 1446(f)(1) <input type="checkbox"/>	6 FOREIGN PERSON subject to withholding: a Individual <input type="checkbox"/> b Corporation <input type="checkbox"/> c Partnership <input type="checkbox"/> d Other <input type="checkbox"/> (specify) _____	
Foreign address (number, street, and apt. or suite no.)				
City or town, state or province, country (not U.S.), and ZIP or foreign postal code		7 Country code of FOREIGN PERSON subject to withholding		
Mailing address of FOREIGN PERSON subject to withholding (if different)		8 Description of property transferred		

Form **8288-A** (Rev. 1-2023)

Keep for your records

Department of the Treasury - Internal Revenue Service

Instructions for the Withholding Agent

Prepare Form 8288-A for each foreign person subject to withholding under section 1445 or 1446(f)(1). PTPs and their nominees should use Forms 1042 and 1042-S to report the withholding. Attach Copies A and B to Form 8288, U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons. Copy B will be stamped by the IRS and sent to the foreign person subject to withholding if the form is complete, including the transferor's taxpayer identification number (TIN). Retain Copy C for your records. You do not have to give a copy of this form to the foreign person subject to withholding.

U.S. taxpayer identification number (TIN). A U.S. TIN is a(n) social security number (SSN), employer identification number (EIN), or individual taxpayer identification number (ITIN). For more information, see *Forms 8288-A Must Be Attached and Transferor's taxpayer identification number (TIN) missing* in the Instructions for Form 8288.

Address. You must enter the foreign home address (for an individual) or the foreign office address (for other than an individual) of the foreign person subject to withholding. You may enter a separate mailing address in the space provided. If provided, the IRS will use the separate mailing address to forward Copy B to the foreign person subject to withholding.

Note: The home or office address of the foreign person subject to withholding must be an address outside the United States. If the foreign

person does not have an address outside the United States, enter the country of residence of the foreign person in this section and provide a complete mailing address.

Box 1. Enter the date of transfer. However, enter the date of distribution if you withheld under section 1445(e)(2), (e)(3), or (e)(6), or section 1446(f)(1), or if you made the large trust election to withhold at the date of distribution.

Box 2. Complete only if you are a foreign corporation required to withhold under section 1445(e)(2).

Box 3. Enter the amount realized by the foreign person whose name appears on this form.

Box 4. Enter the federal income tax you withheld for the foreign person whose name appears on this form.

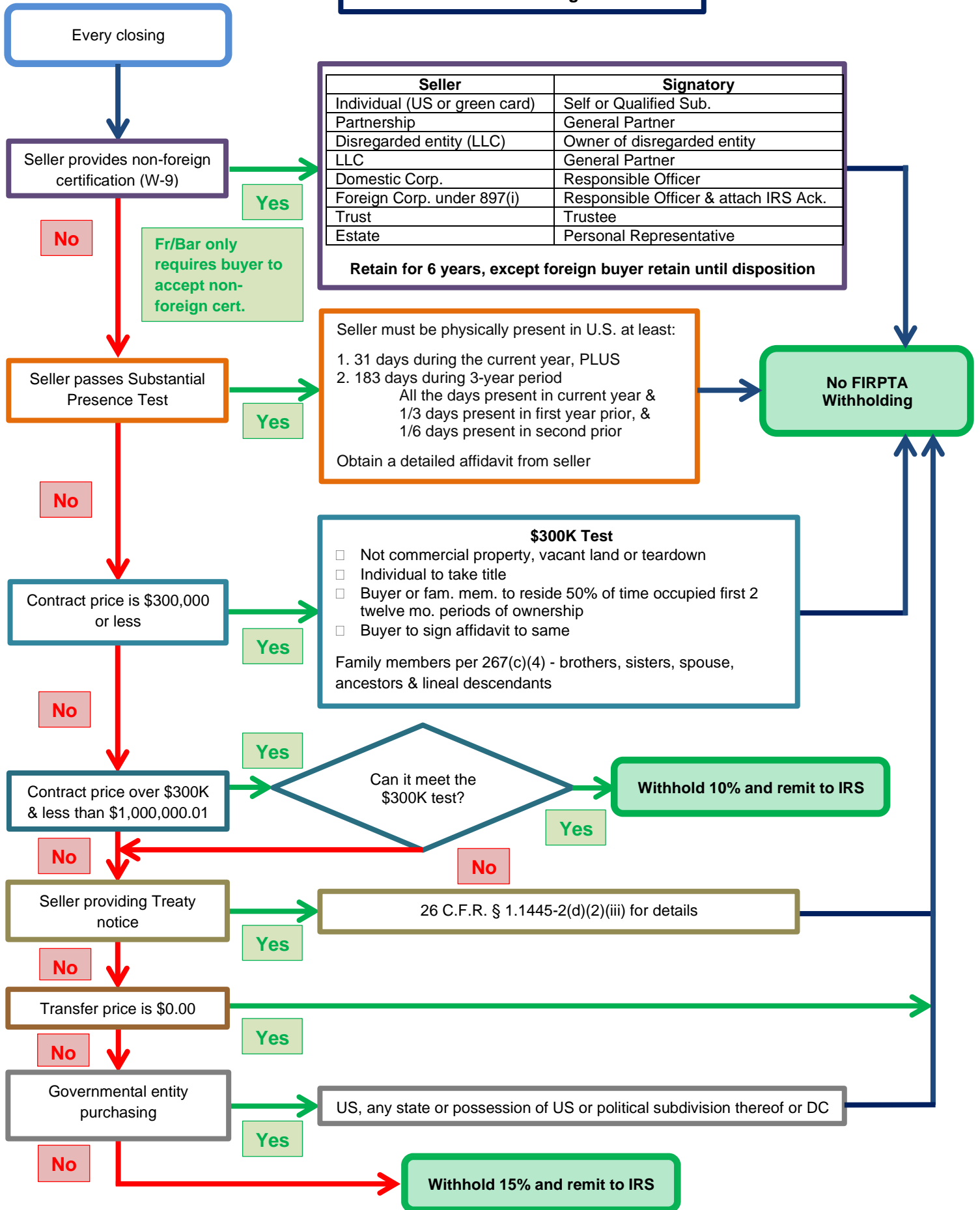
Box 5. Check the applicable box to indicate the section under which withholding was made.

Box 6. Check the applicable box to indicate whether the foreign person subject to withholding is an individual, a corporation, a partnership, or other. If "Other," specify whether the foreign person is a trust or estate.

Box 7. Enter the applicable two-letter code from the list at www.irs.gov/countrycodes for the foreign home address or foreign office address of the foreign person subject to withholding.

See the Instructions for Form 8288 for more information.

FIRPTA – Closing Aid



Note: chart is intended as a work aid & basic guidance for basic real estate transaction & not a substitute for legal analysis of a specific transaction

Non-Foreign Certification

- Seller's name, home (or office address if entity), US identification number (SSN or EIN)
- Signed under penalty of perjury
- Keep for 6 years (five tax years after tax year of acquisition; foreign buyer to keep until disposition of property)
- May rely upon this certification unless you receive written notice from others or have direct information to the contrary – no need to verify

Tres. Reg. Sec. 1.1445-2

Substantial Presence Test - Days of Presence in the United States

You are treated as present in the U.S. on any day you are physically present in the country, at any time during the day.

Do not count the following as days of presence in the U.S. for the substantial presence test.

- Days you commute to work in the U.S. from a residence in Canada or Mexico, if you regularly commute from Canada or Mexico.
- Days you are in the U.S. for less than 24 hours, when you are in transit between two places outside the United States.
- Days you are in the U.S. as a crew member of a foreign vessel.
- Days you are unable to leave the U.S. because of a medical condition that develops while you are in the United States.
- Days you are an exempt individual (see below).

For details on days excluded from the substantial presence test for other than exempt individuals, refer to Publication 519, U.S. Tax Guide for Aliens.

The term United States (U.S.) includes the following areas.

- All 50 states and the District of Columbia.
- The territorial waters of the United States.
- The seabed and subsoil of those submarine areas that are adjacent to U.S. territorial waters and over which the United States has exclusive rights under international law to explore and exploit natural resources.

The term does not include U.S. possessions and territories or U.S. airspace.

\$300K Test

- Must take title in persons name
- May not take in the name of a trustee, company, LLC or other
- No commercial property
- No vacant land
- No property to be torn down
- Buyer or member of his/her family to reside at least 50% of time it is actually occupied – do not count vacant days. Renter or others may occupy but MUST be less days than owner's including family occupancy days – for the first two 12-month periods. Failure to comply may result in IRS collecting 15% plus penalties and interest form Buyer/Owner
- Buyer/owner to sign affidavit to same
- Family member = bothers & sisters half included; spouse, ancestors & lineal descendants

agreement with the plan administrator. This lien agreement is typically recorded in the official records and may be entitled “agreement,” “memorandum,” “financing agreement,” or “notice of lien” and will reference that the agreement is part of the PACE program. The repayment period can be up to 20 years.

As the properties that are subject to PACE liens are sold and refinanced, Fund Members will have to deal with these loans on several levels. Buyers may assume the lien if the lien is not paid off in advance of closing. It is recommended that buyers and sellers negotiate this matter at the time of the contract. If the PACE lien obligation is not negotiated in advance of contract execution, adjustment to the purchase price to account for the value of the unpaid improvements (which may not have been factored in to the contract sale price) may be requested by the buyer. The adjustment will likely have to be addressed by an addendum to the contract as the current FR/Bar and Florida Realtors versions do not specifically address PACE financed improvements. Also, as stated above, new financing may be delayed if the lender objects to the existence of the PACE lien or has additional conditions to approve a mortgage.

Insuring Requirements

Even though PACE liens are treated as special assessment liens, are fully assumable, and are collected in the real property tax bill, because of their unique nature and for insuring purposes, The Fund will call for the satisfaction of a recorded PACE lien prior to insuring.

Fund Members who receive branch-prepared commitments will see the following requirement (and Fund Members who prepare their own commitments should use the same):

Record satisfaction of that certain [type of lien] dated _____, duly recorded _____, in O.R. _____, Page _____, and/or Instrument No. _____. Alternatively, record release of the lien of such [type of lien] as to the subject property.

For Fund Members who do their own searches using ATIDS, PACE agreements are coded in ATIDS as an LN. Some PACE agreements may have been coded in

ATIDS as an AGR or other instrument code. The Fund is working to recode all PACE instruments as LN; however, Fund Members may find one under a different instrument code. As always, Fund Members should examine every document in their search to determine its effect on title and not rely upon an instrument type designation.

Conclusion

As additional counties implement PACE programs and more property owners take advantage of the ability to finance energy efficient improvements in this manner, it is anticipated that Fund Members will more frequently encounter PACE liens on real property. Fund Members should become familiar with these liens and consider counseling their buyer and seller clients concerning addressing these liens in their purchase and sale contracts. □

THE CATCH-22 OF FOREIGN SELLERS AND THE FORM 1099-S

BY LINDA MONACO, FUND LEGAL EDUCATION ATTORNEY

Transactions involving a foreign seller can bring complications for the settlement agent, but it does not need to be that way. In order to make the closing process go more smoothly, determine if the transaction is subject to Foreign Investment in Real Property Tax Act (FIRPTA) withholding. If so, withhold the proper amount, usually 15 percent, fill in the simple Internal Revenue Service (IRS) Forms 8288 and 8288-A, and submit the forms and funds to the IRS within 20 days of closing. Transactions which are subject to FIRPTA withholding still require the issuance of an IRS Form 1099-S to the seller and reporting to the IRS.

The IRS released a new Form 1099-S earlier this year. The new form has added a numbered “checkbox” for foreign sellers. The checkbox, in line number five, states “[c]heck here if the transferor is a foreign person (nonresident alien, foreign partnership, foreign estate, or foreign trust).” The Form 1099-S consists of three parts, Copy A for the IRS which is filed with the report, Copy B for the transferor, and Copy C for the filer.

Form 1099-S requires the taxpayer identification number (TIN). Sometimes this is not a problem; however, many foreign sellers do not have a TIN. Since 2003, all foreign buyers have been required to obtain a TIN; however, many still do not apply for it. Additionally, reporting a Form 1099-S without a TIN can subject the reporter (i.e., the settlement agent) to a minimum penalty of \$50 per form. Since one cannot report information that does not exist, the IRS

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone number		1 Date of closing	OMB No. 1545-0097
		2 Gross proceeds	2017 Proceeds From Real Estate Transactions Form 1099-S
FILER'S federal identification number	TRANSFEROR'S identification number	3 Address or legal description (including city, state, and ZIP code)	
TRANSFEROR'S name		4 Check here if the transferor received or will receive property or services as part of the consideration <input type="checkbox"/>	
Street address (including apt. no.)		5 Check here if the transferor is a foreign person (nonresident alien, foreign partnership, foreign estate, or foreign trust) <input type="checkbox"/>	
City or town, state or province, country, and ZIP or foreign postal code		6 Buyer's part of real estate tax	
Account or escrow number (see instructions)		\$	

Form **1099-S** Cat. No. 64292E www.irs.gov/form1099s Department of the Treasury - Internal Revenue Service

Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

For example:

On Jan. 6, 2017 at 1:38 p.m., I contacted Solo Foreignseller. I requested his TIN. I stated that this information is required to be furnished under authority of law. Mr. Foreignseller did not provide me with his TIN. The transaction closed on Jan. 31, 2017.

The IRS states that this affidavit should be attached to the transmittal document forwarding the Form 1099-S returns. However, at the current time, there is no method to submit the affidavit with magnetic or electronic Form 1099-S submissions. Therefore, the IRS further advises keeping the affidavit in the settlement agent's files and submitting the affidavit only in response to a letter from the IRS proposing a penalty.

DoubleTime users can leave the TIN blank if the TIN is unknown. Even though DoubleTime provides the following error: "missing seller tax identification number (TIN)," Fund Members may print or email the Form 1099-S without a TIN. The year-end summary of Forms 1099-S will show all errors including those with missing TINs. If TIN information has not yet been received, leave the TIN blank.

Next year, prior to the due date, generate the yearly report for filing electronically (for reporting more than 250 Forms 1099-S per year) or paper filing (for reporting 250 or fewer Forms 1099-S per year). Send this report to the IRS with Copy A of each Form 1099-S. This report will include all uncorrected errors in the Forms 1099-S. So, if a Form 1099-S has no TIN, the IRS will receive that Form 1099-S with no TIN. If the report is filed by mail and not electronically, include the affidavit with all TIN requests detailed with the report.

If the report is electronically submitted and later the IRS sends a letter with a proposed penalty for failure to include the TIN, send the IRS a copy of the TIN request letter with a copy of the affidavit prepared giving all of the details of each request.

Although it may seem the filing of a Form 1099-S for a foreign seller is a difficult path to navigate and a Catch-22, with proper planning and documentation, it will be smooth sailing.

has given some guidance in this area.

On every reportable transaction, the settlement agent should request the TIN from the seller. This request may be in person or by regular or electronic mail; the request may be part of a request for other items. There is no need for a special or separate request. The request must be made no later than the time of closing. It is better to make this request early in the transaction to allow time for the seller to also meet their FIRPTA requirements, if necessary. The closing table is not the time to find out that the seller is a foreigner subject to FIRPTA. Notate the date and time of the request in the file.

The IRS has provided a sample request:

You are required by law to provide Sally Settlementagent with your correct taxpayer identification number. If you do not provide Sally Settlementagent with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law.

If the above request is in writing, add spaces for each seller's name, address, and TIN. Below that information, add a certification which should be similar to this example as provided by the IRS:

Under penalties of perjury, I certify that I am a U.S. person or U.S. resident alien and the number shown on this statement is my correct taxpayer identification number.

The details of each request, when the seller did not provide a TIN, must be included in an affidavit submitted by the settlement agent during the annual Form 1099-S reporting period. A single affidavit for all such requests for the year is all that the IRS requires at this time. The beginning of the affidavit should be the same as all other affidavits. Then, each entry will list the details of each request. The details should include the name of the foreign person who did not provide a TIN, the date and time (if available) of the request, and the date the transaction occurred.



Attention:

Copy A of this form is provided for informational purposes only. Copy A appears in red, similar to the official IRS form. The official printed version of Copy A of this IRS form is scannable, but the online version of it, printed from this website, is not. Do **not** print and file copy A downloaded from this website; a penalty may be imposed for filing with the IRS information return forms that can't be scanned. See part O in the current General Instructions for Certain Information Returns, available at [IRS.gov/Form1099](https://www.irs.gov/Form1099), for more information about penalties.

Please note that Copy B and other copies of this form, which appear in black, may be downloaded and printed and used to satisfy the requirement to provide the information to the recipient.

If you have 10 or more information returns to file, you may be required to file e-file. Go to [IRS.gov/InfoReturn](https://www.irs.gov/InfoReturn) for e-file options.

If you have fewer than 10 information returns to file, we strongly encourage you to e-file. If you want to file them on paper, you can place an order for the official IRS information returns, which include a scannable Copy A for filing with the IRS and all other applicable copies of the form, at [IRS.gov/EmployerForms](https://www.irs.gov/EmployerForms). We'll mail you the forms you request and their instructions, as well as any publications you may order.

See Publications [1141](#), [1167](#), and [1179](#) for more information about printing these forms.

7575

☐ VOID☐ CORRECTED

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone number		1 Date of closing	OMB No. 1545-0997	Proceeds From Real Estate Transactions
		2 Gross proceeds	Form 1099-S (Rev. April 2025)	
		\$	For calendar year _____	
FILER'S TIN	TRANSFEROR'S TIN	3 Address (including city, state, and ZIP code) or legal description		Copy A For Internal Revenue Service Center For filing information, Privacy Act, and Paperwork Reduction Act Notice, see the General Instructions for Certain Information Returns. www.irs.gov/Form1099
TRANSFEROR'S name				
Street address (including apt. no.)		4 Check here if the transferor received or will receive property or services as part of the consideration <input type="checkbox"/>		
City or town, state or province, country, and ZIP or foreign postal code		5 Check here if the transferor is a foreign person (nonresident alien, foreign partnership, foreign estate, or foreign trust) <input type="checkbox"/>		
Account number (see instructions)		6 Buyer's part of real estate tax \$		

Form **1099-S** (Rev. 4-2025)

Cat. No. 64292E

www.irs.gov/Form1099S

Department of the Treasury - Internal Revenue Service

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☐ CORRECTED (if checked)

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone number		1 Date of closing	OMB No. 1545-0997 Form 1099-S (Rev. April 2025)	Proceeds From Real Estate Transactions
		2 Gross proceeds		
		\$		
FILER'S TIN	TRANSFEROR'S TIN	3 Address (including city, state, and ZIP code) or legal description		Copy B For Transferor This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this item is required to be reported and the IRS determines that it has not been reported.
TRANSFEROR'S name				
Street address (including apt. no.)		4 Transferor received or will receive property or services as part of the consideration (if checked) <input type="checkbox"/>		
City or town, state or province, country, and ZIP or foreign postal code		5 If checked, transferor is a foreign person (nonresident alien, foreign partnership, foreign estate, or foreign trust) <input type="checkbox"/>		
Account number (see instructions)		6 Buyer's part of real estate tax \$		

Instructions for Transferor

For sales or exchanges of certain real estate, the person responsible for closing a real estate transaction must report the real estate proceeds to the IRS and must furnish this statement to you. To determine if you have to report the sale or exchange of your main home on your tax return, see the Instructions for Schedule D (Form 1040). If the real estate was not your main home, report the transaction on Form 4797, Form 6252, and/or the Schedule D for the appropriate income tax form. If box 4 is checked and you received or will receive like-kind property, you must file Form 8824.

Federal mortgage subsidy. You may have to recapture (pay back) all or part of a federal mortgage subsidy if **all** the following apply.

- You received a loan provided from the proceeds of a qualified mortgage bond or you received a mortgage credit certificate.
- Your original mortgage loan was provided after 1990.
- You sold or disposed of your home at a gain during the first 9 years after you received the federal mortgage subsidy.
- Your income for the year you sold or disposed of your home was over a specified amount.

This will increase your tax. See Form 8828 and Pub. 523.

Transferor's taxpayer identification number (TIN). For your protection, this form may show only the last four digits of your TIN (social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN)). However, the issuer has reported your complete TIN to the IRS.

Account number. May show an account or other unique number the filer assigned to distinguish your account.

Box 1. Shows the date of closing.

Box 2. Shows the gross proceeds from a real estate transaction, generally the sales price. Gross proceeds include cash and notes payable to you, notes assumed by the transferee (buyer), and any notes paid off at settlement. Box 2 does not include the value of other property or services you received or will receive. See *Box 4*.

Box 3. Shows the address or legal description of the property transferred.

Box 4. If checked, shows that you received or will receive services or property (other than cash or notes) as part of the consideration for the property transferred. The value of any services or property (other than cash or notes) is not included in box 2.

Box 5. If checked, shows that you are a foreign person (nonresident alien, foreign partnership, foreign estate, or foreign trust).

Box 6. Shows certain real estate tax on a residence charged to the buyer at settlement. If you have already paid the real estate tax for the period that includes the sale date, subtract the amount in box 6 from the amount already paid to determine your deductible real estate tax. But if you have already deducted the real estate tax in a prior year, generally report this amount as income on the "Other income" line of Schedule 1 (Form 1040). For more information, see Pub. 523, Pub. 525, and Pub. 530.

Future developments. For the latest developments related to Form 1099-S and its instructions, such as legislation enacted after they were published, go to www.irs.gov/Form1099S.

Free File Program. Go to www.irs.gov/FreeFile to see if you qualify for no-cost online federal tax preparation, e-filing, and direct deposit or payment options.

Instructions for Form 1099-S



(Rev. April 2025)

Proceeds From Real Estate Transactions

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

Future Developments

For the latest information about developments related to Form 1099-S and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form1099S](https://irs.gov/Form1099S).

You can get the general instructions at [IRS.gov/1099GeneralInstructions](https://irs.gov/1099GeneralInstructions) or go to [IRS.gov/Form1099S](https://irs.gov/Form1099S).

Reminders

In addition to these specific instructions, you should also use the current [General Instructions for Certain Information Returns](#). Those general instructions include information about the following topics.

- Who must file.
- When and where to file.
- Electronic reporting.
- Corrected and void returns.
- Statements to recipients.
- Taxpayer identification numbers (TINs).
- Backup withholding.
- Penalties.
- Other general topics.

E-filing returns The Taxpayer First Act of 2019 authorized the Department of the Treasury and the IRS to issue regulations that reduce the 250-return e-file threshold. T.D. 9972, published February 23, 2023, lowered the e-file threshold to 10 (calculated by aggregating all information returns), effective for information returns required to be filed on or after January 1, 2024. Go to [IRS.gov/InfoReturn](https://irs.gov/InfoReturn) for e-file options.

Information Reporting Intake System (IRIS). The IRS has developed IRIS, an online portal for e-filing information returns. Go to [IRS.gov/IRIS](https://irs.gov/IRIS) for more information.

Continuous-use revision. Use these instructions for tax year 2025 and subsequent years until a superseding revision is issued.

Online PDF fillable copy. To ease statement furnishing requirements, Copy B has been made fillable online in a PDF format available at [IRS.gov/Form1099S](https://irs.gov/Form1099S). You may fill out Copy B online and send it to the recipients.

Specific Instructions

File Form 1099-S, Proceeds From Real Estate Transactions, to report the sale or exchange of real estate.

Reportable Real Estate

Generally, you are required to report a transaction that consists in whole or in part of the sale or exchange for money, indebtedness, property, or services of any present or future ownership interest in any of the following.

1. Improved or unimproved land, including air space.
2. Inherently permanent structures, including any residential, commercial, or industrial building.
3. A condominium unit and its appurtenant fixtures and common elements, including land.
4. Stock in a cooperative housing corporation (as defined in section 216).
5. Any non-contingent interest in standing timber.

Sale or exchange. A sale or exchange includes any transaction properly treated as a sale or exchange for federal income tax purposes, even if the transaction is not currently taxable. For example, a sale of a main home may be a reportable sale even though the transferor may be entitled to exclude the gain under section 121. But see [Exceptions](#), later. Also, a transfer to a corporation that qualifies for nonrecognition of gain under section 351 is a reportable exchange. In addition, a transfer under a land contract is reportable in the year in which the parties enter into the contract.

Ownership interest. An ownership interest includes fee simple interests, life estates, reversions, remainders, and perpetual easements. It also includes any previously created rights to possession or use for all or part of any particular year (for example, a leasehold, easement, or timeshare), if such rights have a remaining term of at least 30 years, including any period for which the holder may renew such rights, determined on the date of closing. For example, a pre-existing leasehold on a building with an original term of 99 years and a remaining term of 35 years on the closing date is an ownership interest; however, if the remaining term is 10 years, it is not an ownership interest. An ownership interest does not include any option to acquire real estate. An ownership interest also includes any contractual interest in a sale or exchange of standing timber for a lump-sum payment that is fixed and not contingent.

Involuntary conversion. A sale of real estate under threat or imminence of seizure, requisition, or condemnation is generally a reportable transaction.

Timber. Report on Form 1099-S payments of timber royalties made under a pay-as-cut contract, reportable under section 6050N. For more information, see Announcement 90-129, 1990-48 I.R.B. 10.

Exceptions

The following is a list of transactions that are not reportable; however, you may choose to report them. If you do, you are subject to the rules in these instructions.

1. Sale or exchange of a residence (including stock in a cooperative housing corporation) for \$250,000 or less if you received an acceptable written assurance (certification) from the seller that such residence is the principal residence (within the meaning of section 121) of the seller and the full amount of the gain on such sale is excludable from gross income under section 121. If the certification includes an assurance that the seller is married, the preceding sentence shall be applied by substituting “\$500,000” for “\$250,000.” If there are joint sellers, you must obtain a certification from each seller (whether married or not) or file Form 1099-S for any seller who does not make the certification. Also, the seller must include in the certification that there has been no period of nonqualified use (as that term is defined in section 121(b)(5)(C)) after December 31, 2008, and as required by section 6045(e)(5)(A)(iii), that the full amount of the gain from the sale is excludable under section 121. The certification must be signed by each seller under penalties of perjury.

A sample certification format can be found in Rev. Proc. 2007-12, 2007-4 I.R.B. 354, available at [IRS.gov/irb/2007-04_IRB#RP-2007-12.html](https://irs.gov/irb/2007-04_IRB#RP-2007-12.html). The sample certification does not include an assurance that there has been no period of nonqualified use and an assurance that the full amount of the gain from the sale is excludable under section 121. The seller must add the information, as explained earlier.

You may get the certification any time on or before January 31 of the year after the year of sale. You may rely on the certification and

not file or furnish Form 1099-S unless you know that any assurance on the certification is incorrect.

You must keep the certification for 4 years after the year of sale. You may keep the certification on paper, microfilm, microfiche, or in an electronic storage system.

You are not required to obtain the certification. However, if you do not obtain it, you must file and furnish Form 1099-S.

2. Any transaction in which the transferor is a corporation (or is considered to be a corporation under Regulations section 1.6045-4(d)(2)). A corporation includes associations, joint-stock companies, and insurance companies, as well as publicly traded partnerships. Any transaction in which the transferor is a governmental unit (including U.S. territories), including a foreign government or an international organization; or an exempt volume transferor. Under this rule, if there are exempt and nonexempt transferors, you must file Form 1099-S only for the nonexempt transferor.

An exempt volume transferor is someone who sold or exchanged during the year, who expects to sell or exchange during the year, or who sold or exchanged in either of the 2 previous years at least 25 separate items of reportable real estate to at least 25 separate transferees. In addition, each item of reportable real estate must have been held, at the date of closing, or will be held, primarily for sale or resale to customers in the ordinary course of a trade or business. You are not required to report an exempt volume transferor's transactions if you receive, under penalties of perjury, a certification of exempt status required by Regulations section 1.6045-4(d)(3).

3. Any transaction that is not a sale or exchange, including a bequest, a gift (including a transaction treated as a gift under section 1041), and a financing or refinancing that is not related to the acquisition of real estate.

4. A transfer in full or partial satisfaction of a debt secured by the property. This includes a foreclosure, a transfer in lieu of foreclosure, or an abandonment.

5. A de minimis transfer for less than \$600. A transaction is de minimis if it can be determined with certainty that the total money, services, and property received or to be received is less than \$600, as measured on the closing date. For example, if a contract for sale provides for total consideration of "\$1.00 plus other valuable consideration," the transfer is not a de minimis transfer unless you can determine that the "other valuable consideration" is less than \$599, as measured on the closing date. The \$600 rule applies to the transaction as a whole, not separately to each transferor.

No reporting is required for the sale or exchange of an interest in the following types of property, provided the sale is not related to the sale or exchange of reportable real estate.

- An interest in surface or subsurface natural resources (for example, water, ores, or other natural deposits) or crops, whether or not such natural resources or crops are severed from the land. For this purpose, the terms "natural resources" and "crops" do not include standing timber. For timber royalties, see [Timber](#), earlier.
- A burial plot or vault.
- A manufactured structure used as a dwelling that is manufactured and assembled at a location different from that where it is used, but only if such structure is not affixed, on the closing date, to a foundation. This exception applies to the transfer of an unaffixed mobile home that is unrelated to the sale or exchange of reportable real estate.

Who Must File

Generally, the person responsible for closing the transaction, as explained in (1) below, is required to file Form 1099-S. If no one is responsible for closing the transaction, the person required to file Form 1099-S is explained in (2), later. However, you may designate the person required to file Form 1099-S in a written agreement, as explained under (3), later.

1. If you are the person responsible for closing the transaction, you must file Form 1099-S. If a Closing Disclosure or other settlement form is used, as prescribed under the Dodd-Frank Wall

Street Reform and Consumer Protection Act (Dodd-Frank), and a person is listed as the settlement agent on the Closing Disclosure or other settlement statement, the person responsible for closing the transaction is the person listed as the settlement agent on that Closing Disclosure or other settlement statement. The Closing Disclosure combines and replaces the HUD-1 Settlement Statement and the final Truth-in-Lending (TIL) statement under the Real Estate Settlement Procedures Act (RESPA) of 1974, as amended, and the Federal Truth in Lending Act, which is contained in title I of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601). The form incorporates the information provided on the Closing Disclosure. A Closing Disclosure includes any amendments, variations, or substitutions that may be prescribed under Dodd-Frank if any such form discloses the transferor and transferee, the application of the proceeds, and the identity of the settlement agent or other person responsible for preparing the form.

If the Closing Disclosure is not used, or no settlement agent is listed, the person responsible for closing the transaction is the person who prepares a Closing Disclosure that identifies the transferor and transferee, reasonably identifies the real estate transferred, and describes how the proceeds are to be or were disbursed.

If no Closing Disclosure is used, or if two or more Closing Disclosures are used, the person responsible for closing the transaction is, in the following order:

- a. The transferee's attorney who is present at the delivery of either the transferee's note or a significant part of the cash proceeds to the transferor or who prepares or reviews the preparation of the documents transferring legal or equitable ownership,
- b. The transferor's attorney who is present at the delivery of either the transferee's note or a significant part of the cash proceeds to the transferor or who prepares or reviews the preparation of the documents transferring legal or equitable ownership, or
- c. The disbursing title or escrow company that is most significant in disbursing gross proceeds.

If there is more than one attorney described in (a) or (b), the one whose involvement is most significant is the person considered responsible for closing the transaction.

2. If no one is responsible for closing the transaction, as explained in (1) above, the person responsible for filing is, in the following order: (a) the mortgage lender, (b) the transferor's broker, (c) the transferee's broker, or (d) the transferee.

For purposes of (2) above, apply the following definitions.

a. Mortgage lender means a person who lends new funds in connection with the transaction, but only if the loan is at least partially secured by the real estate. If there is more than one lender, the one who lends the most new funds is the mortgage lender. If several lenders advance equal amounts of new funds, and no other person advances a greater amount of new funds, the mortgage lender is the one who has the security interest that is most senior in priority. Amounts advanced by the transferor are not treated as new funds.

b. Transferor's broker means the broker who contracts with the transferor and who is compensated for the transaction.

c. Transferee's broker means the broker who significantly participates in the preparation of the offer to acquire the property or who presents such offer to the transferor. If there is more than one such person, the transferee's broker is the one who most significantly participates in the preparation of the acquisition offer. If there is no such person, the one who most significantly participates in the presentation of the offer is the transferee's broker.

d. Transferee means the person who acquires the greatest interest in the property. If no one acquires the greatest interest, the transferee is the person listed first on the ownership transfer documents.

3. Designation agreement. You can enter into a written agreement at or before closing to designate who must file Form 1099-S for the transaction. The agreement will identify the person responsible for filing if such designated person signs the agreement.

It is not necessary that all parties to the transaction (or that more than one party) enter into the agreement.

You may be designated in the agreement as the person who must file if you are the person responsible for closing the transaction (as explained in (1) under [Who Must File](#), earlier), the transferee's or transferor's attorney (as explained in (1) under [Who Must File](#), earlier), the title or escrow company that is most significant in disbursing gross proceeds, or the mortgage lender (as explained in (2a) under [Who Must File](#), earlier).

The designation agreement may be in any written form and may be included on the Closing Disclosure. It must:

- Identify by name and address the person designated as responsible for filing,
- Include the names and addresses of each person entering into the agreement,
- Be signed and dated by all persons entering into the agreement,
- Include the names and addresses of the transferor and transferee, and
- Include the address and any other information necessary to identify the property.

Each person who signs the agreement must keep it for 4 years.



For each transaction, be sure that only one person is responsible for filing and that only one Form 1099-S is filed for each transferor.

Employees, Agents, and Partners

If an employee, agent, or partner, acting within the scope of such person's employment, agency, or partnership, participates in a real estate transaction, only the employer, principal, or partnership (not the employee, agent, or partner) may be the reporting person. However, the participation of a person listed on the Closing Disclosure as the settlement agent acting as an agent of another is not attributed to the principal.

Foreign Transferors

Sales or exchanges involving foreign transferors are reportable on Form 1099-S. For information on the transferee's responsibility to withhold income tax when a U.S. real property interest is acquired from a foreign person, see [Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities](#).

Multiple Transferors

For multiple transferors of the same real estate, you must file a separate Form 1099-S for each transferor. At or before closing, you must request from the transferors an allocation of the gross proceeds among the transferors. The request and the response are not required to be in writing. You must make a reasonable effort to contact all transferors of whom you have knowledge. However, you may rely on the unchallenged response of any transferor, and you need not make additional contacts with other transferors after at least one complete allocation is received (100% of gross proceeds, whether or not received in a single response). If you receive the allocation, report gross proceeds on each Form 1099-S accordingly.

You are not required to, but you may, report gross proceeds in accordance with an allocation received after the closing date but before the due date of Form 1099-S (without extensions). However, you cannot report gross proceeds in accordance with an allocation received on or after the due date of Form 1099-S (without extensions).

If no gross proceeds are allocated to a transferor because no allocation or an incomplete allocation is received, you must report the total unallocated gross proceeds on the Form 1099-S made for that transferor. If you do not receive any allocation or you receive conflicting allocations, report on each transferor's Form 1099-S the total unallocated gross proceeds.

Spouses. If the transferors were spouses at the time of closing, who held the property as joint tenants, tenants by the entirety, tenants in common, or as community property, treat them as a single transferor. Only one Form 1099-S showing either spouse as the transferor is required. You need not request an allocation of gross proceeds if spouses are the only transferors. But if you receive an uncontested allocation of gross proceeds from them, file Form 1099-S for each spouse according to the allocation. If there are other transferors, you must make a reasonable effort to contact either spouse to request an allocation.

Partnerships. If the property is transferred by a partnership, file only one Form 1099-S for the partnership, not separate Forms 1099-S for each partner.

Multiple Assets Sold

If real estate is sold or exchanged and other assets are sold or exchanged in the same transaction, report the total gross proceeds from the entire transaction on Form 1099-S.

TINs

You must request the transferor's TIN no later than the time of closing. The TIN request need not be made in a separate mailing. Rather, it may be made in person, in a mailing that includes other items, or electronically. The transferor is required to furnish their complete, non-truncated TIN and to certify that the TIN is correct. For U.S. persons (including U.S. resident aliens), you may request a TIN on [Form W-9, Request for Taxpayer Identification Number and Certification](#). Foreign persons may provide their TIN to you on the appropriate [Form W-8](#). See part J in the current [General Instructions for Certain Information Returns](#).

Alternatively, you may provide a written statement to the transferor similar to the following: "You are required by law to provide (insert name of person responsible for filing) with your correct taxpayer identification number. If you do not provide (insert name of person responsible for filing) with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law."

The solicitation must contain space for the name, address, and TIN of the transferor, and a place to certify, under penalties of perjury, that the TIN furnished is the correct TIN of the transferor. The certification must read similar to: "Under penalties of perjury, I certify that I am a U.S. person or U.S. resident alien and the number shown on this statement is my correct taxpayer identification number."

If you use a Closing Disclosure, you may provide a copy of such statement, appropriately modified to solicit the TIN, to the transferor. Keep the Form W-9, W-8, or substitute form in your records for 4 years.

Separate Charge Prohibited

You may not charge your customers a separate fee for complying with the Form 1099-S filing requirements. However, you may take into account the cost of filing the form in setting the fees you charge your customers for services in a real estate transaction.

Statements to Transferors

If you are required to file Form 1099-S, you must furnish a statement to the transferor. Furnish a copy of Form 1099-S or an acceptable substitute statement to each transferor. For more information about the requirement to furnish a statement to the transferor, see part M in the current [General Instructions for Certain Information Returns](#).



You are not required to indicate on Form 1099-S that the transferor's (seller's) financing was federally subsidized. Also, you are not required to enter the following.

- Both total gross proceeds and the allocated gross proceeds for a multiple transferor transaction (enter either one or the other).
- An indication that the transferor may receive property or services for an obligation having a stated principal amount.

- An indication that, in connection with a contingent payment transaction, the transferor may receive gross proceeds that cannot be determined with certainty under the regulations and is not included in gross proceeds.

Truncating transferor's TIN on payee statements. Pursuant to Regulations section 301.6109-4, all filers of this form may truncate a transferor's TIN (social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN)) on payee statements. Truncation is not allowed on any documents the filer files with the IRS. A filer's TIN may not be truncated on any form. See part J in the current [General Instructions for Certain Information Returns](#).

Filer's Name, Address, and Telephone Number Box

Enter the name, address, and telephone number of the person who is filing Form 1099-S. The name and address must be the same as the filer information reported on Form 1096.

Transferor's Name and Address Box

Enter the name and address of the seller or other transferor of the real estate. If spouses are joint sellers, it is only necessary to enter one name and the TIN for that person on the form, unless the reporting person receives, at or prior to the time of closing, an uncontested allocation of gross proceeds between them.

Account Number

The account number is required if you have multiple accounts for a recipient for whom you are filing more than one Form 1099-S. Additionally, the IRS encourages you to designate an account number for all Forms 1099-S that you file. See part L in the current [General Instructions for Certain Information Returns](#).

Box 1. Date of Closing

Enter the closing date. On a Closing Disclosure, the closing date is the Closing Disclosure date. If a Closing Disclosure is not used, the closing date is the earlier of the date title transfers or the date the economic burdens and benefits of ownership shift to the transferee.

Box 2. Gross Proceeds

Enter the gross proceeds from the sale or exchange of real estate. Gross proceeds means any cash received or to be received for the real property by or on behalf of the transferor, including the stated principal amount of a note payable to or for the benefit of the transferor and including a note or mortgage paid off at settlement. If the transferee assumes a liability of the transferor or takes the property subject to a liability, such liability is treated as cash and is includible as part of gross proceeds. For a contingent payment transaction, include the maximum determinable proceeds. Also see [Multiple Assets Sold](#), earlier.

If you are reporting a like-kind exchange of property for which no gross proceeds are reportable, enter -0- (zero) in box 2 and enter an "X" in the checkbox in box 4.

Gross proceeds do not include the value of property or services received or to be received by, or on behalf of, the transferor, or separately stated cash received for personal property, such as draperies, rugs, or a washer and dryer.

Do not reduce gross proceeds by any expenses paid by the transferor, such as sales commissions, deed preparation, advertising, and legal expenses. If a Closing Disclosure is used for a transfer of real estate for cash and notes only, gross proceeds will generally be the contract sales price shown on that statement. If other property or services were exchanged, see the [box 4 instructions](#), later.

Contingent payment transaction. A contingent payment transaction is one in which the receipt, by or on behalf of the transferor, is subject to a contingency. The maximum determinable proceeds means the greatest amount of gross proceeds possible if all the contingencies are satisfied. If the maximum amount of gross proceeds cannot be determined with certainty, the maximum determinable proceeds are the greatest amount that can be determined with certainty.

Box 3. Address (Including City, State, and ZIP Code) or Legal Description

Enter the address of the property, including the city, state, and ZIP code. If the address does not sufficiently identify the property, also enter a legal description, such as section, lot, and block. For timber royalties, enter "Timber royalties." For lump-sum timber payments, enter "Lump-sum timber payment."

Box 4. Check Here if the Transferor Received or Will Receive Property or Services as Part of the Consideration

If the transferor received or will receive property (other than cash and consideration treated as cash in figuring gross proceeds) or services as part of the consideration for the property, enter an "X" in the checkbox in box 4.

Box 5. Check Here if the Transferor Is a Foreign Person (Nonresident Alien, Foreign Partnership, Foreign Estate, or Foreign Trust)

If the transferor is a foreign person (nonresident alien, foreign partnership, foreign estate, or foreign trust), enter an "X" in the checkbox in box 5. See Form 8288 and its separate instructions for tax withholding requirements for properties sold by a foreign transferor.

Box 6. Buyer's Part of Real Estate Tax

For a real estate transaction involving a residence, enter the real estate tax paid in advance that is allocable to the buyer. You do not have to report an amount as allocable to the buyer for real estate taxes paid in arrears. You may use the appropriate information included on the Closing Disclosure, or comparable form, provided at closing. For example, a residence is sold in a county where the real estate tax is paid annually in advance. The seller paid real estate taxes of \$1,200 for the year in which the sale took place. The sale occurred at the end of the 9th month of the real estate tax year. Therefore, \$300 of the tax paid in advance is allocated to the buyer, by reference to the amount of real estate tax shown on the Closing Disclosure as paid by the seller in advance, and is reported in box 6. See Notice 93-4, 1993-1 C.B. 295.



CERTIFICATE OF ATTENDANCE

Certified Paralegals are required to record evidence of 50 hours of continuing legal education hours to renew the CP credential every 5 years. CLE hours are recorded in CPs' accounts through the [NALA online portal](https://www.nala.org/certification/certtest2view). Of the 50 hours, 5 hours must be in legal ethics, and no more than 10 hours may be recorded in non-substantive areas. If attending a non-NALA sponsored educational event, this certificate may be used to obtain verification of attendance. Please be sure to obtain the required signatures for verification of attendance. The requirements to maintain the CP credential are available from NALA's web site at <https://www.nala.org/certification/certtest2view>. Please keep this certificate in the event of a CLE audit or further information is needed.

PLEASE COMPLETE THE SPACES BELOW AND ATTACH A PROGRAM

Session Length In Hours	Session Topics (Description and Speakers)	Validation of Attendance
1.0	Addressing FIRPTA in Every Transaction / Linda Monaco	<i>LM</i>

Name of CP (Please Print)			NALA Account Number (On Mailing Label)		
			149113		
Signature of CP			Name of Seminar/Program Sponsor		
			Attorneys' Title Fund Services, Inc.		
Address			Authorized Signature of Sponsor Representative		
			<i>Linda Monaco</i>		
			Date of Educational Event:		
City:		State (XX):			
Preferred e-mail address			Location:		
			Online Webinar		

For Office Use Only	
Substantive hours	
Non-substantive hours	
Ethics	



FL BAR Reference Number: 2410132N

Title: Addressing FIRPTA In Every Transaction

Level: Intermediate

Approval Period: 11/01/2024 - 05/31/2026

CLE Credits

General 1.0

Certification Credits

Real Estate 1.0