

# INSTRUCTIONS FOR FORM W-8C



Department of the Treasury  
Internal Revenue Service

## Certificate of Foreign Intermediary, Foreign Partnership, and Certain U.S. Branches for United States Tax Withholding

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

### General Instructions

**Purpose of form.** Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources that consists of interest (including certain original issue discount (OID)), dividends, rent, premiums, annuities, compensation for, or in expectation of, services performed, or other fixed or determinable annual or periodical gains, profits, or income. This tax is imposed on the gross amount paid and is generally collected by way of withholding on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner or to another person, such as an intermediary, agent, or partnership, for the benefit of the beneficial owner.

**Who must file.** Form W-8C must be provided by:

- A foreign intermediary to represent that it is a foreign person and that it is a qualified intermediary or a nonqualified intermediary for the payments it receives and not the beneficial owner. A qualified intermediary uses the form to make representations about the status of foreign beneficial owners and to transmit information regarding certain U.S. payees to a withholding agent. A nonqualified intermediary uses the form to transmit appropriate documentation regarding foreign beneficial owners and certain U.S. payees to a withholding agent.
- A foreign partnership to establish its status as a foreign person or the status of its partners as foreign persons. Form W-8C is used by a foreign withholding partnership to represent that it has assumed primary withholding responsibility. Foreign partnerships other than foreign withholding partnerships use the form to transmit appropriate documentation to a withholding agent. For purposes of claiming treaty benefits, a foreign partnership includes a business entity that is treated as fiscally transparent in the country of residence of its interest holders even if the entity is not treated as a partnership for U.S. income tax purposes.
- A U.S. branch of certain foreign banks and insurance companies to represent: (a) that the income it receives is not effectively connected with the conduct of a trade or business within the United States, and (b) that it is using the certificate either to transmit the documentation of the persons for whom it is acting as an intermediary or as evidence of its agreement with a withholding agent to be treated as a U.S. person. See the Instructions to Part IV of this form.

You must provide Form W-8C to the withholding agent or payer before income is paid or credited to you on behalf of the beneficial owner.

**DO NOT** use Form W-8C if:

- You are the beneficial owner of U.S. source income (other than income that is effectively connected with the conduct of a trade or business within the United States) and you need to establish that you are a foreign person. Instead, submit Form W-8 or Form W-8B.
- You are the beneficial owner of U.S. source income (other than income that is effectively connected with the conduct of a trade or business within the United States) and are claiming a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty. Instead, provide Form W-8 or Form W-8B.

- You are the beneficial owner of income that is effectively connected with the conduct of a trade or business within the United States. Instead, provide Form W-8A.
- You are a nonresident alien individual who claims exemption from withholding on compensation for independent (and certain dependent) personal services performed in the United States. Instead, provide **Form 8233**, Exemption from Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual, or **Form W-4**, Employee's Withholding Allowance Certificate.
- You are the beneficial owner of U.S. source income and are claiming an exemption from, or reduced rate of withholding as, an international organization, foreign government, foreign central bank of issue, or foreign tax-exempt organization. Instead, provide Form W-8B.
- You are a hybrid entity claiming treaty benefits on your own behalf. Instead, provide Form W-8.

**Giving Form W-8C to the withholding agent.** Give Form W-8C to the person who is requesting it from you. Generally, this person will be the one from whom you receive the payment or who credits your account. Give Form W-8C to the person requesting it before income is paid to you or credited to your account. If you do not provide this form, the withholding agent may have to withhold at a 30% rate (nonresident alien withholding) or 31% (backup withholding) rate. A separate Form W-8C must be submitted to each withholding agent.

**DO NOT** send Form W-8C to the IRS.

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

You must update the information furnished to the withholding agent as often as is necessary to enable the withholding agent to withhold at the appropriate rate on each payment and to report such income for purposes of Chapter 3 or 61 of the Code and sections 3402, 3405, and 3406.

### Definitions

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

**Qualified intermediary.** A qualified intermediary is an intermediary that is a party to a withholding agreement with the IRS and is:

- A foreign financial institution or a foreign clearing organization (other than a U.S. branch or U.S. office of the institution or organization);
- A foreign branch or office of a U.S. financial institution or a foreign branch or office of a U.S. clearing organization;
- A foreign corporation for purposes of presenting claims of benefits under an income tax treaty on behalf of its shareholders; or
- Any other person the IRS accepts as a qualified intermediary and who enters into a withholding agreement with IRS.

See **Rev. Proc. 98-27** for procedures to apply to be a qualified intermediary.

**Nonqualified intermediary.** A nonqualified intermediary is any intermediary other than a qualified intermediary.

**Withholding foreign partnership.** A withholding foreign partnership is a foreign partnership that has entered into a withholding agreement with the IRS in which it agrees to assume primary withholding responsibility for all payments that are made to it for its partners.

**Nonwithholding foreign partnership.** A nonwithholding foreign partnership is any foreign partnership other than a withholding foreign partnership.

**Beneficial owner.** A beneficial owner is the person who is the owner of income for tax purposes and who beneficially owns the income. Thus, a person receiving income as a nominee, custodian, or agent for another person is not the beneficial owner of the income. Generally, a person is treated as the owner of the income to the extent it is required under U.S. tax principles to include the amount paid in gross income on a tax return. A person who is the owner of income is considered the beneficial owner of that income unless that person is a conduit entity whose participation in a transaction can be disregarded.

Generally, the principles of section 7701(l) and Regulations section 1.881-3 apply to determine if a person is a conduit entity.

The beneficial owners of income paid to a partnership are those persons who, under U.S. tax principles, are the owners of the income for tax purposes in their separate or individual capacities and who beneficially own the income. Generally, the beneficial owners of income paid to a partnership are the partners, provided that the partner is not itself a partnership or a conduit.

**Foreign person.** A foreign person includes a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person. It also includes a foreign branch or office of a U.S. financial institution or U.S. clearing organization if the foreign branch is a qualified intermediary. Generally, a payment to a U.S. branch of a foreign person is a payment to a foreign person.

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

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

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

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

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

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

**Reportable amount.** A reportable amount is an amount subject to withholding, U.S. source deposit interest (including original issue discount) described in section 871(i)(2)(A), and U.S. source interest or original issue discount on short-term obligations described in section 871(g)(1)(B). It does not include payments on deposits with banks and other financial institutions that remain on deposit for two weeks or less. It also does not include amounts of original issue discount arising from a sale and repurchase transaction completed within a period of two weeks or less, or amounts described in Regulations section 1.6049-5(b)(7), (10), or (11) (relating to certain obligations issued in bearer form).

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

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## Specific Instructions

### Part I

**Line 1.** Enter your name. In so doing, you are representing to the payer or withholding agent that you are not the beneficial owner of the amounts that will be paid to you.

**Line 2.** Enter the country of incorporation if you are a corporation. If you are another type of entity, enter the country under whose laws you are created, organized, or governed.

**Line 3.** Your permanent residence address is the address in the country where you claim to be a resident. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you do not have a tax residence in any country, the permanent residence address is where you maintain your principal office or, if you are an individual, where you normally reside.

**Line 4.** Enter your mailing address only if it is different from the address you show on line 3.

**Line 5.** A U.S. taxpayer identification number means an Employer Identification Number (EIN). Use **Form SS-4, Application for Employer Identification Number**, to obtain an EIN. If you are a qualified intermediary, the EIN is the one issued to you in your capacity as a qualified intermediary.

You must provide a TIN if you are a qualified intermediary, a foreign withholding partnership, or a U.S. branch of a foreign bank or insurance company filling out Part IV of the form.

**Line 6.** If your country of residence for tax purposes has issued you a tax identifying number, enter it here.

**Line 7.** List all account numbers with the same withholding agent or payer here unless the withholding agent or payer requires you to submit a separate Form W-8C for each account.

**Line 8.** Check the one box that applies. If you are a foreign partnership receiving the payment on behalf of your partners, check the withholding foreign partnership box or the nonwithholding foreign partnership box, whichever is appropriate. If you are a foreign partnership receiving a payment on behalf of persons other than your partners, check the qualified intermediary or nonqualified intermediary box, whichever is appropriate.

## Parts II Through VI

Generally, you should complete only one part. However, if you are acting in multiple capacities, you may either provide separate Forms W-8C for each capacity, or you may fill in the parts of Form W-8C that apply. For example, if you are acting as a qualified intermediary for one account, but a nonqualified intermediary for another account, you may provide one Form W-8C in your capacity as a qualified intermediary, and a separate Form W-8C in your capacity as a nonqualified intermediary. Alternatively, you may fill out both Parts II and III of a single Form W-8C.

If you are acting in multiple capacities and you provide only one Form W-8C, the statements which you attach in accordance with the instructions under Parts II through VI, must clearly allocate the groups of assets to each capacity in which you act. If the withholding agent is unable to allocate any asset to only one capacity in which you are acting, your Form W-8C is unreliable and the withholding agent may not treat it as a valid Form W-8C.

## Part II — Qualified Intermediary

### Line 9

Check the box if you are a qualified intermediary for the assets for which you are providing this form. By checking the box, you are certifying to all of the statements contained in Part II.

Although you are required to obtain withholding certificates or appropriate documentation from beneficial owners, payees, and, if applicable, shareholders, as specified in your withholding agreement with the IRS, you do not need to attach the certificates or documentation to this Form. However, you must disclose the names of those U.S. persons for whom you receive reportable payments and who are not exempt recipients (as defined in Regulation section 1.6049-4(c)(1)(ii) or under section 6041, 6042, 6045, or 6050N). You should make this disclosure by attaching to Form W-8C the Forms W-9 (or substitute form) of persons who are not exempt recipients. If you do not have a Form W-9 for a non-exempt U.S. payee, you must attach to Form W-8C any information you have regarding that person's name, address, and TIN. This disclosure is required even though foreign law may prohibit the disclosure of such information.

**Statement for assets for which the qualified intermediary does not assume primary withholding responsibility.** If you are a qualified intermediary that is not assuming primary withholding responsibility, you must attach to Form W-8C a statement that separates the assets that generate payments of reportable amounts into the three overall categories described below, and as many classes of assets as are necessary to give the withholding agent sufficient information to determine the amount required to be withheld from amounts paid to the intermediary and reported to the IRS. This information may be provided in any manner the parties choose. For example, if the withholding agent maintains separate accounts for each class of assets, the qualified intermediary must attach to Form W-8C a statement that provides information sufficient for the withholding agent to allocate assets appropriately among the various accounts. If the withholding agent does not maintain separate accounts, the qualified intermediary must attach a

statement to Form W-8C that provides sufficient information to permit the withholding agent to determine the classes of assets.

**Note:** No information is required regarding assets that do not generate reportable amounts.

There are three overall **categories of assets:**

1. Assets associated with foreign payees. If different withholding rates apply, the assets must be subdivided into classes of assets. Also, assets on which payments are made to different foreign countries must be segregated into different classes.

2. Assets associated with U.S. payees. If there are non-exempt recipients in this category, the assets allocable to those payees must be separated into a separate class of assets for each payee. In addition, the qualified intermediary must provide a Form W-9 for each U.S. payee that is not an exempt recipient or, in the absence of a Form W-9, the name and address of the U.S. payee and the payee's TIN, if known. Assets associated with all U.S. payees that are exempt recipients, however, are a single, separate class of assets. The identities of U.S. payees that are exempt recipients do not need to be given to the withholding agent.

3. Assets associated with undocumented payees. A qualified intermediary receiving reportable amounts (other than U.S. source bank deposit interest or short-term OID) must presume that the undocumented payees are foreign persons (and subject to 30% nonresident alien withholding), unless the qualified intermediary actually knows that the payee is a U.S. person that is not an exempt recipient (and subject to 31% backup withholding). For bank deposit interest from a U.S. branch of a U.S. bank or similar financial institution or for short-term OID, the qualified intermediary must presume that the undocumented payee is a U.S. person that is not an exempt recipient and 31% backup withholding applies.

A **class of assets** is a group of assets that produces the same type of income (e.g., interest or dividends), is subject to the same rate of withholding, and is associated with the same type of payee or beneficial owner (e.g., foreign, U.S., or undocumented payees). In addition, a qualified intermediary is required to identify classes of assets on a country-by-country basis. You may aggregate assets in a particular account (other than assets allocable to U.S. persons that are not exempt recipients) if all of the income from the assets in the account is subject to the same rate of withholding and the same type of information reporting and payments are made to recipients in the same foreign country.

See Rev. Proc. 98-27 for further information on the determination of classes of assets.

**Statement for assets for which the qualified intermediary assumes primary withholding responsibility.** Assets for which a qualified intermediary assumes primary withholding responsibility are a single separate class of assets. The qualified intermediary does not have to identify separate classes of assets within that class if the assumption of withholding responsibility makes such a disclosure unnecessary. Generally, a qualified intermediary may not assume primary withholding responsibility for a payment allocable to a U.S. person.

**Updating the statement.** The statement by which the qualified intermediary identifies the relevant classes of assets must be updated as often as is necessary to allow the withholding agent to withhold at the appropriate rate on each payment and to correctly report the income to the IRS.

## Part III — Nonqualified Intermediary

### Line 10

If you are providing Form W-8C as a nonqualified intermediary, you must check box 10a certifying that you are not acting for your own account and you are using this form to transmit withholding certificates or other documentation. You must also check either box 10b OR box 10c, but not both.

Check box 10b if you are transmitting all of the withholding certificates and other documentation for all of the persons for whom you are providing this form. You may provide copies of the

withholding certificates or other documentation, but you must keep the original documentation for as long as it may be relevant in determining the withholding agent's tax liability.

Check box 10c if you do not have withholding certificates or other documentation (or the documentation you have is unreliable) for some persons for whom you are providing this form. You must separately identify the amounts allocated to persons for whom documentation is lacking or is unreliable.

If you are acting on behalf of another nonqualified intermediary or on behalf of a foreign partnership that is not a withholding foreign partnership, you must attach to your own Form W-8C the Form W-8C of the other nonqualified intermediary or the foreign partnership together with the withholding certificates or other documentation attached to that Form W-8C.

**Statement of nonqualified intermediary.** An intermediary that is not acting as a qualified intermediary must provide information sufficient for the withholding agent to determine the proportion of each payment of reportable amounts that is allocable to each person to whom the intermediary withholding certificate relates, including persons for whom the nonqualified intermediary has not attached a withholding certificate or other appropriate documentation. The sum of all of the proportions indicated by the intermediary, expressed as a percentage, **must** equal 100% of the payment.

The information for persons for whom a withholding certificate or other documentation is lacking or unreliable may be given in the aggregate and need not be given separately for each person. The nonqualified intermediary is not required to disclose the names of the persons for whom it does not have a valid withholding certificate or other documentation unless it has actual knowledge that the undocumented person is a U.S. person that is not an exempt recipient. In that case, the intermediary must state separately the name, address, and TIN (if known) of the U.S. person.

In addition to providing information sufficient for the withholding agent to determine the proportion of each payment of reportable amounts that is allocable to each person to whom the intermediary withholding certificate relates, the statement must provide information that allows the withholding agent to determine the categories and classes of assets in the same manner as if the nonqualified intermediary were a qualified intermediary. Further, if any documentary evidence, other than a Form W-8, is provided on behalf of a beneficial owner (other than an individual claiming treaty benefits), the nonqualified intermediary must determine whether the documentation contains statements that the beneficial owner meets one or more conditions in the "limitation on benefits" article (if any) in a treaty and that the income is derived by the beneficial owner as a resident of a treaty country within the meaning of Regulations section 1.894-1T(d)(1), and must inform the withholding agent as to which payments those statements relate.

**Portfolio interest statement.** A nonqualified intermediary that is a securities clearing organization, a bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business may meet the requirements of section 871(h)(5)(B) (describing the statement required for interest or OID to qualify as portfolio interest) and Regulations section 1.871-14(c)(2)(v) by checking boxes 10a and 10b (but not box 10c) and indicating in a statement attached to the form that it: (a) is a securities clearing organization, a bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business; and (b) that it has received a Form W-8 from the beneficial owner, or a similar statement from another financial institution that it has received a Form W-8 from the beneficial owner. In addition, the statement must contain the names and addresses of the beneficial owners and a copy of the Forms W-8 provided by the beneficial owners must be attached.

A person providing Form W-8C to meet the portfolio interest statement requirement should not check box 10c. If it does, portfolio interest treatment cannot be given to any amount allocated to beneficial owners for which no Form W-8 is provided.

## Part IV — United States Branch

### Line 11

Check the box to certify that you are either:

- A U.S. branch of a foreign bank subject to regulatory supervision by the Federal Reserve Board; or
- A U.S. branch of a foreign insurance company required to file an annual statement on a form approved by the National Association of Insurance Commissioners with the insurance department of a state, a territory, or the District of Columbia.

By checking the box you are also certifying that the income you are receiving is not effectively connected with the conduct of a trade or business in the United States.

### Lines 12 or 13

If you are one of the types of U.S. branches specified above, then you may choose to be treated in one of two ways:

1. If you have an agreement with the withholding agent to whom you are providing this form to be treated as a U.S. person, you may check the line 12 box as evidence of your agreement. In this case, you will be treated as a U.S. person. Therefore, you will receive the payment free of chapter 3 withholding, but you will yourself be responsible for chapter 3 withholding, and backup withholding under Chapter 61, for any payments you make or credit to the account of persons for whom you are receiving the payment.

2. If you do not have an agreement with the withholding agent to be treated as a U.S. person, you may check box 13a to indicate that you are transmitting withholding certificates for persons for whom you are receiving payments as an intermediary. If you check box 13a, you must check box 13b **OR** box 13c, but not both. You must also follow the appropriate instructions to lines 10b or 10c, including the instructions for attaching the same statement regarding asset classes that must be provided by a qualified intermediary that does not accept primary withholding responsibility.

## Part V — Withholding Foreign Partnership

### Line 14

Check this box if you are a withholding foreign partnership for the assets for which you are providing this form and you are receiving the income from those assets on behalf of your partners. **Do not check** this box if you are receiving income on behalf of persons other than your partners. In that case, you should either complete **Part II** or **Part III**.

If you are acting as a foreign withholding partnership, you must assume primary withholding responsibility for all payments that are made to you for your partners. Therefore, you are not required to provide information to the withholding agent regarding each partner's distributive share of the payment. However, if you are receiving payments from the same withholding agent for persons other than your partners and you are using a single Form W-8C in your capacity as a withholding foreign partnership and as an intermediary, you must attach a statement that identifies those assets for which you are acting as a withholding foreign partnership. For the remainder of the assets, you must fill out **Part II** or **Part III**, and attach all necessary statements required by the instructions under those parts.

## Part VI — Nonwithholding Foreign Partnership

### Line 15

Check **box 15a** if you are a foreign partnership that is not a withholding foreign partnership. By checking this box, you are also certifying that the income you are receiving is not effectively connected income. If you are receiving income that is effectively connected with the conduct of a trade or business in the United States, provide Form W-8A.

You must also check either box 15b **OR** 15c, but not both. Check **box 15b** if you have and are transmitting all of the withholding certificates and other documentation for all of the partners for whom you are providing this form. You may provide copies of the withholding certificates or other documentation, but you must keep the original documentation for as long as it may be relevant to determine the withholding agent's tax liability. Check **box 15c** if you do not have withholding certificates or other documentation (or the documentation you have is unreliable) for some persons for whom you are providing this form. You must separately identify the amounts allocated to partners for whom documentation is lacking or is unreliable.

Do not complete Part VI if you are not receiving the income on behalf of your partners. In that case, complete **Parts II, III, IV, or V**, whichever is appropriate.

If you are acting on behalf of another foreign partnership that is not a withholding foreign partnership or a nonqualified intermediary, you must attach to your own Form W-8C the Form W-8C of the other foreign partnership or nonqualified intermediary together with the withholding certificates or other documentation attached to that other form.

**Statement of foreign partnership.** You must attach a statement to Form W-8C that provides the information necessary for the withholding agent to determine the amount required to be withheld from the amounts paid, such as each partner's distributive share of the reportable amounts to which this form relates. The sum of all partners' distributive shares, expressed as a percentage, must equal 100%. In addition, you must attach the same statement relating to your partners as is required of a nonqualified intermediary.

## Signature

Form W-8C must be signed and dated by a person authorized to sign a declaration under penalties of perjury on behalf of the person whose name is on the form.

## Instructions for the Withholding Agent or Payer

**Responsibilities of the Withholding Agent.** If you make a payment of interest, dividends, rents, royalties, commissions, nonemployee compensation, or certain other amounts (including broker and barter exchange transactions, and certain payments made by fishing boat operators), you are generally required to obtain from the payee either a Form W-9 with a TIN or a Form W-8, W-8A, W-8B, or W-8C. If you receive a Form W-9 with a TIN, you must generally make an information return on Form 1099. If you receive a Form W-8, W-8A, W-8B, or W-8C you are exempt from reporting on Form 1099, but you may have to file Form 1042-S and withhold under the rules applicable to payments made to foreign persons. See **Form 1042-S**, Foreign Persons's U.S. Source Income Subject to Withholding.

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

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

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

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

**Due Diligence Requirements.** You are responsible for ensuring that all information relating to the type of income for which Form W-8, W-8A, W-8B, or W-8C is submitted is complete and appears accurate. This responsibility extends to the information attached to Form W-8C, including beneficial owner withholding certificates or other documentation.

If you are a foreign financial institution (including a regulated investment company) paying dividends and interest from stocks and debt obligations that are actively traded, dividends from any redeemable security issued by an investment company registered under the Investment Company Act of 1940, dividends, interest, or royalties from units of beneficial interest in a unit investment trust that are (or were upon issuance) publicly offered and registered with the SEC under the Securities Act of 1933 and amounts paid with respect to loans of securities, you have reason to know that the Form W-8, Form W-8A, Form W-8B, Form W-8C or documentary evidence for a beneficial owner is not reliable and you must request a new form or additional documentation in support of a beneficial owner's claims in any of the following circumstances:

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

2. The payment is directed to a P.O. box, in-care-of address, or a U.S. address. If the beneficial owner is an individual, you may rely on a certificate of residence (as described in Regulations section 1.1441-6(c)(3)) or other documentary evidence issued by a governmental authority that contains the individual's name, address, and photograph, to support the beneficial owner's claim of residence in a foreign country. In the case of a person other than an individual, the withholding agent

may rely on other evidence to ascertain that the person whose name is on the withholding certificate is not a U.S. person.

3. If treaty benefits are claimed, the permanent residence or mailing address is not in the corresponding treaty country. In this case the withholding agent may rely on the type of documentary evidence mentioned in item 2, above.

4. The mailing address on the Form W-8 is in the United States or the beneficial owner notifies you of a new address for mailing or residential purposes that is in the United States, a P.O. box, or an in-care-of address, or, in the case of income for which benefits under a tax treaty are claimed, the mailing address on Form W-8 or the new mailing or residential address is not in the treaty country. The withholding agent may rely on documentary evidence of a type described in item 2 supporting a beneficial owner's claim of residence in a treaty country.

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

**Special rules applicable to payments to foreign intermediaries and foreign partnerships.** The following rules apply if you can reliably associate a payment with a Form W-8C (other than a Form W-8C from a qualified intermediary that has assumed primary withholding responsibility or a withholding foreign partnership) but some or all of the withholding certificates or other documentation required to be attached are missing or are unreliable or information for allocating the payment among various persons for whom the intermediary is acting is missing or unreliable. For this purpose, a foreign branch of a U.S. person that is a qualified intermediary shall be treated as a foreign intermediary. Despite the missing or unreliable documentation or information, a payment made with respect to the form is treated as a payment to a foreign intermediary and not to a beneficial owner.

If you cannot associate a payment with beneficial owner documentation because it is missing from the Form W-8C, you must generally presume that the payment is made to a foreign payee for whom the foreign intermediary or foreign partnership collects the payment. For this purpose, a payment that a qualified intermediary represents is allocable to persons for whom the qualified intermediary does not hold documentation is treated as a payment that cannot be associated with beneficial owner documentation. Any payment allocable to persons for whom the foreign intermediary or foreign partnership holds no beneficial owner documentation is presumed made to an unidentified foreign payee and is subject to withholding at a 30% rate.

If you can reliably associate a payment with a group of beneficial owners or payees but you do not have reliable information to determine how much of the payment is allocable to one or more beneficial owners or payees in the group, the payment to the extent it cannot be reliably allocated is presumed to be allocable entirely to the beneficial owner or payee in the group with the highest withholding rate or, if the rates are equal, to the beneficial owner or payee in the group that you estimate, based on your knowledge and information, has the highest U.S. tax liability.

If the foreign intermediary or foreign partnership fails to attach withholding certificates or other documentation representing all of the persons to whom the Form W-8C relates or fails to attach an allocation statement and, as a result, you cannot determine how much of the payment is allocable to each of the persons or group of persons, none of the payment can be reliably associated with any one person and the entire payment is presumed to be made to an unidentified foreign payee and 30% nonresident alien withholding applies.

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

- An address in a foreign country for that person.

- A facsimile copy or other non-qualified electronic transmission of the information required to be stated on a Form W-8 for that person.

- A Form W-8 that is no longer reliable for reasons other than because its validity has expired.

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

- Dividends and interest from stocks and debt obligations that are actively traded;
- Dividends from any redeemable security issued by an investment company registered under the Investment Company Act of 1940 (mutual funds);
- Dividends, interest, or royalties from units of beneficial interest in a unit investment trust that are (or were upon issuance) publicly offered and are registered with the SEC under the Securities Act of 1933; and
- Income related to loans of any of the above securities.

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

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

If, by the end of the grace period, the payee has not given you the required documentation, you must apply the presumptions described in **Responsibilities of the Withholding Agent** on page 5.

**Expiration of Form W-8C.** Generally, a Form W-8C remains valid until the status of the person whose name on the certificate is changed in a way relevant to the certificate or circumstances change that make the information on the certificate no longer correct. The indefinite validity period does not extend, however, to any withholding certificates or documentary evidence attached to the certificate. Moreover, it does not extend to the statements attached to the certificate if a change of circumstances makes the information on the attached statements no longer correct.

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

## Substitute Forms W-8C

You may develop and use your own Form W-8C (a substitute Form W-8C) if its content is substantially similar to the IRS's official Form W-8C, to the extent required by these instructions, and it satisfies certain certification requirements. You may develop and use a substitute Form W-8C that is in a foreign language, provided that the substitute form also provides the English version of the statements and information otherwise required to be included in the substitute form. You may combine Forms W-8, W-8A, W-8B, and W-8C into a single substitute form.

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

1. Use a substitute Form W-8C that requires the payee, by signing, to agree to provisions unrelated to the required certifications; or

2. Imply that a person may be subject to 30% withholding or 31% withholding unless that person agrees to provisions on the substitute form that are unrelated to the required certifications.

**Content of substitute form.** The substitute Form W-8C must contain all of the information required in Part I, other than lines 6 and 7. The substitute Form W-8C must also contain all of the statements and certifications contained in Parts II, III, IV, V, or VI, but a specific part only needs to be included (in its entirety) if it is relevant. For example, if the only intermediaries a U.S. withholding agent has as account holders are qualified intermediaries, the withholding agent could use a substitute Form W-8C that contains only the required information from Part I, plus the statements and certifications from Part II. A substitute Form W-8C must also contain the same attachments as the official form.

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

withholding foreign partnership, or a nonwithholding foreign partnership."

The substitute form must contain instructions that adequately inform the intermediary what is meant by permanent residence address. You are, however, encouraged to provide all relevant instructions, especially if the payee requests them.

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**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to receive exemption from withholding on compensation for independent (and certain dependent) personal services, you are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

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

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

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the tax form to this office. Instead, give it to your withholding agent.