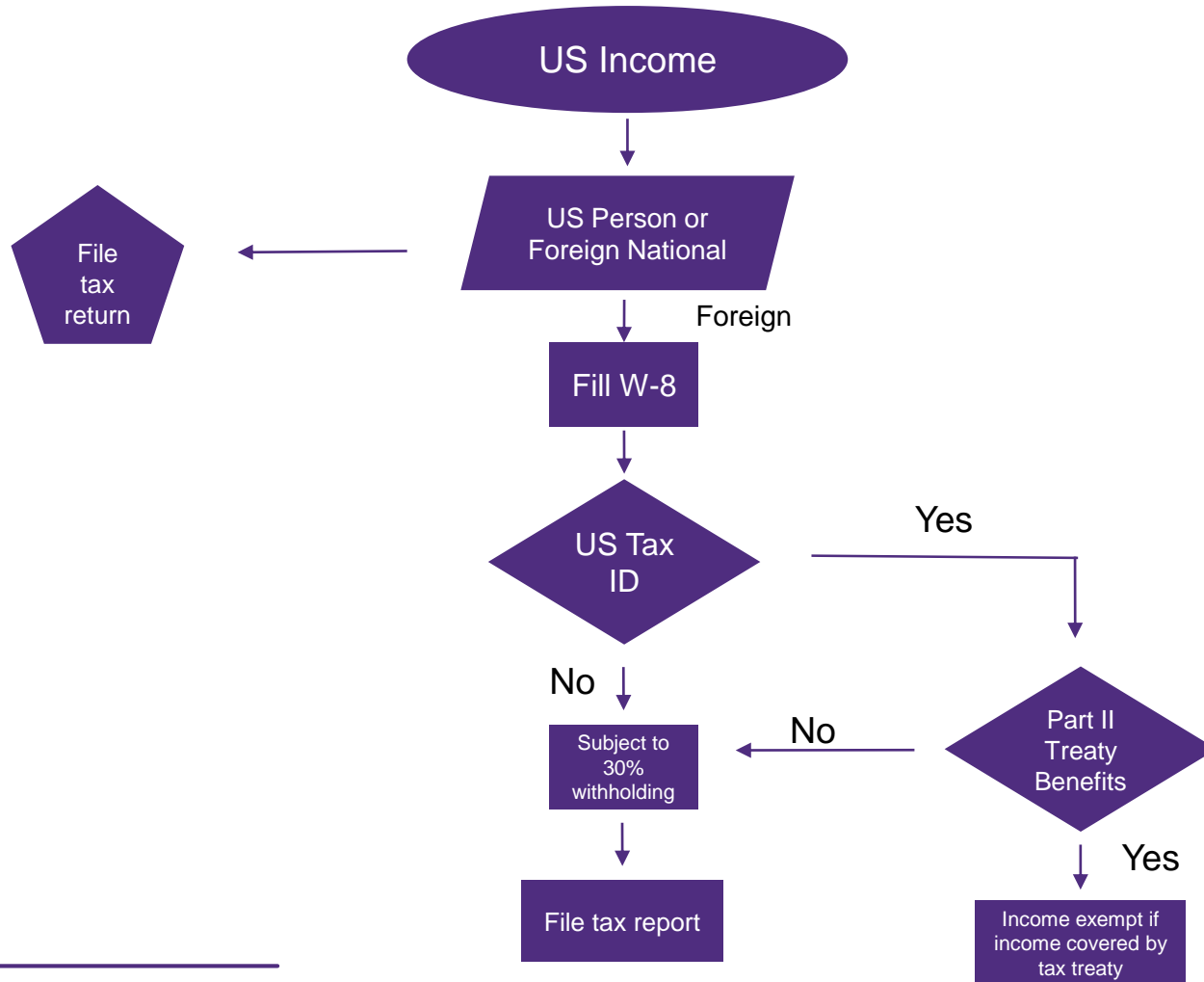


US Tax Compliance for the Non Resident Alien



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Terms

- US person for tax purposes
 - US citizen, Legal Permanent Resident, Resident Alien (is a foreign national)
 - Meets the Substantial Presence Test
- Non-US person for tax purposes
 - Nonresident Alien (is a foreign national)
 - Does not meet the Substantial Presence Test



Substantial Presence Test

Who Qualifies as a Non Resident Alien?

- You are considered a non resident alien if you can **NOT** meet one of the following two tests for the calendar year:
 - Green Card Test
 - Substantial Presence Test
- You must have been physically present in the United States on at least:
 - 31 days during the current year, and
 - 183 days during the 3 year period that includes the current year and the 2 years immediately before. To satisfy the 183 days requirement, count:
 - All of the days you were present in the current year, and
 - One-third of the days you were present in the first year before the current year, and
 - One-sixth of the days you were present in the second year before the current year.

Non-US person

- Is the payment considered taxable income?
- If yes, how much tax?
- Institution has an obligation to withhold AND report



Taxable Income

- Generally, a foreign person is subject to U.S. tax on its U.S. source income. Most types of U.S. source income received by a foreign person are subject to U.S. tax of 30%.
- A reduced rate, including exemption, may apply if an Internal Revenue Code Section provides for a lower rate, or there is a tax treaty between the foreign person's country of residence and the United States.

Taxable Income

- The tax is generally withheld (NRA withholding) from the payment made to the foreign person.
- NRA withholding applies only to payments made to a payee that is a foreign person.



Forms To Be Used for Claiming Withholdings

- The form to use depends on the type of certification being made. As used in this discussion of NRA withholding, the term "Form W-8" refers to the appropriate document.
 - Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding
 - Form W-8BEN-E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities)
 - Form W-8ECI, Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected With the Conduct of a Trade or Business in the United States
 - Form W-8EXP, Certificate of Foreign Government or Other Foreign Organization for United States Tax Withholding.
 - Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding persons.

IRS Form W-8

Form **W-8BEN**
(Rev. February 2006)
Department of the Treasury
Internal Revenue Service

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

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

Do not use this form for:

- A U.S. citizen or other U.S. person, including a resident alien individual **W-9**
- A person claiming that income is effectively connected with the conduct of a trade or business in the United States **W-8ECI**
- A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions) **W-8ECI or W-BIMY**
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions) **W-8ECI or W-8EXP**

Instead, use Form:

Note: These entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim they are a foreign person exempt from backup withholding. I have provided or will provide a statement that identifies those notional principal contracts from which the income is not effectively connected with the conduct of a trade or business in the United States. I agree to update this statement as required.

Part I Identification of Beneficial Owner (See instructions.)

1 Name of individual or organization that is the beneficial owner

3 Type of beneficial owner: Individual Corporation Disregarded Government
 Grantor trust Complex trust Estate Government
 Central bank of issue Tax-exempt organization Private foundation

4 Permanent residence address (street, apt. or suite no., or rural route). **Do not use a P.O. box.**

City or town, state or province. Include postal code where appropriate.

5 Mailing address (if different from above)

City or town, state or province. Include postal code where appropriate.

6 U.S. taxpayer identification number, if required (see instructions)
 SSN or ITIN EIN

8 Reference number(s) (see instructions)

Part IV Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

1 I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates,
2 The beneficial owner is not a U.S. person,
3 The income to which this form relates is (a) not effectively connected with the conduct of a trade or business in the United States, (b) effectively connected but is not subject to tax under an income tax treaty, or (c) the partner's share of a partnership's effectively connected income, and
4 For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Sign Here

.....
Signature of beneficial owner (or individual authorized to sign for beneficial owner) Date (MM-DD-YYYY) Capacity in which acting

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 25047Z

Form **W-8BEN** (Rev. 2-2006)



W-8BEN

- Used primarily by entities and individuals to claim foreign status or treaty benefits to establish that the
- Payee is not a US entity.
- Is there a US reporting TAX ID Number? If yes, then is part II completed claiming Treaty benefits? If so, then payment is tax exempt if income is covered by an article in the Treaty.
- If there is no Tax ID number, then payment is subject to 30% withholding.

W-8ECI

- Used primarily by the payee or beneficial owner indicating that the income that is listed on the form is effectively connected with the conduct of a trade or business within the United States.
- If there is a US tax reporting number, the payment is subject to 30% tax withholding unless there is a services income listed on line 9.
 - In that case, payment is exempt from withholding. If there is not a services income listed on line 9 then we are required to obtain from the entity a different type of W-8 form.
- If there is no US tax reporting number, then payment is subject to 30% withholding.

W-8EXP

- Used primarily by the following entities to claim exemption from tax withholding:
- Foreign governments, foreign tax exempt organizations, foreign private foundations, government of a US possession, or foreign central bank of issue.
 - These entities must be claiming exemption under IRS Code 115(2) 501(C) 89s, 895 94 1443(b). Otherwise they need to file a W-8BEN or W-ECI.
- Payment for form, W-8EXP, is usually exempt from withholding

W-8IMY

- Used primarily by an intermediary, a withholding foreign partnership, a withholding foreign trust or a flow through entity.
- Copies of appropriate withholding certificates, documentary evidence, and withholding statements must be attached to the W-8IMY.
- Payment for form, W-8IMY, is usually exempt from withholding.

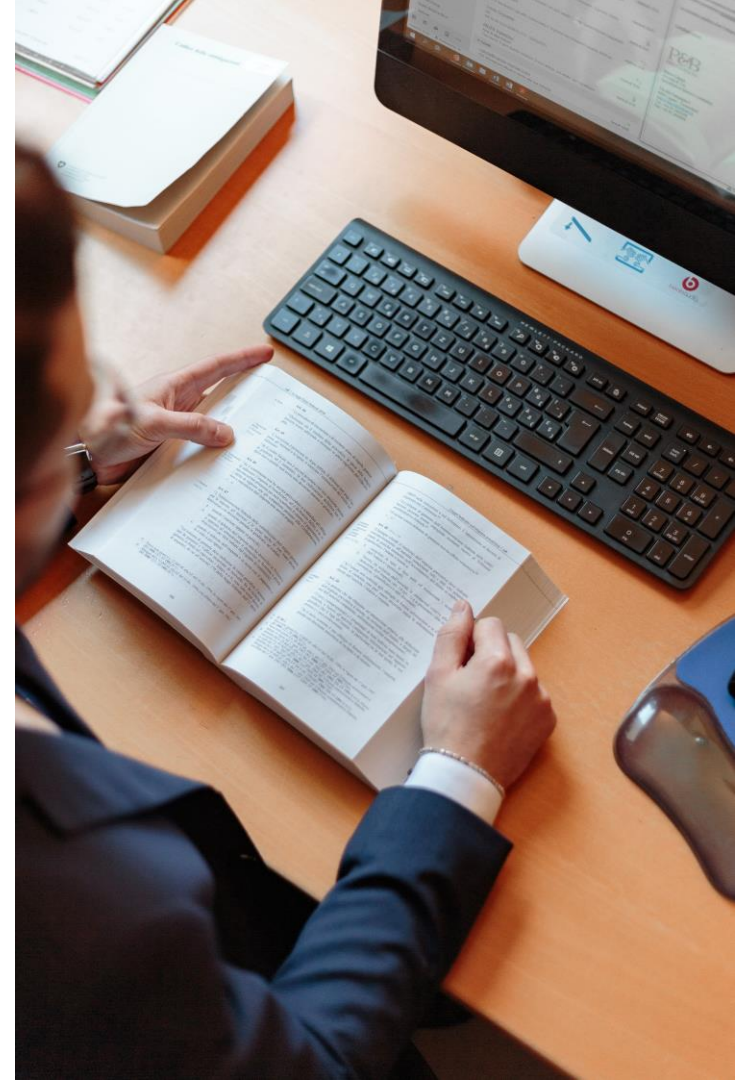
Defining Income

Which income for a nonresident alien is taxable?

- A nonresident alien is generally only taxed on their US source income.
- Nonresident aliens are subject to tax at the normal graduated US tax rates on the following types of income:
 - income that is effectively connected with a US business
 - capital gains from the sale of US real property interests (real estate)
- Other capital gains – such as gains on shares of stock – are nontaxable unless:
 - The nonresident alien has a US business or
 - Is physically present in the US for at least 183 days

Tax Treaty Benefits

- Avoid double taxation
- Not granted automatically
- Must be a non-US person in the current year
- Must address this type of income
- Each tax treaty is different
- Requires a US based tax identifying number
- Reduces the tax rate
- Based on tax residence



Tax Treaty Benefits

- If you are ever concerned about the person's qualifications to get a tax treaty benefit, you should withhold now and let the person make a claim for the benefit when the person files a tax return at the end of the year.



Filing Forms

What is an ITIN?

An Individual Taxpayer Identification Number (ITIN) is a tax processing number issued by the Internal Revenue Service to individuals who are required to have a U.S. taxpayer identification number but who do not have, and are not eligible to obtain a Social Security Number (SSN).

Filing Forms

How do I apply for an ITIN?

- Apply using Form W-7, Application for IRS Individual Taxpayer Identification Number.
- Attach W-7 to a valid federal income tax return
- Include your original proof of identity or copies certified by issuing agency* and foreign status documents.
- This service is provided by our firm

Filing Forms

Nonresident aliens with U.S. source income **are required** to file either Form 1040NR or 1040NR-EZ by April 15, 201X.

Form 1040NR-EZ		U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents		OMB No. 1545-0074	
Department of the Treasury Internal Revenue Service		Go to www.irs.gov/Form1040NEZ for instructions and the latest information.		2018	
Please print or type. See separate instructions.		Your first name and initial	Last name	Identifying number (see instructions)	
		Present home address (number, street, and apt. no., or rural route), if you have a P.O. box, see instructions.			
		City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below. See instructions.			
		Foreign country name	Foreign province/state/country	Foreign postal code	
Filing Status Check only one box.		1 <input type="checkbox"/> Single nonresident alien		2 <input type="checkbox"/> Married nonresident alien	
Attach Form(s) W-2 or 1042-S here. Also attach Form(s) 1099-R if tax was withheld.	3	Wages, salaries, tips, etc. Attach Form(s) W-2	3		
	4	Taxable refunds, credits, or offsets of state and local income taxes	4		
	5	Scholarship and fellowship grants. Attach Form(s) 1042-S or required statement.	5		
	6	Total income exempt by a treaty from page 2, item J(1)(e)	6		
	7	Add lines 3, 4, and 5	7		
	8	Scholarship and fellowship grants excluded	8		
	9	Student loan interest deduction	9		
	10	Subtract the sum of line 8 and line 9 from line 7. This is your adjusted gross income	10		
	11	Itemized deductions. See the instructions for limitation	11		
	12	Reserved.	12		
	13	Reserved.	13		
	14	Taxable income. Subtract line 11 from line 10. If line 11 is more than line 10, enter -0-	14		
	15	Tax. Find your tax in the tax table in the instructions	15		
	16	Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919	16		
17	Add lines 15 and 16. This is your total tax	17			
18a	Federal income tax withheld from Form(s) W-2 and 1099-R	18a			
b	Federal income tax withheld from Form(s) 1042-S	18b			
19	2018 estimated tax payments and amount applied from 2017 return	19			
20	Credit for amount paid with Form 1040-C	20			
21	Add lines 18a through 20. These are your total payments	21			
22	If line 21 is more than line 17, subtract line 17 from line 21. This is the amount you overpaid	22			
23a	Amount of line 22 you want refunded to you . If Form 8888 is attached, check here <input type="checkbox"/>	23a			
b	Routing number	c	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings		
d	Account number				
Direct deposit? See instructions.	e	If you want your refund check mailed to an address outside the United States not shown above, enter that address here:			

Filing Forms

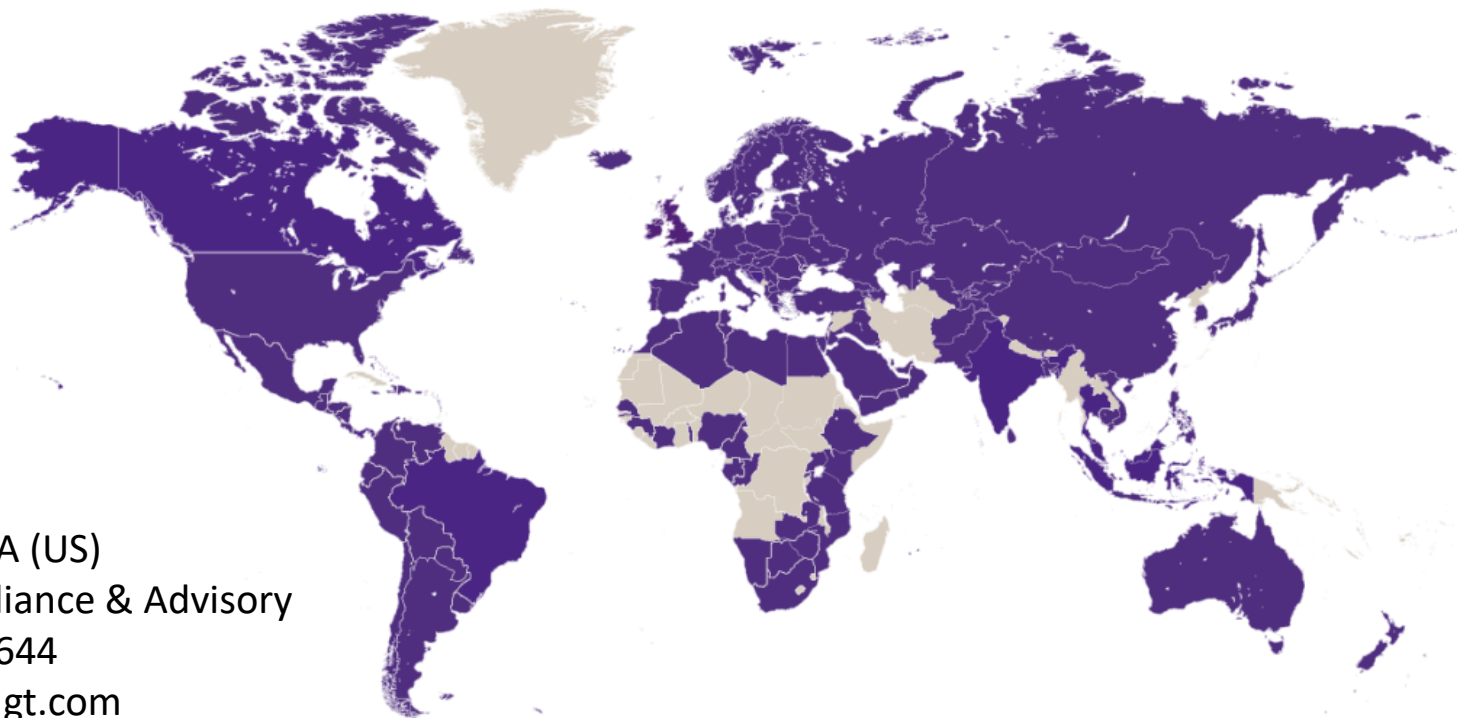
Form 1042-S

(Foreign Person's U.S. Source Income Subject to Withholding)

Annual tax statement used to report most payments and tax withholding to nonresident aliens including amounts that are exempt under a tax treaty.

Form 1042-S		Foreign Person's U.S. Source Income Subject to Withholding		2015	OMB No. 1545-0096
Department of the Treasury Internal Revenue Service		Information about Form 1042-S and its separate instructions is at www.irs.gov/form1042s .			
		AMENDED		PRO-RATA BASIS REPORTING	
				Copy A for Internal Revenue Service	
1 Income code	2 Gross income	3 Chap. 3: <input type="checkbox"/>	4 Chap. 4: <input type="checkbox"/>	5 Withholding allowance	
		3a Exemption code	4a Exemption code	6 Net income	Check if tax not deposited with IRS pursuant to escrow procedure <input type="checkbox"/>
		3b Tax rate	4b Tax rate	7 Federal tax withheld	
8 Tax withheld by other agents				9 Tax paid by withholding agent	
10 Total withholding credit				11 Amount repaid to recipient	
12a Withholding agent's EIN	12b Ch. 3 status code	12c Ch. 4 status code		14a Primary Withholding Agent's Name (if applicable)	
12d Withholding agent's name				14b Primary Withholding Agent's EIN	
12e Withholding agent's Global Intermediary Identification Number (GIIN)				15a Intermediary or flow-through entity's EIN, if any	15b Ch. 3 status code
12f Country code	12g Foreign taxpayer identification number, if any			15c Ch. 4 status code	
12h Address (number and street)				15d Intermediary or flow-through entity's name	
12i City or town, state or province, country, ZIP or foreign postal code				15e Intermediary or flow-through entity's GIIN	
13a Recipient's U.S. TIN, if any				15f Country code	15g Foreign tax identification number, if any
13b Ch. 3 status code		13c Ch. 4 status code		15h Address (number and street)	
13d Recipient's name		13e Recipient's country code		15i City or town, state or province, country, ZIP or foreign postal code	
				13h Recipient's GIIN	13i Recipient's foreign tax identification number, if any
				16 Recipient's account number	
				17 Recipient's date of birth	

Questions?



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