

Publication 515

Withholding of Tax on Nonresident Aliens and Foreign Entities

For use in preparing

2025 Returns

Volume 2 of 7



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Publication 515 (Rev 2025) Catalog Number 39256H
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A domestic corporation is one that was created or organized in the United States or under the laws of the United States, any of its states, or the District of Columbia.

Guam or CNMI corporations. A corporation created or organized in, or under the laws of, Guam or the CNMI is not considered a foreign corporation for the purpose of withholding tax for the tax year if:

- At all times during the tax year less than 25% in value of the corporation's stock is owned, directly or indirectly, by foreign persons; and
- At least 20% of the corporation's gross income is derived from sources within Guam or the CNMI for the 3-year period ending with the close of the preceding tax year of the corporation (or the period the corporation has been in existence, if less).

Note. The provisions discussed below under *USVI and American Samoa corporations* will apply to Guam or CNMI corporations when an implementing agreement is in effect between the United States and that territory.

USVI and American Samoa corporations.

A corporation created or organized in, or under the laws of, the USVI or American Samoa is not considered a foreign corporation for the purposes of withholding tax for the tax year if:

- At all times during the tax year less than 25% in value of the corporation's stock is owned, directly or indirectly, by foreign persons;
- At least 65% of the corporation's gross income is effectively connected with the conduct of a trade or business in the USVI, American Samoa, Guam, the CNMI, or the United States for the 3-year period ending with the close of the tax year of the corporation

(or the period the corporation or any predecessor has been in existence, if less); and

- No substantial part of the income of the corporation is used, directly or indirectly, to satisfy obligations to a person who is not a bona fide resident of the USVI, American Samoa, Guam, the CNMI, or the United States.

Foreign private foundations. A private foundation that was created or organized under the laws of a foreign country is a foreign private foundation. Gross investment income from sources within the United States paid to a qualified foreign private foundation is subject to withholding at a 4% rate (unless exempted by a treaty) rather than the ordinary statutory 30% rate.

Other foreign organizations, associations, and charitable institutions.

An organization may be exempt from income tax under section 501(a) and chapter 4

withholding tax even if it was formed under foreign law. In most cases, you do not have to withhold tax on payments of income to these foreign tax-exempt organizations unless the IRS has determined that they are foreign private foundations.

Payments to these organizations, however, must be reported on Form 1042-S if the payment is subject to chapter 3 withholding, even though no tax is withheld.

You must withhold tax on the unrelated business income (as described in Pub. 598) of foreign tax-exempt organizations in the same way that you would withhold tax on similar income of nonexempt organizations when the organization does not provide you a Form W-8ECI to certify that the income is effectively connected with a U.S. trade or business of the organization.

U.S. branches of foreign persons. In most cases, a payment to a U.S. branch of a foreign person is a payment made to the

foreign person. However, you may treat payments to U.S. branches of foreign banks and foreign insurance companies (discussed earlier) that are subject to U.S. regulatory supervision as payments made to a U.S. person, if you and the U.S. branch have agreed to do so, and if their agreement is evidenced by a withholding certificate, Form W-8IMY. For this purpose, a territory financial institution acting as an intermediary or that is a flow-through entity is treated as a U.S. branch.

Additional Rules Specific to Chapter 4

A payee may be subject to chapter 4 withholding only if it is a foreign entity. A foreign entity for chapter 4 purposes means any entity that is not a U.S. person and includes a territory entity as defined in Regulations section 1.1471-1(b)(129).

A foreign entity is subject to chapter 4 withholding if it is a nonparticipating FFI or a passive NFFE that does not provide the

appropriate certification regarding its substantial U.S. owners. A nonparticipating FFI is an FFI other than a participating FFI, deemed-compliant FFI, or exempt beneficial owner. See *Definitions*, later, for the definitions of these terms.

- A passive NFFE is:
- An NFFE other than a publicly traded corporation,
- Certain affiliated entities related to a publicly traded corporation,
- Certain territory entities,
- Active NFFEs, or
- Excluded FFIs.

For chapter 4 purposes, a U.S. person does not include a foreign insurance company that has made an election under section 953(d) if it is a specified insurance company and is not licensed to do business in any state.

Notwithstanding the foregoing, a withholding agent should treat such entity as a U.S. person for purposes of documenting the entity's status for purposes of chapters 3 and 4.

Documentation

Documentation for Chapter 3

For purposes of chapter 3, in most cases, you must withhold 30% from the gross amount paid to a foreign payee unless you can reliably associate the payment with valid documentation that establishes either of the following.

- The payee is a U.S. person.
- The payee is a foreign person that is the beneficial owner of the income and is entitled to a reduced rate of withholding under the Internal Revenue Code, or an applicable income tax treaty.

For rules related to when a withholding agent may rely on an otherwise valid withholding certificate received electronically from a third-party repository, see Regulations section 1.1441-1(e)(4)(iv)(E).

If withholding is applied under chapter 4 on a payment, no withholding will be required on such payment under chapter 3.

Documentation for Chapter 4

If you make a withholdable payment, you must determine the chapter 4 status of payees, beneficial owners, intermediaries, and flow-through entities receiving the payment to the extent required for chapter 4 purposes. You must also determine the chapter 4 status of persons that own an interest in an entity receiving a withholdable payment that you treat as an owner-documented FFI, provided you are either a U.S. financial institution, participating FFI, or reporting Model 1 FFI.

To establish chapter 4 status, you must generally obtain a valid withholding certificate or documentary evidence that you can reliably associate with the payment. If you make a payment to a passive NFFE, you must obtain either a certification that the NFFE does not have any substantial U.S. owners, or the name, address, and TIN of each substantial U.S. owner of the NFFE (or, under an applicable IGA, each controlling person that is a specified U.S. person).

You can reliably associate a payment with a Form W-8 for purposes of establishing a payee's chapter 4 status in most cases if, prior to the payment, you:

- Obtain a valid form that contains the information required for chapter 4 purposes,
- Can reliably determine how much of the payment relates to the form, and

- Have no actual knowledge or reason to know that any of the information, certifications, or statements in, or associated with, the form is unreliable or incorrect for chapter 4 purposes.

See *Standards of Knowledge for Purposes of Chapter 4*, later, for the reason to know standards that apply for chapter 4 purposes.

For the requirements for documenting specific chapter 4 statuses of persons receiving withholdable payments, see Regulations section 1.1471-3(d). For rules related to when a withholding agent may rely on an otherwise valid withholding certificate received electronically from a third-party repository, see Regulations section

1.1441-1(e)(4)(iv)(E). Also see Regulations section 1.1471-3(d) for the extent to which a withholding agent may rely on documentary evidence (other than a Form W-8) to establish the chapter 4 status of an entity payee,

including the forms of documentary evidence permitted for each specific chapter 4 status. For the requirements for documentary evidence, see Regulations section 1.1471-3(c)(5). If you make a withholdable payment to an entity payee and cannot reliably associate the payment with a valid withholding certificate or valid documentary evidence, you must apply the chapter 4 presumption rules described in Presumption Rules for Chapter 4, later.

You may rely on the same documentation for purposes of both chapters 3 and 4 provided the documentation is sufficient to meet the requirements of each chapter. For example, you may use a Form W-8BEN-E to obtain both the chapter 3 and chapter 4 statuses of an entity providing the form.

Additional Documentation Rules Applicable to Chapters 3 and 4

In most cases, you must reliably associate the payment with valid documentation to

apply reduced withholding and must get the documentation before you make the payment. The documentation is not valid if you know, or have reason to know, that it is unreliable or incorrect. See *Standards of Knowledge for Purposes of Chapter 3* and *Standards of Knowledge for Purposes of Chapter 4*, later.

If you cannot reliably associate a payment with valid documentation, you must use the presumption rules discussed later to determine the rate of withholding. For example, if you do not have documentation or you cannot determine the part of a payment that is allocable to specific documentation, you must use the presumption rules of section 1441.

The specific types of documentation are discussed in this section. However, see *Withholding on Specific Income*, later, as well as the instructions to the particular forms.

As the withholding agent, you may also want to see the [Instructions for the Requester of Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY.](#)

Sections 1446(a) and (f) withholding.

Under section 1446(a), a partnership must withhold tax on its ECTI allocable to a foreign partner or, for a partnership that is a PTP, the PTP or a nominee for a PTP distribution must withhold on the amount of the distribution subject to section 1446(a) withholding made to a foreign partner. In most cases, a partnership (or nominee when applicable) determines if a partner is a foreign partner and the partner's tax classification based on the withholding certificate provided by the partner. This is the same documentation that is provided for chapter 3 withholding, but may require additional information, as discussed under each of the forms in this section.

For information on section 1446(f) withholding, go to Section 1446(f) Withholding, later.

Documentation rule for joint payees. If you make a payment to joint payees (such as holders of a joint account), you need to get documentation from each payee. If you make a payment to joint payees and cannot reliably associate the payment with documentation from all of the payees, you must generally presume the payment is made to an unidentified U.S. person. If the payment is a withholdable payment and any of the payees do not appear, by name or other information in the account file, to be an individual, you must treat the entire amount as a payment made to an undocumented foreign person. However, if one of the joint payees has provided you with a Form W-9, you must treat the payment as made to that payee.

Form W-9. In most cases, you can treat the payee as a U.S. person if the payee gives you a Form W-9. The Form W-9 can be used only by a U.S. person and must contain the payee's TIN. U.S. persons are not subject to chapter 3 withholding (or withholding under section 1446(a) or (f)), but may be subject to:

- Form 1099 reporting and backup withholding under section 3406,
- Reporting as a U.S. account holder of a participating FFI or registered deemed-compliant FFI, and
- Classification as a recalcitrant account holder of a participating FFI or registered deemed-compliant FFI for chapter 4 purposes (including chapter 4 withholding) when the FFI is unable to report the information required with respect to the account holder.

Forms W-8. In most cases, a foreign payee of the income should give you a form in the Form W-8 series.

If certain requirements are met, the foreign person can give you documentary evidence, rather than a Form W-8 for chapter 3 or 4 purposes. You can rely on documentary evidence in lieu of a Form W-8 for an amount paid outside the United States with respect to an offshore obligation. Refer to Offshore obligations, later, to determine whether a payment qualifies as such a payment.

Other documentation. Other documentation may be required to claim an exemption from, or a reduced rate of, chapter 3 withholding on pay for personal services. The nonresident alien individual may have to give you a Form W-4 or a Form 8233. These forms are discussed in Pay for Personal Services Performed under *Withholding on Specific Income*, later.

Beneficial Owners

If all the appropriate requirements have been established on a Form W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, or, if applicable, on documentary evidence, you can treat the payee as a foreign beneficial owner.

Claiming treaty benefits for purposes of chapter 3. You may apply a reduced rate of withholding under chapter 3 to a foreign person that provides a Form W-8 claiming a reduced rate of withholding under an income tax treaty only if the person provides a U.S. or foreign TIN and certifies that:

- It is a resident of a treaty country;
- It is the beneficial owner of the income;
- If it is an entity, it derives the income within the meaning of section 894 (it is not fiscally transparent); and

- It meets any of the applicable limitation on benefits tests contained in the treaty and specifies the test under which it qualifies for benefits.

If the payment you make is a withholdable payment to an entity, a requirement to withhold under chapter 4 may apply based on the chapter 4 status of the payee regardless of whether a claim of treaty benefits may apply to such payee or other person receiving the income.

An entity derives income for which it is claiming treaty benefits only if the entity is not treated as fiscally transparent for that income. See *Fiscally transparent entities claiming treaty benefits*, discussed earlier under *Flow-Through Entities*.

Limitations on benefits (LOB) provisions in income tax treaties generally prevent third-country residents (unless the treaty contains a derivative benefits rule)

and others that do not have a substantial nexus to the treaty country from obtaining treaty benefits. For example, a foreign corporation may not be entitled to a reduced rate of withholding unless a minimum percentage of its owners are citizens or residents of the United States or the treaty country. Foreign entities that are residents of a country whose income tax treaty with the United States contains an LOB article are eligible for treaty benefits only if they satisfy one of the objective tests under the LOB article or obtain a favorable discretionary determination from the U.S. competent authority.

The exemptions from, or reduced rates of, U.S. tax vary under each treaty. You must check the provisions of the tax treaty that apply. See *Tax Treaties*, later, for information on how to access tax treaties.

If you know, or have reason to know, that an owner of income is not eligible for treaty benefits claimed or if the United States does not have an income tax treaty in force with that country, you may not reduce the rate of withholding. You are not, however, responsible for misstatements on a Form W-8, documentary evidence, or statements accompanying documentary evidence for which you did not have actual knowledge, or reason to know, that the statements were incorrect. Certain withholding agents, such as financial institutions, have limited reason to know requirements for this purpose. See Regulations section 1.1441-7(b) for these requirements.

Exceptions to TIN requirement. A foreign person does not have to provide a U.S. or foreign TIN to claim a reduced rate of withholding under a treaty for chapter 3 purposes if the requirements for the following exceptions are met.

- Income from marketable securities (discussed next).
- Unexpected payments to an individual (discussed under U.S. or Foreign TINs, later).

The allowance to provide a foreign TIN (rather than a U.S. TIN) does not apply to a payment to compensate an individual for personal services.

See U.S. or Foreign TINs, later, for when a foreign person is required to provide a foreign TIN for purposes other than making a treaty claim.

Marketable securities. A Form W-8 provided to claim treaty benefits does not need a U.S. or foreign TIN if the foreign beneficial owner is claiming the benefits on income from marketable securities for chapter 3 purposes. For this purpose, income from a marketable security consists of the following items.

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

Offshore obligations. An offshore obligation is an account maintained at an office or branch of a bank or other financial institution located outside the United States or an obligation, contract, or other instrument with respect to which the payer of the payment is either engaged in business as a broker or

dealer in securities or a financial institution that engages in significant activities at an office or branch located outside the United States.

A payment is made outside the United States if you complete the acts necessary to effect the payment outside the United States.

However, an amount paid by a bank or other financial institution on a deposit or account will usually be treated as paid at the branch or office where the amount is credited unless the other requirements of Regulations section 1.6049-5(e)(2) are met with respect to the branch or office, unless the amount is collected by the financial institution as an agent of the payee.

If a payment is made outside the United States with respect to an offshore obligation, a payee may give you documentary evidence, rather than a Form W-8, to establish that the payee is a foreign person.

See Regulations section 1.6049-5(c)(1) for the requirements for documentary evidence for offshore obligations. For accounts opened on or after July 1, 2014, through December 31, 2014, you may use the rules regarding the use of documentary evidence under Regulations sections 1.6049-5(c) (1) and (c)(4) as in effect prior to the issuance of the temporary regulations.

You may rely on documentary evidence given to you by an NQI or a flow-through entity with its Form W-8IMY. This rule applies even though you make the payment to an NQI or flow-through entity in the United States. In most cases, the NQI or flow-through entity that gives you documentary evidence will also have to give you a withholding statement, discussed later.

Documentary evidence. You may apply a reduced rate of withholding to income from marketable securities (discussed earlier)

paid outside the United States for chapter 3 purposes with respect to an offshore obligation if the beneficial owner gives you documentary evidence in place of a Form W-8. To claim treaty benefits, the documentary evidence must be one of the following.

1. A certificate of residence that:
 - a. Is issued by a tax official of the treaty country of which the foreign beneficial owner claims to be a resident,
 - b. States that the person has filed its most recent income tax return as a resident of that country, and
 - c. Is issued within 3 years before it is presented to you.
2. Documentation for an individual that:
 - a. Includes the individual's name, address, and photograph;

- b. Is an official document issued by an authorized governmental body; and
 - c. Is issued no more than 3 years prior to being presented to you.
- 3. Documentation for an entity that:
 - a. Includes the name of the entity,
 - b. Includes the address of its principal office in the treaty country, and
 - c. Is an official document issued by an authorized governmental body.

In addition to the documentary evidence, a foreign beneficial owner that is an entity must provide a statement that it derives the income for which it claims treaty benefits and that it meets one or more of the tests set forth in a limitation on benefits article,

if any (or similar provision), contained in the applicable treaty and must identify the specific test in the limitation on benefits article under which it qualifies for benefits. In the case of a withholdable payment made to an entity, you must also obtain the applicable documentation to establish that withholding does not apply under chapter 4.

Form W-8BEN. This form is used by a foreign individual to:

- Establish foreign status;
- Claim that such individual is the beneficial owner of the income for which the form is being furnished or a partner in a partnership subject to withholding under section 1446(a) or a transferee of an interest in a partnership under section 1446(f); and
- If applicable, claim a reduced rate of, or exemption from, withholding under an income tax treaty.

A withholding agent, in some cases, may substitute its own form for a Form W-8BEN for individuals.

Form W-8BEN may also be used to claim that the foreign individual is exempt from Form 1099 reporting and backup withholding for income that is not subject to chapter 3 withholding and is not a withholdable payment. For example, a foreign person may provide a Form W-8BEN to a broker to establish that the gross proceeds from the sale of securities are not subject to Form 1099 reporting or backup withholding.

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

account (as defined in Regulations section 1.1471-5(b)), you must obtain the individual account holder's date of birth on the Form W-8BEN in order for the form to not be invalid for a payment of U.S. source income reportable on Form 1042-S. If the individual's date of birth is not provided on the Form W-8BEN, the form is still valid if you otherwise have the date of birth in your account files for the account holder or you obtain the date of birth on a written statement (including a written statement transmitted by email) from the account holder and associate the written statement with the Form W-8BEN. See the related foreign TIN requirement discussed under Foreign TIN requirement for account holders, later, which also generally applies with respect to accounts described in this paragraph.

Form W-8BEN-E. This form is used by a foreign entity to:

- Establish foreign status;

- Establish an entity's chapter 4 status to the extent required for chapter 4 purposes;
- Claim that such entity is the beneficial owner of the income for which the form is being furnished or a partner in a partnership subject to withholding under section 1446(a) or (f) (excluding a partnership or grantor trust); and
- If applicable, claim a reduced rate of, or exemption from, chapter 3 withholding under an income tax treaty.

Form W-8BEN-E may also be used to claim that the foreign entity is exempt from Form 1099 reporting and backup withholding for income that is not subject to chapter 3 withholding and is not a withholdable payment. For example, a foreign entity may provide a Form W-8BEN-E to a broker to establish that the gross proceeds from the sale of securities are not subject to Form 1099 reporting or backup withholding.

An entity payee may also provide a Form W-8BEN-E to establish that certain income from notional principal contracts is not effectively connected with the conduct of a U.S. trade or business. In addition, a foreign hybrid entity claiming treaty benefits on its own behalf should provide you with a Form W-8BEN-E with respect to the income for which treaty benefits are being claimed. In certain cases, a similar agreed form may be associated with the payment instead of a Form W-8BEN-E.

Form W-8ECI. This form is used by a foreign person to:

- Establish foreign status,
- Claim that such person is the beneficial owner of the income for which the form is being furnished, and
- Claim that the income is effectively connected with the conduct of a trade or business in the United States.

(See *Effectively Connected Income*, later.)

- Claim that the person is a dealer in securities for the exception to withholding under Regulations section 1.1446(f)-4(b)(6). See Section 1446(f): PTP Interests, later.

ECI for which a valid Form W-8ECI has been provided is generally not subject to chapter 3 or chapter 4 withholding.

If a partner submits this form to a partnership, the income claimed to be effectively connected with the conduct of a U.S. trade or business is subject to withholding under section 1446. If the partner has made, or will make, an election under section 871(d) or 882(d), the partner must submit Form W-8ECI, and attach a copy of the election, or a statement of intent to elect, to the form.



If the partner's only ECI is the income allocated from the partnership and the partner is not making the election under section 871(d) or 882(d), the partner should provide Form W-8BEN or W-8BEN-E to the partnership.

Form W-8EXP. This form is used by a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. territory to:

- Establish foreign status,
- Establish the entity's chapter 4 status to the extent required for chapter 4 purposes,
- Claim that such person is the beneficial owner of the income for which the form is being furnished, and

- Claim an exemption from withholding under both chapter 3 and chapter 4 for such entity or that the entity is a foreign private foundation subject to the 4% tax. See section 1443 for the withholding required for a payment made to such an entity.

If the government or organization named on the form is a partner in a partnership carrying on a trade or business in the United States, the ECTI allocable to the partner is subject to withholding under section 1446.

See also *Foreign Governments and Certain Other Foreign Organizations*, later.

Foreign Intermediaries and Foreign Flow-Through Entities

Payments made to a foreign intermediary or foreign flow-through entity that is not a QI that assumes primary chapters 3 and 4 withholding responsibility, a WP, a WT, or a branch treated as a U.S. person

(see U.S. branches of foreign banks and foreign insurance companies, earlier) are treated as made to the payees on whose behalf the intermediary or entity acts except when the intermediary or flow-through entity is subject to chapter 4 withholding. See Flow-Through Entities and Foreign intermediaries, earlier. The Form W-8IMY provided by a foreign intermediary or flow-through entity must be accompanied by additional information for you to be able to reliably associate the payment with a payee. The additional information required depends on the type of intermediary or flow-through entity and the extent of the withholding responsibilities it assumes.

Form W-8IMY. This form is used by foreign intermediaries and foreign flow-through entities, as well as certain U.S. branches for chapter 3 or 4 purposes, or when applicable, for section 1446(a) or (f) purposes, to:

- Represent that a foreign person is a QI or NQI;
- Establish the entity's chapter 4 status when required for chapter 4 purposes;
- When applicable, certify that the entity is a participating FFI, a registered deemed-compliant FFI, or a QI that may provide a withholding statement allocating a payment to a chapter 4 withholding rate pool of U.S. payees;
- Represent, if applicable, that the QI is assuming primary chapters 3 and 4 withholding responsibility and/or primary Form 1099 reporting and backup withholding responsibility;
- Represent that a foreign partnership or a foreign simple or grantor trust is a withholding foreign partnership or a withholding foreign trust;

- Represent that a foreign flow-through entity is a nonwithholding foreign partnership, or a nonwithholding foreign trust;
- Represent that the provider is a U.S. branch of a foreign bank or insurance company and either is agreeing to be treated as a U.S. person or is transmitting documentation of the persons on whose behalf it is acting for the payments;
- Represent its status as a qualified securities lender with respect to payments of U.S. source substitute dividends;
- Represent its status as a QI acting as a QDD for certain payments; and
- Represent that, for purposes of section 1446, it is an upper-tier foreign partnership or a foreign grantor trust and that the form is being used to transmit the required documentation.

For information on qualifying as an upper-tier foreign partnership, see Regulations section 1.1446-5.

For purposes of chapter 4, an intermediary or flow-through entity that is a participating FFI or registered deemed-compliant FFI receiving a withholdable payment may, instead of providing documentation for each payee, provide pooled allocation information, as described under *FFI withholding statement*, next.

FFI withholding statement. An FFI withholding statement must be provided by a participating FFI or registered deemed-compliant FFI (including a U.S. branch of a participating FFI that is not treated as a U.S. person) that is an NQI, nonwithholding foreign partnership, nonwithholding foreign trust, or a QI that makes an election to be withheld on for chapter 4 purposes

(that is, a QI that does not assume chapter 3 or 4 withholding responsibility), as described under Qualified Intermediary (QI), later.

An FFI withholding statement may include either payee-specific information or pooled information. If the withholding statement includes pooled information, the withholding statement must indicate the portion of the payment allocable to:

- A chapter 4 withholding rate pool of U.S. payees,
- Each class of recalcitrant account holders under Regulations section 1.1471-4(d)(6) or a single pool for a QI, or
- A class of nonparticipating FFIs.

If the withholding statement includes payee-specific information, it must indicate both the portion of the payment allocated to each payee and each payee's chapter 4 status.

Any withholding statement provided by an FFI other than an FFI acting as a WP, WT, or QI with respect to the account must also identify each intermediary or flow-through entity that receives the payment and such entity's chapter 4 status and GIIN, when applicable.

For additional information on the requirements for FFI withholding statements, see Regulations section 1.1471-3(c)(3)(iii)(B)(2).

Chapter 4 withholding statement. A chapter 4 withholding statement must be provided by the following.

- A territory financial institution that does not agree to be treated as a U.S. person.
- A U.S. branch that is not a U.S. branch of a participating FFI.
- An NFFE or certified deemed-compliant FFI that is an NQI, nonwithholding foreign partnership, or nonwithholding foreign trust and is not the payee.

A chapter 4 withholding statement must contain the following.

- The name, address, TIN (if any), entity type, and chapter 4 status of each payee.
- The amount allocated to each payee.
- A valid withholding certificate or other appropriate documentation sufficient to establish the chapter 4 status of each payee, and each intermediary or flow-through entity that receives the payment on behalf of the payee.
- Any other information the withholding agent reasonably requests in order to fulfill its obligations under chapter 4.

A chapter 4 withholding statement is permitted to provide pooled allocation information with respect to payees that are treated as nonparticipating FFIs.



A Form W-8 must include a U.S. TIN for a partner to be valid for purposes of a claim of exemption or reduced withholding under section 1446(a) or (f). See the instructions to the applicable Form W-8.

Qualified Intermediary (QI)

In most cases, a QI is any foreign intermediary that has entered into a QI agreement (discussed earlier) with the IRS with respect to the withholding and reporting required under chapters 3 and 4 and for purposes of Form 1099 reporting and backup withholding under section 3406. Additionally, starting January 1, 2023, a QI may also assume certain withholding responsibilities with respect to PTP distributions (including withholding under section 1446(a)) and certain transfers of PTP interests for section 1446(f) purposes when acting as an intermediary.

For discussion of those provisions, see Publicly Traded Partnership Distributions (PTP Distributions) and Section 1446(f): PTP Interests, later. A foreign entity that is a QI acting as a QDD or that is acting with respect to payments of substitute interest (as permitted by the QI agreement) can act as a QI even though it is not receiving payments as an intermediary. A foreign entity that has received a QI employer identification number (QI-EIN) may represent on Form W-8IMY that it is a QI. The QI can claim that it is a QI until the IRS revokes its QI-EIN.

A QI can be either an FFI or an NFFE. An FFI that is a QI must be a participating FFI (including a reporting Model 2 FFI), a registered deemed-compliant FFI (including a reporting Model 1 FFI and a nonreporting Model 2 FFI treated as a registered deemed-compliant FFI), or an FFI treated as a deemed-compliant FFI under an applicable Model 1 IGA that is subject to similar due

diligence and reporting requirements with respect to its U.S. accounts as those applicable to a registered deemed-compliant FFI (including the requirement to register with the IRS) (defined in the QI agreement as a “registered deemed-compliant Model 1 IGA FFI”). Thus, you must identify the chapter 4 status of an FFI, certifying its status as a QI as one of the chapter 4 statuses referenced in the preceding sentence on a Form W-8IMY when a chapter 4 status is required for chapter 4 purposes.

Responsibilities and documentation for chapters 3 and 4. Payments made to a QI that does not assume primary chapters 3 and 4 withholding responsibilities are treated as paid to its account holders. However, a QI is not required to provide you with documentation it obtains from its foreign account holders or from U.S. exempt recipients (U.S. persons exempt from Form 1099 reporting).

Instead, it provides you with a withholding statement that contains either chapter 3 or chapter 4 withholding rate pool information. A chapter 4 withholding rate pool is a payment of a single type of income that is a withholdable payment that is allocated to payees that are nonparticipating FFIs or recalcitrant account holders (in a single pool). A chapter 4 withholding rate pool also means a payment of a single type of income that is allocated to U.S. payees when the QI provides the certification required on Form W-8IMY for allocating payments to this pool and a withholding statement. A QI may include in its chapter 4 withholding rate pools its direct account holders as well as account holders of another QI or a participating FFI or registered deemed-compliant FFI. With respect to a payment to a foreign person for which no chapter 4 withholding is required, a chapter 3 withholding rate pool is a payment of a single type of income that is subject to a single rate

of withholding and that is reported on Form 1042-S under a single chapter 4 exemption code. Payments made to U.S. exempt recipients may also be included in a chapter 3 withholding rate pool to which withholding does not apply.

A QI is required to provide you with information regarding U.S. nonexempt recipients (U.S. persons subject to Form 1099 information reporting) and to provide you withholding rate pool information separately for each such U.S. person unless it has assumed primary Form 1099 reporting and backup withholding responsibility and meets the requirements to include these recipients in a U.S. payee pool. For the alternative procedure for providing withholding rate pool information for U.S. nonexempt persons not included in a chapter 4 withholding rate pool of U.S. payees, see the [*Instructions for Form W-8IMY*](#).

The withholding statement must:

1. Designate those accounts for which it acts as a QI;
2. Designate those accounts for which it assumes primary chapters 3 and 4 withholding responsibility and/or primary Form 1099 reporting and backup withholding responsibility;
3. If applicable, designate the accounts for which it acts as a qualified securities lender with respect to any U.S. source substitute dividend payments;
4. If applicable, designate those accounts for which it acts as a QDD;
5. Provide sufficient information for you to allocate the payment, as applicable, to chapter 3 withholding rate pools and, for payments that are withholdable payments,

chapter 4 withholding rate pools of nonparticipating FFIs and recalcitrant account holders when the QI has not assumed primary chapter 3 or 4 withholding responsibility; and

6. Provide sufficient information for you to allocate payments to each U.S. nonexempt recipient or to a pool of U.S. payees to the extent described earlier under this heading.

The extent to which you must have withholding rate pool information depends on the withholding and reporting obligations assumed by the QI.

If a QI that is permitted to do so by the QI agreement obtains documentary evidence under the “KYC” rules that apply to the QI under local law, and the documentary evidence is of a type specified in an attachment to the QI agreement, the documentary evidence remains valid until there is a change in circumstances or the QI

knows the information is incorrect. A QI may rely on a Form W-8 until its validity expires under Regulations section 1.1441-1(e) (4)(ii) and may rely on documentary evidence not obtained pursuant to “KYC” rules until its validity expires under Regulations section 1.6049-5(c).

Primary chapters 3 and 4 withholding responsibilities not assumed. If a QI does not assume primary chapters 3 and 4 withholding responsibility or primary Form 1099 reporting and backup withholding responsibility for the payment, you can reliably associate the payment with valid documentation only to the extent you can reliably determine the part of the payment that relates to each withholding rate pool for foreign and U.S. payees. Unless the alternative procedure applies and the QI is permitted to include U.S. nonexempt recipients in a chapter 4 withholding rate pool of U.S. payees,

the QI must provide you with a separate withholding rate pool for each U.S. nonexempt recipient that must be reported on Form 1099. If you and the QI agree, the QI may apply the alternative procedures for U.S. nonexempt recipients by establishing a single withholding rate pool (not subject to backup withholding) for all U.S. nonexempt recipient account holders for whom the QI is required to report on Form 1099 and has provided you with Forms W-9 prior to you making the reportable payment, or, if applicable, designated broker proceeds to which backup withholding does not apply. The QI must provide a Form W-9 or, in the absence of the form, the name, address, and TIN, if available, for each U.S. nonexempt recipient.

Primary chapters 3 and 4 withholding responsibilities assumed. If you make a payment to a QI that assumes primary chapters 3 and 4 withholding responsibilities (but not primary Form 1099 reporting and

backup withholding responsibility), you can reliably associate the payment with valid documentation only to the extent you can reliably determine the part of the payment that relates to the chapter 4 withholding rate pools and chapter 3 withholding rate pools, as applicable, and the part of the payment attributable to withholding rate pools for each U.S. nonexempt recipient, unless the alternative procedure applies for Form 1099 reporting and/or backup withholding purposes. The QI must provide a Form W-9 or, in the absence of the form, the name, address, and TIN, if available, for such person.

Primary chapters 3 and 4 withholding responsibilities and Form 1099 reporting and backup withholding responsibilities assumed. If you make a payment to a QI that assumes primary chapters 3 and 4 withholding responsibilities and primary

Form 1099 reporting and backup withholding responsibility, you can reliably associate the payment with valid documentation provided that you receive a valid Form W-8IMY.

It is not necessary to associate the payment with any chapter 3 or chapter 4 withholding rate pools.

If you make a payment to a QI that is also a QDD, the QI must provide a withholding statement designating the accounts for which it acts as a QDD even if it assumes primary withholding responsibility for all payments, unless it is acting as a QDD for all payments it receives.

Example. You make a payment of U.S. source dividends to a QI. It has five customers: two are foreign persons who have provided documentation entitling them to a 15% rate of withholding on dividends; two are foreign persons subject to a 30% rate of withholding on dividends; and one is a U.S. individual who provides it with a Form W-9.

Each customer is entitled to 20% of the dividend payment. The QI does not assume any primary withholding responsibility. The QI gives you a Form W-8IMY with which it associates the Form W-9 and a withholding statement that allocates 40% of the dividend to a 15% withholding rate pool, 40% to a 30% withholding rate pool, and 20% to the U.S. individual. You should report on Forms 1042-S, 40% of the payment as made to a 15% rate dividend pool and 40% of the payment as made to a 30% rate dividend pool. The part of the payment allocable to the U.S. individual (20%) is reportable on Form 1099-DIV.

Joint account treatment for chapters 3 and 4. A QI may apply joint account treatment to a partnership or trust if the partnership or trust meets the following conditions.

- It is a nonwithholding foreign partnership or nonwithholding foreign trust that is either a simple or grantor trust.
- It is a certified deemed-compliant FFI (other than a registered deemed-compliant Model 1 IGA FFI), an owner-documented FFI with respect to the QI, an exempt beneficial owner, an NFFE, or is covered as an account that is excluded from the definition of financial account under Annex II of an applicable IGA or under Regulations section 1.1471-5(a) and has provided the QI with a certification that it has maintained such chapter 4 status during each certification period.
- It is a direct account holder of the QI.
- None of its partners, beneficiaries, or owners is a flow-through entity or is acting as an intermediary for a payment made by the QI to the partnership or

trust, and none of its partners, beneficiaries, or owners is a U.S. person.

- None of its foreign partners, beneficiaries, or owners is subject to withholding or reporting under chapter 4.
- It agrees to make available upon request to the QI (or QI's reviewer) records that establish it has provided the QI with documentation for purposes of chapters 3 and 4 for all of its partners, beneficiaries, or owners.

For information on these rules, see section 4.05 of the QI agreement in Revenue Procedure 2022-43, available at [IRS.gov/irb/2022-52_IRB#RP-2022-43](https://www.irs.gov/irb/2022-52_IRB#RP-2022-43).

Agency option. A QI may apply the agency option to a partnership or trust under which the partnership or trust agrees to act as an agent of the QI and to apply the provisions of the QI agreement to its partners, beneficiaries, or owners.

A QI and a partnership or trust may only apply the agency option if the partnership or trust meets the following conditions.

- It is a nonwithholding foreign partnership or nonwithholding foreign trust that is either a simple or grantor trust.
- It is either a direct account holder of the QI or an indirect account holder of the QI that is a direct partner, beneficiary, or owner of a partnership or trust to which the QI also applies the agency option.
- It is an FFI that is a certified deemed-compliant FFI (other than a registered deemed-compliant Model 1 IGA FFI), an owner-documented FFI with respect to the QI, an NFFE, an exempt beneficial owner, or is covered as an account that is excluded from the definition of financial account under Annex II of an applicable IGA or under Regulations section 1.1471-5(a) and has provided the QI with a

certification that it has maintained such chapter 4 status during each certification period.

- None of its partners, beneficiaries, or owners is a withholding foreign trust, withholding foreign partnership, participating FFI, registered deemed-compliant FFI, registered deemed-compliant Model 1 IGA FFI, or another QI acting as an intermediary for a payment made by the QI to the partnership or trust.
- It agrees to permit the QI to treat its direct and indirect partners, beneficiaries, or owners as direct and indirect account holders, respectively, of the QI under the QI agreement.
- It agrees to comply with the compliance procedures of the QI agreement.

For information on these rules, see section 4.06 of the QI agreement in Revenue Procedure 2022-43, available at [IRS.gov/irb/2022-52 IRB#RP-2022-43](https://www.irs.gov/irb/2022-52_IRB#RP-2022-43).

Form 1042-S reporting. A QI is generally permitted to report payments made to its foreign account holders on a pooled basis rather than reporting payments to each account holder specifically. Pooled basis reporting is not available for payments to certain account holders, such as nonqualified intermediaries, flow-through entities (discussed earlier) and certain of their account holders and owners, private arrangement intermediaries, and, in certain circumstances, qualified intermediaries, withholding foreign partnerships, and withholding foreign trusts. Notwithstanding these requirements, separate Forms 1042-S are not issued to account holders that the QI is permitted to include in a chapter 4 withholding rate pool.

Collective refund procedures. A QI may seek a refund of tax withheld under chapters 3 and 4 on behalf of its account holders when the QI has not issued a Form 1042-S to the account holders that received the payment that was subject to overwithholding. The account holders, therefore, are not required to file claims for refund with the IRS to obtain refunds, but rather may obtain them from the QI. A QI may obtain a refund of tax withheld under chapter 4, however, to the extent permitted under the QI agreement.

Nonqualified Intermediary (NQI)

If you are making a payment to an NQI or U.S. branch that is using Form W-8IMY to transmit information about the branch's account holders or customers for chapter 3 or 4 purposes, you can treat the payment (or a part of the payment) as reliably associated with valid documentation from a specific payee only if, before making the payment:

- You can allocate the payment to a valid Form W-8IMY;
- You can reliably determine how much of the payment relates to valid documentation provided by a payee (a person that is not itself a foreign intermediary, flow-through entity, or U.S. branch with a chapter 4 withholding rate pool) (see Pooled withholding information, later); and
- You have sufficient information to report the payment on Form 1042-S or Form 1099, if reporting is required.

Withholding statement. The NQI or U.S. branch must give you certain information on a withholding statement that is associated with the Form W-8IMY for chapter 3 or 4 purposes. A withholding statement must be updated to keep the information accurate prior to each payment.

See, however, Regulations section 1.1441-3(e)(4)(iv)(C) for when a withholding agent may instead accept an alternative withholding statement.

For chapter 4 purposes. An NQI receiving a withholdable payment must provide a withholding statement that satisfies the requirements of an FFI withholding statement or, if the NQI is not a participating FFI or registered deemed-compliant FFI, a chapter 4 withholding statement.

An FFI withholding statement may allocate the payment to chapter 4 reporting rate pools (as appropriate), including a chapter 4 withholding rate pool for nonparticipating FFIs, recalcitrant account holders (in each class of account holders, as described in the chapter 4 regulations), and, for an NQI that is a participating FFI (including a reporting Model 2 FFI) or a registered deemed-compliant FFI (including a reporting Model 1 FFI), U.S. payees.

However, an NQI may allocate a payment of a reportable amount (regardless of whether the payment is a withholdable payment) to a chapter 4 withholding rate pool of U.S. payees when the NQI satisfies the requirements for providing such a pool, including the requirement to certify to its status as a participating FFI, including a reporting Model 2 FFI, or registered deemed-compliant FFI, including a reporting Model 1 FFI.

If the FFI withholding statement instead includes payee-specific information for purposes of chapter 4, it must indicate both the portion of the payment allocated to each payee and each payee's chapter 4 status. The withholding statement must also identify each intermediary or flow-through entity that is receiving a payment (excluding any intermediary or flow-through entity that is an account holder or interest holder in another QI, WP, or WT),

each such entity's chapter 4 status and GIIN (if applicable) when required for chapter 4 purposes, and the chapter 4 withholding rate pools associated with each such entity.

A chapter 4 withholding statement must contain the name, address, TIN (if any), entity type, chapter 4 status of each payee, the amount allocated to each payee, and a valid withholding certificate or other documentation sufficient to establish each payee's chapter 4 status for payees that are not included in a chapter 4 withholding rate pool of nonparticipating FFIs. The withholding statement must also identify each intermediary or flow-through entity that is receiving a payment (excluding any intermediary or flow-through entity that is an account holder or interest holder in another QI, WP, or WT), each such entity's chapter 4 status and GIIN (if applicable), and the chapter 4 withholding rate pools associated with each such entity.

An allocation of a payment to an NQI, nonwithholding foreign partnership, or nonwithholding foreign trust of an amount subject to chapter 3 withholding to a chapter 4 withholding rate pool of U.S. payees must identify the payees consistent with the description in Regulations section 1.1471-3(c)(3)(iii)(B)(2)(iii).

For chapter 3 purposes. The withholding statement should allocate for chapter 3 purposes only the portion of the payment that was not allocated to a chapter 4 withholding rate pool or to a payee identified on a withholding statement to whom withholding was applied under chapter 4. For chapter 3 purposes, a withholding statement must include the information described below for a reportable amount.

1. The name, address, and TIN (if any, or if required) of each person for whom documentation is provided.

2. The type of documentation (documentary evidence, Form W-8, or Form W-9) for every person for whom documentation has been provided, and, for a withholdable payment, that the documentation establishes the payee's chapter 4 status to the extent required for chapter 4 purposes.
3. The status of the person for whom the documentation has been provided, such as whether the person is a U.S. exempt recipient, U.S. nonexempt recipient, or a foreign person. For a foreign person, the statement must indicate whether the person is the beneficial owner or a foreign intermediary, flow-through entity, or a U.S. branch that is not included in a chapter 4 withholding rate pool or in a pool of payees under the alternative procedures (see Alternative procedure, later).

4. The type of recipient the person is, based on the recipient codes used on Form 1042-S.
5. Information allocating each payment, by income type, to each payee (including U.S. exempt and nonexempt recipients) for whom documentation has been provided that is not included in a chapter 4 withholding rate pool or in a pool of payees under the alternative procedures (see Alternative procedure, later).
6. The rate of withholding that applies to each foreign person to whom a payment is allocated.
7. A foreign payee's country of residence.
8. If a reduced rate of withholding is claimed under chapter 3, the basis for a reduced rate of withholding (for example, portfolio interest, treaty benefit, etc.).

9. In the case of treaty benefits claimed by entities, whether the applicable limitation on benefits statement and the statement that the foreign person derives the income for which treaty benefits are claimed, have been made.
10. The name, address, and TIN (if any) and, for a withholdable payment, the chapter 4 status (if required) and GIIN (if applicable) of any other NQI, flow-through entity, or U.S. branch from which the payee will directly receive a payment.
11. Any other information a withholding agent requests to fulfill its reporting and withholding obligations.

Alternative procedure. Under this alternative procedure, the NQI can give you the information that allocates each payment to each foreign and U.S. exempt recipient or chapter 4 withholding rate pool by January 31 following the calendar year of payment,

rather than before the payment is made, as otherwise required. To take advantage of this procedure, the NQI must (a) inform you, on its withholding statement, that it is using the alternative procedure; and (b) obtain your consent. You must receive the withholding statement with all the required information (other than item 5) before the NQI makes the payment.



The alternative procedure cannot, however, be used for payments to U.S. nonexempt recipients other than those recipients included in a chapter 4 withholding rate pool of U.S. payees. See Chapter 4, later. Therefore, an NQI must provide you with allocation information for any U.S. nonexempt recipients not included in a chapter 4 withholding rate pool of U.S. payees before the NQI makes a payment.

Pooled withholding information for chapters 3 and 4. If an NQI uses the alternative procedure, it must provide you with withholding rate pool information, as opposed to individual allocation information, before the payment of a reportable amount. The NQI must provide you with the payee specific allocation information (information allocating each payment to each payee) by January 31 following the calendar year of payment, except as otherwise permitted for chapter 4 purposes, when using this procedure.

Chapter 4. In the case of a reportable amount that is also a withholdable payment, an NQI may include amounts allocable to a chapter 4 withholding rate pool (other than a chapter 4 withholding rate pool of U.S. payees) and payees subject to chapter 4 withholding for whom the NQI will provide payee-specific information in a 30% rate pool together with payees subject to chapter 3

withholding at the 30% rate. For the amount of the payment allocable to a chapter 4 withholding rate pool of U.S. payees, an NQI may include amounts allocable to the pool with other amounts exempt from withholding (and an NQI may allocate payments to this pool regardless of whether the payment is a withholdable payment) and may not otherwise apply these provisions for payments made to U.S. nonexempt recipients. The NQI must identify prior to the payment each chapter 4 withholding rate pool to be allocated a portion of the payment, in addition to each payee to be allocated the payments that is not included in such a pool. The NQI must then also allocate, by January 31 following the calendar year of the payment, the portion of the payment to each such pool in addition to allocating the payment to each payee that is not included in the pool.

Failure to provide allocation information.

If an NQI fails to provide you with the payee specific allocation information for a withholding rate pool or chapter 4 withholding rate pool by January 31, you must not apply the alternative procedure to any of the NQI's withholding rate pools from that date forward. You must treat the payees as undocumented and apply the presumption rules, discussed later in *Presumption Rules*. An NQI is deemed to have failed to provide specific allocation information if it does not give you such information for more than 10% of any one withholding rate pool.

However, if you receive such information by February 14, you may make the appropriate adjustments to repay any excess withholding incurred between February 1 and on or before February 14.

If the NQI fails to allocate more than 10% of the payment to a withholding rate pool by February 14 following the calendar year of

payment, you must file a Form 1042-S for each account holder in the pool on a pro-rata basis (treating a chapter 4 withholding rate pool as an account holder for this purpose and excluding U.S. exempt recipients). For example, if there are four account holders in a withholding rate pool that receive a \$100 payment and the NQI fails to allocate more than \$10 of the payment, you must file four Forms 1042-S, one for each account holder in the pool, showing \$25 of income to each. You must also check the "Pro-rata Basis Reporting" box at the top of each form. If, however, the NQI provides allocation information for 90% or more of the payment to a withholding rate pool, the pro-rata reporting method is not required. Instead, you must file a Form 1042-S for each account holder for whom you have allocation information and report the unallocated part of the payment on a Form 1042-S issued to "unknown recipient."

Withholding Foreign Partnerships (WPs)

If you are making payments to a WP for chapter 3 or 4 purposes, you do not have to withhold if the WP is acting in that capacity. The WP must assume primary chapters 3 and 4 withholding responsibility for amounts that are distributed to, or included in the distributive share of, any direct partner and may assume chapters 3 and 4 withholding responsibilities for certain of its indirect partners. The WP must withhold the amount required to be withheld. A WP must provide you with a Form W-8IMY that certifies that the WP is acting in that capacity and provides all other information and certifications required by the form. The Form W-8IMY must contain the WP-EIN and GIIN (if applicable).

A WP can be either an FFI or an NFFE. An FFI (other than a retirement fund) that is a WP must be a participating FFI, a registered deemed-compliant FFI, or an FFI treated as a deemed-compliant FFI under an applicable

Model 1 IGA that is subject to similar due diligence and reporting requirements with respect to its U.S. accounts as those applicable to a registered deemed-compliant FFI under Regulations section 1.1471-5(f)(1) (including the requirement to register with the IRS) (defined in the WP agreement as a “registered deemed-compliant Model 1 IGA FFI”). Thus, an FFI certifying its status as a WP must provide you a Form W-8IMY that certifies to one of the chapter 4 statuses referenced in the preceding sentence when a chapter 4 status is required.

Responsibilities of the WP. The WP must withhold under chapter 3 or 4 on the date it makes a distribution of a withholdable payment or an amount subject to chapter 3 withholding to a direct foreign partner based on the Form W-8 or W-9 it receives from its partners. If the partner's distributive share has not been distributed, the WP must withhold on the partner's distributive share on

the earlier of the date that the partnership must mail or otherwise provide to the partner a Schedule K-1 (Form 1065) or the due date for furnishing the statement (whether or not the WP is required to furnish the statement).

The WP may determine the amount of withholding based on a reasonable estimate of the partner's distributive share of income subject to withholding for the year. The WP must correct the estimated withholding to reflect the actual distributive share on the earlier of the dates mentioned in the preceding paragraph. If that date is after the earlier of the due date (including extensions) for filing the WP's Form 1042-S or the date the WP actually issues Form 1042-S for the calendar year, the WP may withhold and report any adjustments required by correcting the information for the following calendar year.

Form 1042 filing. The WP must file Form 1042 even if no amount was withheld. In addition to the information that is required for the Form 1042, the WP must attach a statement showing the amounts of any over- or under-withholding adjustments and an explanation of those adjustments.

Form 1042-S reporting. The WP can elect to report payments made to its foreign direct partners on a pooled basis for chapter 3 purposes rather than reporting payments to each direct partner in addition to reporting payments in a chapter 4 withholding rate pool to the extent the WP is permitted to do so based on its chapter 4 status. A WP can treat as its direct partners those indirect partners of the WP for which it applies joint account treatment or the agency option (described later). A WP must otherwise issue a Form 1042-S to each partner to the extent it is required to do so under the WP agreement.

You may issue a single Form 1042-S for all payments you make to a WP other than payments for which the entity does not act as a WP. You may, however, have Form 1099 requirements for certain indirect partners of a WP that are U.S. nonexempt recipients.

Collective refund procedures. A WP may seek a refund of tax withheld under chapters 3 and 4 on behalf of its partners when the WP has not issued a Form 1042-S to the partners that received the payment that was subject to overwithholding. The partners, therefore, are not required to file claims for refund with the IRS to obtain refunds, but rather may obtain them from the WP. A WP may obtain a refund of tax withheld under chapter 4 to the extent permitted under the WP agreement.

Reporting of U.S. partners. A WP must report its U.S. partners on Schedule K-1 to the extent required under the WP agreement. If the WP is an FFI, it is also required to report each of its U.S. accounts (or U.S.

reportable accounts if a reporting Model 1 FFI) on Form 8966 consistent with its chapter 4 requirements or the requirements of an IGA. If the WP is an NFFE, the WP must file Form 8966 to report any partner that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or, under an applicable IGA, controlling persons that are specified U.S. persons) if the NFFE is the beneficial owner of a withholdable payment received by the WP. The WP must also file a Form 8966 to report withholdable payments made to a pass-through partner for which the WP acts under the WP agreement that provides information on an account holder (or interest holder) that is an NFFE (other than an excepted NFFE) with one or more substantial U.S. owners (or, under an applicable IGA, controlling persons that are specified U.S. persons) and that is the beneficial owner of the withholdable payment received by the WP,

unless the pass-through partner certifies to the WP that it is reporting on the account holder (or interest holder) pursuant to its U.S. account reporting requirements. The preceding sentence applies with respect to a pass-through partner to which the WP applies the agency option or which has partners, beneficiaries, or owners that are indirect partners of the WP.

Joint account treatment. Under special procedures provided in the WP agreement, a WP may apply joint account treatment to a partnership or trust that is a direct partner of the WP. A WP that applies the joint account option must elect to perform pool reporting for amounts subject to chapter 3 withholding that either are not withholdable payments or are withholdable payments for which no chapter 4 withholding is required and that the WP distributes to, or includes in the distributive share of,

a foreign direct partner. These rules only apply to a partnership or trust that meets the following conditions.

- It is a nonwithholding foreign partnership or nonwithholding foreign trust that is either a simple or grantor trust.
- It is a certified deemed-compliant FFI (other than a registered deemed-compliant Model 1 IGA FFI, as defined in the WP agreement), an owner-documented FFI, an exempt beneficial owner, or an NFFE (other than a WP or WT).
- It is a direct partner of the WP.
- None of its partners, beneficiaries, or owners is a flow-through entity or intermediary.
- None of the partnership's or trust's partners, beneficiaries, or owners is a U.S. person or is subject to withholding or reporting under chapter 4.

- It agrees to make available upon request to the WP (or the WP's auditor) records that establish it has provided the WP with documentation for purposes of chapters 3 and 4 for all of its partners, beneficiaries, or owners.

For more information on applying these rules, see section 9.01 of the WP agreement in section 6 of Revenue Procedure 2017-21, available at [IRS.gov/irb/ 2017-06 IRB#RP-2017-21](https://www.irs.gov/irb/2017-06_IRB#RP-2017-21).

Agency option. A WP may apply the agency option to a partnership or trust under which the partnership or trust agrees to act as an agent of the WP and to apply the provisions of the WP agreement to its partners, beneficiaries, or owners. A WP that applies the agency option must elect to perform pool reporting for amounts subject to chapter 3 withholding that either are not withholdable payments or are withholdable payments for

which no chapter 4 withholding is required and that the WP distributes to, or includes in the distributive share of, a foreign direct partner.

A WP and a partnership or trust may only apply the agency option if the partnership or trust meets the following conditions.

- It is a nonwithholding foreign partnership or nonwithholding foreign trust that is either a simple or grantor trust.
- It is either a direct partner of the WP or an indirect partner of the WP that is a direct partner, beneficiary, or owner of a partnership or trust to which the WP also applies the agency option.
- It is an FFI that is a certified deemed-compliant FFI (other than a registered deemed-compliant Model 1 IGA FFI, as defined in the WP agreement), an owner-documented FFI, an NFFE, or an exempt beneficial owner.

- None of its partners, beneficiaries, or owners is a WT, WP, participating FFI, registered deemed-compliant FFI, registered deemed-compliant Model 1 IGA FFI (as defined in the WP agreement), or QI acting as an intermediary for a payment made by the WP to the partnership or trust.
- The WP may not act as a withholding foreign partnership with respect to any direct or indirect partner of the partnership or trust that is a U.S. nonexempt recipient, unless the U.S. nonexempt recipient is a partner of an owner-documented FFI or passive NFFE to which the WP applies the agency option and is included in the WP's U.S. payee pool.
- It agrees to comply with the compliance procedures described in section 8.05 of the WP agreement by providing the WP with the certification described in section

8.03 of the WP agreement and providing the WP with documentation or other information for review.

- It agrees to comply with the documentation requirements of a WP in the WP agreement.

For more information on applying these rules, see section 9.02 of the WP agreement in section 6 of Revenue Procedure 2017-21, available at [IRS.gov/irb/ 2017-06 IRB#RP-2017-21](https://www.irs.gov/irb/2017-06_IRB#RP-2017-21).

WP acting for indirect partners. A WP may act as a WP with respect to an indirect partner of the WP that is not a U.S. nonexempt recipient. However, a WP may act as a WP for an indirect partner that is a U.S. nonexempt recipient if the indirect partner is included in a pass-through partner's chapter 4 withholding rate pool of recalcitrant account holders or U.S. payees.