

## **UW Responsibilities as a Withholding Agent**

### **Form W-9 - Request for Taxpayer Identification Number and Certification**

This form is used for certifying a recipient's status as a U.S. person. If properly completed with TIN, no backup withholding is required. It is generally valid unless a change in circumstances makes any information on the form incorrect.

- Obtain from payees who are U.S. persons (including a U.S. entity).
- Payment to vendors that provide Form W-9 without a TIN requires 24% backup withholding.
- Form W-9 contains a FATCA<sup>1</sup> exemption code section. FATCA does not apply to nonfinancial payments made in the ordinary course of business, such as payments for nonfinancial services, the use of property, software licenses, awards, or prizes. If the W-9 is submitted for a U.S. financial account, the vendor can leave this section blank.

### **Form W-8BEN - Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)**

This form is provided by foreign individuals to certify the recipient's non-U.S. status and status as beneficial owner of the income being paid<sup>2</sup>.

- Obtain from nonresident alien (NRA) individual payees.
- Payment to vendors that provide Form W-8BEN without a U.S. TIN require 30% backup withholding.
- NRA individuals must provide a U.S. TIN to claim tax treaty benefits and reduced withholding (see additional requirement of Form 8233).
- NRA individuals are subject to withholding and reporting (Chapter 3<sup>3</sup>), but are not subject to FATCA.
- Tax reportable scholarships/fellowships to NRAs are processed through the Payroll and Glacier systems.

### **Form W-7 - Application for IRS Individual Taxpayer Identification Number (ITIN)**

This form is completed if the person does not have a U.S. Social Security number (SSN) or ITIN. Please make sure that if your nonresident alien visitor needs an ITIN that you plan ahead of their visit. Contact the UW-Madison Tax Program Manager (608-262-0582) for more information.

### **Form 8233 - Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual**

This form is completed by nonresident alien individuals to obtain a tax treaty withholding exemption for amounts paid for the performance of certain independent or dependent personal services within the U.S.

- The form should be completed and submitted for each tax year.
- The form requires a U.S. TIN to claim applicable treaty benefits.

### **Form W-8BEN-E - Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities)**

This form is provided by foreign entities to a withholding agent to certify the recipient's non-U.S. status and status as beneficial owner of the income being paid<sup>2</sup>.

- Obtain from University payees that are foreign entities (not individuals), even if the payee already has the old version of W-8BEN on file.
- Payment to vendors that provide Form W-8BEN-E without a TIN requires 30% backup withholding.
- Must obtain either U.S. TIN (if available) or foreign TIN from an entity to claim applicable tax treaty benefits and reduced withholding for Chapter 3.
- This form has 8 pages and 30 Parts.

- Most of the 30 Parts will be left blank, depending on the Chapter 3 or FATCA Chapter 4 boxes checked on Page 1.
- Make sure the payee completes the form including:
  - Checking the proper box(es) for Chapter 3 and Chapter 4 on page 1 (only one box per line); and,
  - Filling out the corresponding information on the other pages, depending on the box(es) checked.
- Contact UWSA tax staff for additional guidance if FATCA withholding or reporting is applicable (Chapter 4 status of Nonparticipating FFI).

### **Additional Information**

- Tax withholding and reporting for nonresident aliens depends on collecting the proper documentation. This provides the NRA's country of residence, visa type to determine whether the payment can be made, and assists in whether a tax treaty applies for the specific type of income paid. See the [UW-Madison tax related documents flowchart](#) and [U.S. Withholding Agent FAQs](#). For an NRA, the required documentation:
  - Copy of original passport picture page (national ID).
  - Visa or Visa Waiver.
  - I-94, plus Homeland Security stamp in passport or ESTA and Homeland Security stamp in passport for NRAs under the Visa Waiver Program ([non-immigrant customs form allowing entry](#)).
  - [W-8BEN](#) completed with U.S. ITIN or SSN.
  - [Form 8233](#) completed with U.S. ITIN or SSN if requesting treaty exemption or reduced withholding for independent personal services.
- For more information, see [Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities](#) and [Publication 901, U.S. Tax Treaties](#).
- A [Central Withholding Agreement \(CWA\)](#) is an agreement entered into by a nonresident alien (NRA) entertainer or athlete, a designated withholding agent, and an authorized representative of the Internal Revenue Service. The agreement designates a single withholding agent to withhold and deposit an agreed upon amount, and relieves all other withholding agents from withholding and reporting on the specified events for the specified period of time covered in the CWA.
  - In general, 30 percent withholding applies unless a CWA is in effect because treaty exemptions may be based on factors that cannot be determined until after the end of the year.
  - Making a payment to a U.S. entity acting as an agent to collect funds which will be paid to a nonresident alien must be treated as being made to a nonresident alien, subject to 30 percent withholding, unless a CWA is in effect.
  - The CWA is not effective unless all parties have signed the agreement (i.e. the NRA, designated withholding agent, and IRS).
- Withheld federal taxes must be remitted to the IRS. Federal withholding checks should be made payable and sent to UW System Administration.
- [Wisconsin Non-Resident Entertainer](#) payments of estimated tax, if the accumulated payments for entertainment services exceed \$7,000, must be made payable and sent directly to the Wisconsin Department of Revenue, along with Form WT-11. At the time the threshold is met, the payment of estimated tax is based on the accumulative total contract price for the year, not just the amount in excess of \$7,000.
- UW System Administration reports 1099-Misc, 1099-K, and 1042-S reportable payments to the IRS after the close of the calendar year.

### [Link to IRS Forms & Instructions](#)

- W-9 - Request for Taxpayer Identification Number and Certification
- W-8BEN - Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)
- 8233 - Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual
- W-7 - Application for IRS Individual Taxpayer Identification Number (ITIN)
- W-8BEN-E - Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities)
- 1099-Misc - Miscellaneous Income
- 1099-K - Payment Card and Third Party Network Transactions
- 1042-S - Foreign Person's U.S. Source Income Subject to Withholding
- Publication 1281 - Backup Withholding on missing and incorrect Name/TINs
- Publication 2108-A - On-line Taxpayer Identification Number (TIN) Matching Program
- Publication 515 - Withholding of Tax on Nonresident Aliens and Foreign Entities
- Publication 901 - U.S. Tax Treaties

### [Link to the Wisconsin Department of Revenue](#)

- Publication 508 - Wisconsin Tax Requirements Relating to Nonresident Entertainers
- Form WT-11 - Nonresident Entertainer's Report

1. The Foreign Account Tax Compliance Act (FATCA), commonly referred to as Chapter 4, was enacted to prevent U.S. persons from hiding income overseas by requiring foreign financial institutions (FFI) and passive nonparticipating financial foreign entities (NFFE) with substantial U.S. owners to report information about their U.S. account holders or owners to the IRS. FATCA requires withholding agents to report on payments to foreign entities if those payments are subject to FATCA (i.e., withholdable payments). FATCA withholding is not reduced by tax treaties. Examples include interest, dividends, insurance and annuity contract premiums, investment advisory, custodial, bank or brokerage fees.

2. Source of Income - Payments made to a foreign vendors or nonresident aliens (NRA) for goods received or services performed from outside the U.S. have no immigration or tax issues. This is considered by the IRS to be Non-U.S. source income. A U.S. TIN is not required for Non-U.S. source income. This does not apply for payments to U.S. Residents that are living or working abroad because they are taxed on worldwide income (the aggregate of a taxpayer's domestic and foreign income) no matter where the work is performed.

3. Chapter 3 refers to the traditional withholding and reporting rules for nonresident aliens (NRA) and foreign corporations. Nonqualified scholarships / fellowships to NRAs are subject to these rules, and processed through the Payroll and Glacier systems.