

U. S. Tax Information for Foreign Vendors

UC Davis uses both domestic and international companies for vendor services. There are specific tax rules related to payments to international companies just as there are rules for payments to foreign individuals.

The Internal Revenue Service (IRS) requires that all payments made to foreign vendors be made in accordance with IRS regulations. These regulations require that when services are provided inside the U.S. taxes be withheld from payments made to foreign vendors unless the income is exempt under a provision of a tax treaty between the foreign vendor's country and the U.S.

Payments made to foreign vendors will be subject to U.S. federal income tax withholding of 30 percent unless:

1. Appropriate IRS forms have been completed and submitted to the University, and
2. Payments made to the foreign vendor are
 - a. Exempt due to a tax treaty
 - b. Are effectively connected with the conduct of a trade or business in the U.S. or
 - c. Made to a foreign entity with U.S. tax-exempt status.

Note: These instructions relate only to services, they do not apply to purchase of goods. There is no tax withholding requirement for goods shipped from abroad as the ownership of the goods would pass to the University.

Services Performed Outside the USA:

If the vendor is located outside the U.S and all services are performed outside the U.S., then this is considered non-taxable foreign source income for the vendor and there is no withholding of taxes by the University.

Services Performed Inside the USA:

If the foreign vendor provides services to the University inside the U.S. there are reporting and possibly tax withholding requirements. Foreign vendors must submit a US withholding certificate (W-8 series of forms) with an Employer Identification Number (EIN), Individual Taxpayer Identification Number (ITIN) or Social Security Number (SSN) in order to claim an exemption from or reduction in withholding. The specific W-8 form used by a foreign vendor depends on the type of payment being paid and the status of the business itself.

IRS Tax Forms in the W-8 Series:

Form W-8BEN - Certification of Foreign Status of Beneficial Owner for United States Tax Withholding for Individuals. Form W-8BEN is used by foreign vendors who are **individuals** to confirm that they are not U.S. taxpayers. The vendor must provide form W-8BEN even if the vendor is not claiming a tax treaty reduction or exemption from withholding. To claim a tax treaty exemption, the vendor must also submit form 8233. For a valid tax treaty exemption, the recipient must provide a U.S. tax identification number.

<http://www.irs.gov/pub/irs-pdf/fw8ben.pdf>

<http://www.irs.gov/pub/irs-pdf/iw8ben.pdf>

Form 8233 - Exemption from Withholding on Compensation for Independent and Certain Dependent Personal Services of a Nonresident Alien individual. This form is used by individual vendors who are eligible for tax treaty benefits to claim exemption from U.S. federal tax withholding.

<http://www.irs.gov/pub/irs-pdf/f8233.pdf>

<http://www.irs.gov/pub/irs-pdf/i8233.pdf>

Form W-8BEN-E - Certification of Foreign Status of Beneficial Owner for United States Tax Withholding for Entities – This form is used by foreign organizations to certify their status under the Internal Revenue Code (IRC) Chapter 3 which requires Withholding of Tax on Nonresident Aliens and Foreign Corporations on US source income. It also enforces reporting on certain foreign accounts under the Foreign Account Tax Compliance Act (FATCA).

Entities are required to provide their identifying information as well as FATCA classification type in Part I, and certify in Part XXIX that the entity is not a US person.

Part III of the form is used to claim a treaty exemption for certain types of payments from the 30% federal income tax withholding required under Chapter 3. ***For a valid tax treaty exemption, the recipient must provide a U.S. tax identification number.***

<http://www.irs.gov/pub/irs-pdf/fw8bene.pdf>

Instructions – Not yet available

Form W-8ECI - Certification of Foreign Person's Claim that Income is Effectively Connected with the Conduct of a Trade or Business in the U.S. This form is to be completed by vendors who are claiming exemption from withholding on income that is effectively connected with a trade or business in the United States. The form stipulates that the foreign vendor files yearly U.S. tax returns to report all income connected with a U.S. trade or business. ***In order for the form to be completed properly, a U.S. tax identification number must be provided.***

The vendors must establish that:

- They are not U.S. persons
- Claim that they are the beneficial owner of the income for which Form W-8ECI is being provided. and
- Claim that the income is effectively connected with the conduct of a trade or business in the United States.

<http://www.irs.gov/pub/irs-pdf/fw8eci.pdf>

<http://www.irs.gov/pub/irs-pdf/iw8eci.pdf>

Form W-8EXP - Certification of Foreign Government or Other Foreign Organization for United States Tax Withholding form. This form is used by vendors to claim and document their tax-exempt status under U.S. tax law.

For a foreign tax-exempt organization to claim an exemption from withholding it must provide a Form W-8EXP to the University. The Form W-8EXP must be accompanied by either: (1) a copy of a tax exemption letter from the IRS, or (2) a letter from an attorney in the United States who attests that the organization would likely obtain tax-exempt status from the IRS if it applied to the IRS for such status.

Foreign entities that cannot establish their U.S. tax-exempt status will be subject to 30% U.S. federal income tax withholding from their payments.

Form W-8IMY - Certification of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for U.S. Tax Withholding is used for reporting payments to "flow-through entities" such as foreign partnerships or trusts.

The form is used by foreign intermediaries and foreign flow-through entities, as well as certain U.S. branches to represent that a foreign person is a [qualified intermediary](#) or [nonqualified intermediary](#) and that a qualified intermediary agrees to assume primary Non Resident Alien withholding responsibility.

<http://www.irs.gov/pub/irs-pdf/fw8imy.pdf>

<http://www.irs.gov/pub/irs-pdf/iw8imy.pdf>

Payment to U.S. Agent

If the University makes a payment to a U.S. person or entity acting as an agent on behalf of the foreign vendor, the University must treat the payment as being made to the foreign vendor. The

gross amount of the payment would therefore be subject to 30 percent withholding, and reported on Form 1042-S.

Payment to Non-California Residents

California law requires nonresident withholding at a rate of 7 percent if:

- A nonresident is paid to perform a service in California, or
- California source income is distributed to a nonresident, and
- The total payment or distribution is more than \$1,500 in the calendar year.