

# 1042 REPORTING

DOA – Daily Operations Section

Statewide Accounting Bureau

2020

# Objectives

- **1042 Reporting**
  - Types of W-8s
  - Reporting process and deadlines
  - Reportable payments
  - Important AP procedures
  - U.S. resident vs. foreign supplier
  - Chapter 3 vs. Chapter 4 reporting
  - Income sourcing
  - Penalties
  - 1042-S requirements

## 1042-S Deadlines and Dates

- **December 4<sup>th</sup> 2020**
  - First report of all foreign payments from the 2020 tax year sent to agencies
- **January 4<sup>th</sup> 2021**
  - 1042-S forms due for foreign suppliers
- **January 11<sup>th</sup> 2021**
  - Last day for payment cancellations/reissues including ACH returns
- **February 1<sup>st</sup> 2021**
  - Cancellations and ACH Returns will resume on February 1st

# 1042 Reporting-Foreign Suppliers

# 1042 Reporting - Individuals

## W-8BEN – Individuals

- Line 1 – Name
- Line 2 – Country of citizenship
- Line 3 – Permanent residence address; cannot be U.S.; may not be the same as country of citizenship
- Line 10 – Must be used if claiming a treaty benefit
- Signature, printed name, and date

## Form 8233

- Used by individuals to make treaty claims on U.S. source services income (i.e., for services performed in the U.S.)
- This form must be an original – faxed, emailed, photocopied, etc. forms are not acceptable
- This form must be signed by both the beneficial owner and the payer
- This form must be sent to the IRS for verification of treaty claims within five days of payer's acceptance of it (usually counted from the day the payer signs the form)
- IRS has 10 days to respond to the claim; if they do not respond, payer can assume the treaty claim is valid and release funds without withholding

Form **W-8BEN**

(Rev. July 2017)

Department of the Treasury  
Internal Revenue Service

**Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)**

► For use by individuals. Entities must use Form W-8BEN-E.

► Go to [www.irs.gov/FormW8BEN](http://www.irs.gov/FormW8BEN) for instructions and the latest information.

► Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

Do NOT use this form if:

- You are NOT an individual . . . . . W-8BEN-E
- You are a U.S. citizen or other U.S. person, including a resident alien individual . . . . . W-9
- You are a beneficial owner claiming that income is effectively connected with the conduct of trade or business within the U.S. (other than personal services) . . . . . W-8ECI
- You are a beneficial owner who is receiving compensation for personal services performed in the United States . . . . . 8233 or W-4
- You are a person acting as an intermediary . . . . . W-8IMY

Instead, use Form:

**Note:** If you are resident in a FATCA partner jurisdiction (i.e., a Model 1 IGA jurisdiction with reciprocity), certain tax account information may be provided to your jurisdiction of residence.

**Part I Identification of Beneficial Owner** (see instructions)

|  |  |   |  |
|--|--|---|--|
| 1 Name of individual who is the beneficial owner   |  | 2 Country of citizenship                            |  |
| 3 Permanent residence address (street, apt. or suite no., or rural route). <b>Do not use a P.O. box or in-care-of address.</b> |  |   |  |
| City or town, state or province. Include postal code where appropriate.  |  | Country   |  |
| 4 Mailing address (if different from above)  |  |   |  |
| City or town, state or province. Include postal code where appropriate.  |  | Country   |  |
| 5 U.S. taxpayer identification number (SSN or ITIN), if required (see instructions)  |  | 6 Foreign tax identifying number (see instructions) |  |
| 7 Reference number(s) (see instructions)   |  | 8 Date of birth (MM-DD-YYYY) (see instructions)     |  |

**Part II Claim of Tax Treaty Benefits** (for chapter 3 purposes only) (see instructions)

9 I certify that the beneficial owner is a resident of \_\_\_\_\_ within the meaning of the income tax treaty between the United States and that country.

10 **Special rates and conditions** (if applicable—see instructions): The beneficial owner is claiming the provisions of Article and paragraph \_\_\_\_\_ of the treaty identified on line 9 above to claim a \_\_\_\_\_ % rate of withholding on (specify type of income): \_\_\_\_\_

Explain the additional conditions in the Article and paragraph the beneficial owner meets to be eligible for the rate of withholding: \_\_\_\_\_

**Part III 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:

- I am the individual that is the beneficial owner (or am authorized to sign for the individual that is the beneficial owner) of all the income to which this form relates or am using this form to document myself for chapter 4 purposes,
- The person named on line 1 of this form is not a U.S. person,
- 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 applicable income tax treaty, or
  - (c) the partner's share of a partnership's effectively connected income,
- The person named on line 1 of this form is a resident of the treaty country listed on line 9 of the form (if any) within the meaning of the income tax treaty between the United States and that country, and
- 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. I agree that I will submit a new form within 30 days if any certification made on this form becomes incorrect.

Sign Here ►

# Form W-8BEN

Form **8233**

(Rev. September 2018)

Department of the Treasury  
Internal Revenue Service

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

OMB No. 1545-0795

▶ Go to [www.irs.gov/Form8233](http://www.irs.gov/Form8233) for instructions and the latest information. ▶ See separate instructions.

|                                  |   |  |
|----------------------------------|---|--|
| <b>Who Should Use This Form?</b> | <b>IF</b> you are a nonresident alien individual who is receiving...  | <b>THEN</b> , if you are the beneficial owner of that income, use this form to claim...                                    |
|                                  | Compensation for independent personal services performed in the United States   | A tax treaty withholding exemption (Independent personal services, Business profits) for part or all of that compensation. |
|                                  | Compensation for dependent personal services performed in the United States   | A tax treaty withholding exemption for part or all of that compensation.   |
| <b>DO NOT Use This Form...</b>   | <b>IF</b> you are a beneficial owner who is...  | <b>INSTEAD</b> , use...  |
|                                  | Receiving compensation for dependent personal services performed in the United States <b>and</b> you are <b>not</b> claiming a tax treaty withholding exemption for that compensation | Form W-4 (See the Instructions for Form 8233 for how to complete Form W-4.)  |
|                                  | Receiving noncompensatory scholarship or fellowship income <b>and</b> you are <b>not</b> receiving any personal services income <b>from the same withholding agent</b>                | Form W-8BEN or, if elected by the withholding agent, Form W-4 for the noncompensatory scholarship or fellowship income     |
|                                  | Claiming only foreign status or treaty benefits with respect to income that is <b>not</b> compensation for personal services  | Form W-8BEN  |

**Note:** For definitions of terms used in this section and detailed instructions on required withholding forms for each type of income, see **Definitions** in the instructions.

This exemption is applicable for compensation for calendar year \_\_\_\_\_, or other tax year beginning \_\_\_\_\_ and ending \_\_\_\_\_.

**Part I Identification of Beneficial Owner** (See instructions.)

|  |  |   |
|--|--|---|
| <b>1</b> Name of individual who is the beneficial owner  | <b>2</b> U.S. taxpayer identification number | <b>3</b> Foreign tax identification number, if any      |
| <b>4</b> Permanent residence address (street, apt. or suite no., or rural route). <b>Do not use a P.O. box.</b>            |  |   |
| City or town, state or province. Include postal code where appropriate.  |  | Country (do not abbreviate)                             |
| <b>5</b> Address in the United States (street, apt. or suite no., or rural route). <b>Do not use a P.O. box.</b>           |  |   |
| City or town, state, and ZIP code  |  |   |
| <b>Note:</b> Citizens of Canada or Mexico are not required to complete lines 7a and 7b.                                    |  |   |
| <b>6</b> U.S. visa type  | <b>7a</b> Country issuing passport           | <b>7b</b> Passport number                               |
| <b>8</b> Date of entry into the United States  | <b>9a</b> Current nonimmigrant status        | <b>9b</b> Date your current nonimmigrant status expires |
| <b>10</b> If you are a foreign student, trainee, professor/teacher, or researcher, check this box <input type="checkbox"/> |  |   |

**Caution:** See the **line 10 instructions** for the required additional statement you must attach.

# Form 8233

# 1042 Reporting - Entities

## W-8BEN-E – Entities only

- Line 1 – Name
- Line 2 – Country of incorporation or organization
- Line 4 – Type of entity for Chapter 3 purposes
- Line 6 – Permanent residence address
- Line 8 – U.S. TIN or Line 9b – Foreign TIN
- Part 3 – Treaty section
  - The following are examples of persons who should complete this line:
    - Exempt organizations claiming treaty benefits under the exempt organizations articles of the treaties with Canada, Mexico, Germany, and the Netherlands
    - Persons claiming treaty benefits under the “other income” treaty article
    - Persons claiming treaty benefits on royalties if the treaty contains different withholding rates for different types of royalties
- Signature, printed name, date, and capacity check box



Form **W-8BEN-E**

(Rev. July 2017)  
Department of the Treasury  
Internal Revenue Service

**Certificate of Status of Beneficial Owner for  
United States Tax Withholding and Reporting (Entities)**

▶ For use by entities. Individuals must use Form W-8BEN. ▶ Section references are to the Internal Revenue Code.  
▶ Go to [www.irs.gov/FormW8BENE](http://www.irs.gov/FormW8BENE) for instructions and the latest information.  
▶ 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:**

- U.S. entity or U.S. citizen or resident . . . . . W-9
- A foreign individual . . . . . W-8BEN (Individual) or Form 8233
- A foreign individual or entity claiming that income is effectively connected with the conduct of trade or business within the U.S. (unless claiming treaty benefits) . . . . . W-8ECI
- A foreign partnership, a foreign simple trust, or a foreign grantor trust (unless claiming treaty benefits) (see instructions for exceptions) . . . . . W-8IMY
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming that income is effectively connected U.S. income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (unless claiming treaty benefits) (see instructions for other exceptions) . . . . . W-8ECI or W-8EXP
- Any person acting as an intermediary (including a qualified intermediary acting as a qualified derivatives dealer) . . . . . W-8IMY

**Instead use Form:**

**Part I Identification of Beneficial Owner**

|   |               |   |  |
|---|---------------|---|--|
| <b>1</b> Name of organization that is the beneficial owner  |               | <b>2</b> Country of incorporation or organization   |  |
| <b>3</b> Name of disregarded entity receiving the payment (if applicable, see instructions)   |               |   |  |
| <b>4</b> Chapter 3 Status (entity type) (Must check one box only):  |               |   |  |
| <input type="checkbox"/> Corporation  |               | <input type="checkbox"/> Disregarded entity   |  |
| <input type="checkbox"/> Partnership  |               | <input type="checkbox"/> Government   |  |
| <input type="checkbox"/> Simple trust   |               | <input type="checkbox"/> Grantor trust  |  |
| <input type="checkbox"/> Complex trust  |               | <input type="checkbox"/> Estate   |  |
| <input type="checkbox"/> Central Bank of Issue  |               | <input type="checkbox"/> Tax-exempt organization  |  |
| <input type="checkbox"/> Private foundation   |               | <input type="checkbox"/> International organization   |  |
| If you entered disregarded entity, partnership, simple trust, or grantor trust above, is the entity a hybrid making a treaty claim? If "Yes" complete Part III. <span style="float:right"><input type="checkbox"/> Yes <input type="checkbox"/> No</span> |               |   |  |
| <b>5</b> Chapter 4 Status (FATCA status) (See instructions for details and complete the certification below for the entity's applicable status.)  |               |   |  |
| <input type="checkbox"/> Nonparticipating FFI (including an FFI related to a Reporting IGA FFI other than a deemed-compliant FFI, participating FFI, or exempt beneficial owner).   |               | <input type="checkbox"/> Nonreporting IGA FFI. Complete Part XII.   |  |
| <input type="checkbox"/> Participating FFI.   |               | <input type="checkbox"/> Foreign government, government of a U.S. possession, or foreign central bank of issue. Complete Part XIII. |  |
| <input type="checkbox"/> Reporting Model 1 FFI.   |               | <input type="checkbox"/> International organization. Complete Part XIV.   |  |
| <input type="checkbox"/> Reporting Model 2 FFI.   |               | <input type="checkbox"/> Exempt retirement plans. Complete Part XV.   |  |
| <input type="checkbox"/> Registered deemed-compliant FFI (other than a reporting Model 1 FFI, sponsored FFI, or nonreporting IGA FFI covered in Part XII). See instructions.  |               | <input type="checkbox"/> Entity wholly owned by exempt beneficial owners. Complete Part XVI.  |  |
| <input type="checkbox"/> Sponsored FFI. Complete Part IV.   |               | <input type="checkbox"/> Territory financial institution. Complete Part XVII.   |  |
| <input type="checkbox"/> Certified deemed-compliant nonregistering local bank. Complete Part V.   |               | <input type="checkbox"/> Excepted nonfinancial group entity. Complete Part XVIII.   |  |
| <input type="checkbox"/> Certified deemed-compliant FFI with only low-value accounts. Complete Part VI.   |               | <input type="checkbox"/> Excepted nonfinancial start-up company. Complete Part XIX.   |  |
| <input type="checkbox"/> Certified deemed-compliant sponsored, closely held investment vehicle. Complete Part VII.  |               | <input type="checkbox"/> Excepted nonfinancial entity in liquidation or bankruptcy. Complete Part XX.                               |  |
| <input type="checkbox"/> Certified deemed-compliant limited life debt investment entity. Complete Part VIII.  |               | <input type="checkbox"/> 501(c) organization. Complete Part XXI.  |  |
| <input type="checkbox"/> Certain investment entities that do not maintain financial accounts. Complete Part IX.   |               | <input type="checkbox"/> Nonprofit organization. Complete Part XXII.  |  |
| <input type="checkbox"/> Owner-documented FFI. Complete Part X.   |               | <input type="checkbox"/> Publicly traded NFFE or NFFE affiliate of a publicly traded corporation. Complete Part XXIII.              |  |
| <input type="checkbox"/> Restricted distributor. Complete Part XI.  |               | <input type="checkbox"/> Excepted territory NFFE. Complete Part XXIV.   |  |
|   |               | <input type="checkbox"/> Active NFFE. Complete Part XXV.  |  |
|   |               | <input type="checkbox"/> Passive NFFE. Complete Part XXVI.  |  |
|   |               | <input type="checkbox"/> Excepted inter-affiliate FFI. Complete Part XXVII.   |  |
|   |               | <input type="checkbox"/> Direct reporting NFFE.   |  |
|   |               | <input type="checkbox"/> Sponsored direct reporting NFFE. Complete Part XXVIII.   |  |
|   |               | <input type="checkbox"/> Account that is not a financial account.   |  |
| <b>6</b> Permanent residence address (street, apt. or suite no., or rural route). <b>Do not use a P.O. box or in-care-of address</b> (other than a registered address).   |               |   |  |
| City or town, state or province. Include postal code where appropriate.   |               | Country   |  |
| <b>7</b> Mailing address (if different from above)  |               |   |  |
| City or town, state or province. Include postal code where appropriate.   |               | Country   |  |
| <b>8</b> U.S. taxpayer identification number (TIN), if required   | <b>9a</b> GIN | <b>b</b> Foreign TIN  |  |
| <b>10</b> Reference number(s) (see instructions)  |               |   |  |

# Form W-8BEN-E

**Part II Disregarded Entity or Branch Receiving Payment.** (Complete only if a disregarded entity with a GILN or a branch of an FFI in a country other than the FFI's country of residence. See instructions.)

- 11 Chapter 4 Status (FATCA status) of disregarded entity or branch receiving payment  
 Branch treated as nonparticipating FFI.  Reporting Model 1 FFI.  U.S. Branch.  
 Participating FFI.  Reporting Model 2 FFI.
- 12 Address of disregarded entity or branch (street, apt. or suite no., or rural route). **Do not use a P.O. box or in-care-of address** (other than a registered address).

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

Country

- 13 GILN (if any) \_\_\_\_\_

**Part III Claim of Tax Treaty Benefits** (if applicable). (For chapter 3 purposes only.)

- 14 I certify that (check all that apply):
- a  The beneficial owner is a resident of \_\_\_\_\_ within the meaning of the income tax treaty between the United States and that country.
- b  The beneficial owner derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits. The following are types of limitation on benefits provisions that may be included in an applicable tax treaty (check only one; see instructions):
- |  |   |
|--|---|
| <input type="checkbox"/> Government                                  | <input type="checkbox"/> Company that meets the ownership and base erosion test                         |
| <input type="checkbox"/> Tax exempt pension trust or pension fund    | <input type="checkbox"/> Company that meets the derivative benefits test                                |
| <input type="checkbox"/> Other tax exempt organization               | <input type="checkbox"/> Company with an item of income that meets active trade or business test        |
| <input type="checkbox"/> Publicly traded corporation                 | <input type="checkbox"/> Favorable discretionary determination by the U.S. competent authority received |
| <input type="checkbox"/> Subsidiary of a publicly traded corporation | <input type="checkbox"/> Other (specify Article and paragraph): _____                                   |
- c  The beneficial owner is claiming treaty benefits for U.S. source dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation and meets qualified resident status (see instructions).
- 15 **Special rates and conditions** (if applicable—see instructions):  
 The beneficial owner is claiming the provisions of Article and paragraph \_\_\_\_\_ of the treaty identified on line 14a above to claim a \_\_\_\_\_ % rate of withholding on (specify type of income): \_\_\_\_\_  
 Explain the additional conditions in the Article the beneficial owner meets to be eligible for the rate of withholding: \_\_\_\_\_

**Part IV Sponsored FFI**

- 16 Name of sponsoring entity: \_\_\_\_\_
- 17 **Check whichever box applies.**
- I certify that the entity identified in Part I:
- Is an investment entity;
  - Is not a QI, WP (except to the extent permitted in the withholding foreign partnership agreement), or WT; **and**
  - Has agreed with the entity identified above (that is not a nonparticipating FFI) to act as the sponsoring entity for this entity.
- I certify that the entity identified in Part I:
- Is a controlled foreign corporation as defined in section 957(a);
  - Is not a QI, WP, or WT;
  - Is wholly owned, directly or indirectly, by the U.S. financial institution identified above that agrees to act as the sponsoring entity for this entity; **and**
  - Shares a common electronic account system with the sponsoring entity (identified above) that enables the sponsoring entity to identify all account holders and payees of the entity and to access all account and customer information maintained by the entity including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to account holders or payees.

# Form W-8BEN-E

## Page 2

# 1042 Reporting - ECI

W-8ECI – Income effectively connected to the conduct of a trade or business in the U.S. (“ECI”)

- Line 1 – Name
- Line 2 – Country of incorporation or organization
- Line 4 – Type of entity
- Line 5 – Permanent residence address (Not U.S.)
- Line 6 – Business address in the U.S.
- Line 7 – U.S. taxpayer identification number
- Line 11 – Specify each item of income received from the payer that is “ECI”
- Signature, printed name, date, and capacity check box

Must be a non-U.S. entity

Must have a physical presence in the U.S.

Must have a U.S. TIN and file U.S. tax returns

All payments subject to reporting

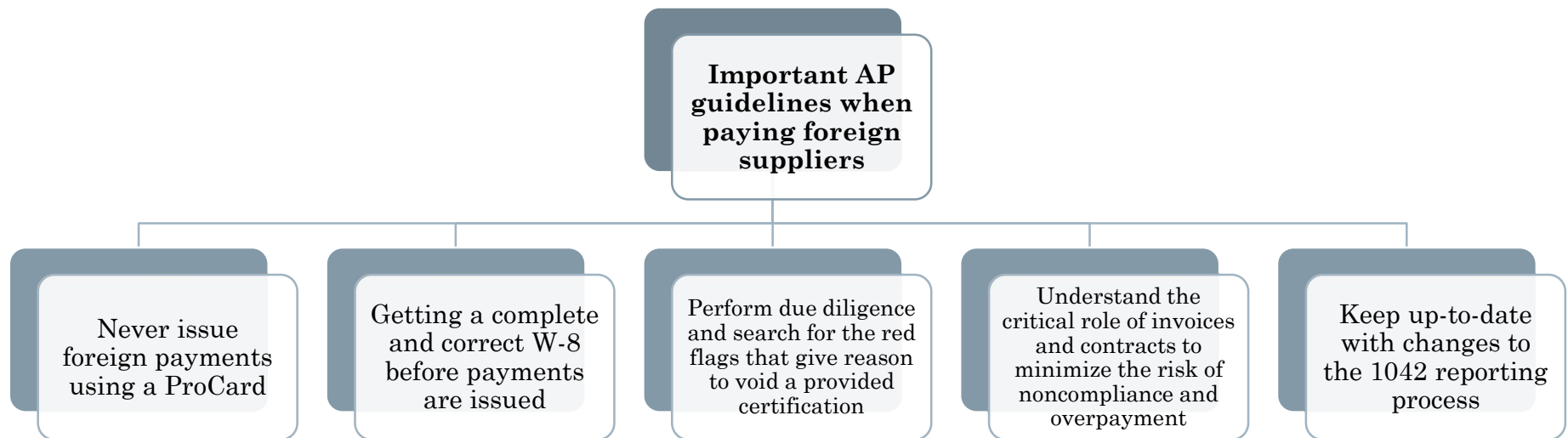
Use exemption code “01” in Box 3a of 1042-S

# 1042 Reporting

## Payments to non-U.S. suppliers reported on 1042-S - withholding and reporting rules

- You must source the income for payments to these suppliers
- Non-U.S. source income is not subject to U.S. tax withholding or reporting
- IRS presumption is that all income is from U.S. sources, so to avoid having to withhold 30% from payments of non-U.S. source income paid to non-U.S. suppliers, you have to document the income's source as non-U.S.
  - Use documentation underlying the transaction (invoice, contracts, etc.)
  - Invoice should state “not from U.S. sources”
- U.S. source income paid to non-U.S. persons is subject to 30% withholding unless the beneficial owner makes a valid ECI claim and/or makes a valid treaty claim on a Chapter 3 payment (some treaties still require some withholding on certain kinds of payments)

# 1042 Reporting Guidelines



# 1042 Reporting – U.S. vs. Non U.S.

| U.S.  | Non U.S.   |
|---|--|
| <ul style="list-style-type: none"> <li>• Citizens</li> <li>• Residents               <ul style="list-style-type: none"> <li>• Green Card</li> <li>• Substantial Presence Test (SPT)</li> </ul> </li> <li>• Entities organized under U.S. law               <ul style="list-style-type: none"> <li>• U.S. law = 50 states and D.C.</li> </ul> </li> <li>• Taxed by U.S. on worldwide income               <ul style="list-style-type: none"> <li>• Sourcing income for payments to U.S. persons is unnecessary, as all income is subject to U.S. taxation regardless of the income's source</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• Chapter 3               <ul style="list-style-type: none"> <li>• Non-resident aliens</li> <li>• Individuals who are neither citizens nor residents of the U.S.</li> <li>• They may be within or out of the U.S.; can include short-term visitors, individuals who are never in the U.S., individuals who can be in the U.S. for quite some time but will remain non-residents per certain rules</li> <li>• Entities not organized under U.S. law</li> </ul> </li> <li>• Taxed by U.S. on U.S. source income               <ul style="list-style-type: none"> <li>• 30% withholding on U.S. source FDAP (fixed, determinable, annual, periodical) income unless supplier has claimed that income is effectively connected with the conduct of a U.S. trade or business (Form W-8ECI) or</li> <li>• 30% withholding on FATCA withholdable payments unless beneficial owner provides required certifications on Form W-8BEN-E, or</li> <li>• 30% withholding on U.S. source income unless supplier has claimed treaty benefit</li> </ul> </li> <li>• Non-U.S. source income paid to non-U.S. persons is not subject to withholding or reporting, but you need to establish that:               <ul style="list-style-type: none"> <li>• Collect W-8/8233</li> <li>• Establish income is non-U.S. source income; Invoices, contracts, correspondence, ect.</li> </ul> </li> </ul> |

# 1042 Reporting – U.S. vs. Non U.S.

| U.S.  | Non U.S.  |
|---|---|
| <ul style="list-style-type: none"><li>• U.S.<ul style="list-style-type: none"><li>• W-9/1099<ul style="list-style-type: none"><li>• 24% backup w/h</li><li>• Some corporate exemptions</li><li>• Tax-exempt and govt exemptions</li><li>• \$600 threshold for most reporting</li></ul></li><li>• No treaty benefits (some exceptions)</li><li>• Goods purchases exempt form reporting</li></ul></li><li>• Deadline for Agencies: Jan. 13<sup>th</sup></li></ul> | <ul style="list-style-type: none"><li>• Non U.S.<ul style="list-style-type: none"><li>• W-8s/8233/1042-S<ul style="list-style-type: none"><li>• 30% withholding (14% on certain scholarships)</li><li>• No corporate exemption</li><li>• No general tax-exempt or government exemption</li><li>• No minimum dollar threshold for reporting</li></ul></li><li>• Goods purchases exempt from reporting</li></ul></li><li>• Deadline for Agencies: Jan. 4<sup>nd</sup></li></ul> |

# 1042 Reporting – Chapters 3 & 4

| Chapter 3  | Chapter 4  |
|--|--|
| <p>U.S. source income:</p> <ul style="list-style-type: none"><li>• Real and personal property rentals</li><li>• Royalties</li><li>• Software licensing fees</li><li>• Gambling winnings</li><li>• Transportation income</li><li>• Non-financial services payments</li><li>• Compensatory scholarship payments</li><li>• Prizes and awards</li><li>• Interest on accounts payable if for the acquisition of goods (e.g., installment payments) or services (e.g., interest on late payments)</li><li>• Ect.</li></ul> | <p>U.S. source income</p> <ul style="list-style-type: none"><li>• Bank deposit interest</li><li>• Premiums for life insurance and annuity contracts</li><li>• Amounts distributed to clients under cash value life insurance products or annuity contracts</li><li>• Investment advisory, custodial, bank, brokerage, or other financial service fees</li><li>• Fees and other payments in connection with any lending transaction including loan guarantees</li><li>• Certain notional principal contracts and derivatives, like fuel contracts and energy hedges</li><li>• Substitute dividends, dividend equivalents, specified notional principal contracts, substitute interest</li><li>• In short: payments arising out of lending and investment activities, and certain insurance premium payments</li></ul> |

- Payments listed are examples, not comprehensive



# 1042 Reporting – Sourcing Rules

| Summary of Sourcing Rules                   |  |
|---|--|
| Personal Services                           | Where service was performed; if both in U.S. and outside, must prorate on time basis; fee x # of days in the U.S./ total # of days |
| Dividends                                   | Where entity is incorporated   |
| Interest                                    | Tax residence of payer   |
| Rentals                                     | Where property is located  |
| Royalties – patents, copyrights             | Where property is used   |
| Royalties – natural resources               | Where property is located  |
| Prizes & Awards (that are not compensation) | Residence of the payer   |

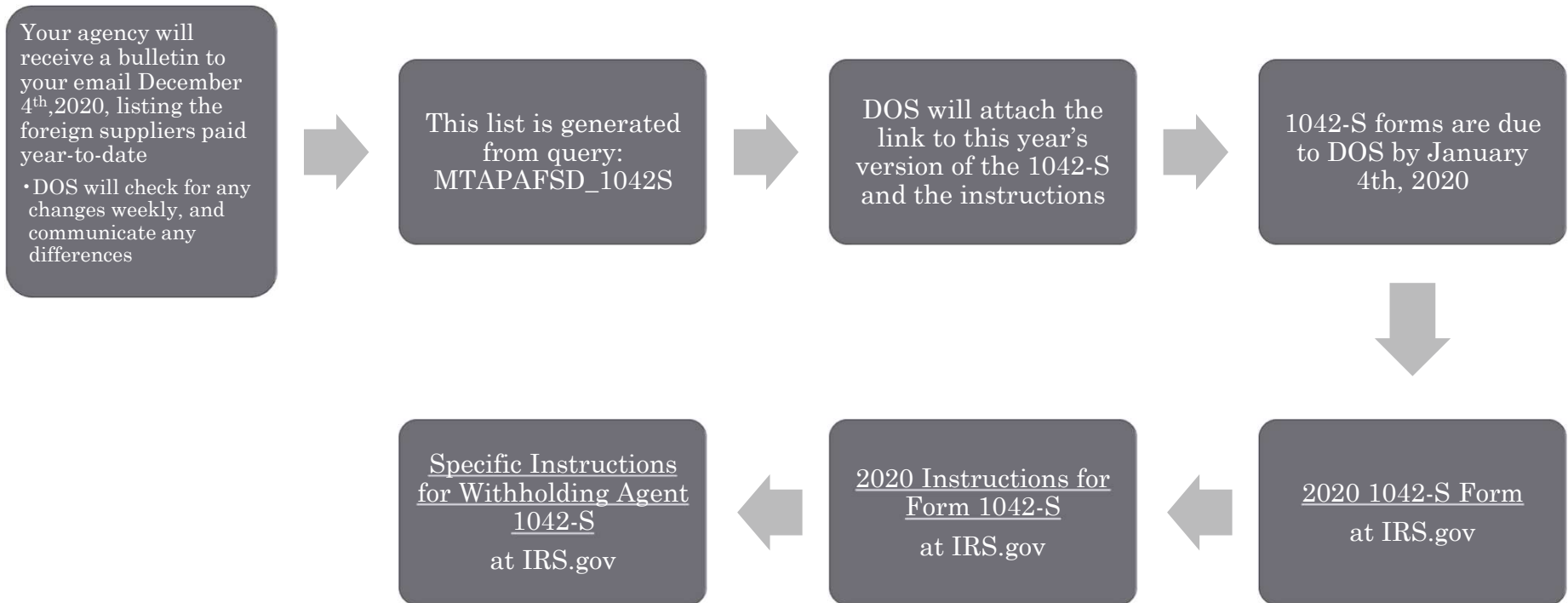
# 1042 Reporting – Sourcing Rules

| Summary of Sourcing Rules   |  |
|---|--|
| Transportation  | Truck and rail: If start and or stop in U.S. may need to prorate based on mileage logs or other means  |
| Software  | License fees sourced where the server or hard drive is located in which the software is mounted. Real question: whether software is leased for rentals, or licensed for royalties, or purchased                              |
| Subscription fees to electronically maintained information, databases, etc. | No direct authority on point, most think U.S. source if data are accessed through a U.S. server, whether applying the royalty sourcing rule where the property is used or rental sourcing rule where the property is located |

|  |   |   |                   |   |  |   |                       |
|--|---|---|-------------------|---|--|---|-----------------------|
| Form <b>1042-S</b>   |   | <b>Foreign Person's U.S. Source Income Subject to Withholding</b>   |                   | <b>2020</b>   |  | OMB No. 1545-0096   |                       |
| Department of the Treasury<br>Internal Revenue Service   |   | ▶ Go to <a href="http://www.irs.gov/Form1042S">www.irs.gov/Form1042S</a> for instructions and the latest information. |                   |   |  | <b>Copy A</b> for<br>Internal Revenue Service                 |                       |
|  |   | UNIQUE FORM IDENTIFIER  |                   | AMENDED   |  | AMENDMENT NO.   |                       |
| 1 Income code  | 2 Gross income                                | 3 Chapter indicator. Enter "3" or "4"   |                   | 13e Recipient's U.S. TIN, if any                      |  | 13f Ch. 3 status code   |                       |
|  |   | 3a Exemption code   | 4a Exemption code |   |  | 13g Ch. 4 status code   |                       |
|  |   | 3b Tax rate   | 4b Tax rate       | 13h Recipient's GIIN                                  |  | 13i Recipient's foreign tax identification number, if any     |                       |
| 5 Withholding allowance  |   |   |                   |   |  | 13j LOB code  |                       |
| 6 Net income   |   |   |                   | 13k Recipient's account number                        |  |   |                       |
| 7a Federal tax withheld  |   |   |                   | 13l Recipient's date of birth (YYYYMMDD)              |  |   |                       |
| 7b Check if federal tax withheld was not deposited with the IRS because escrow procedures were applied (see instructions) <input type="checkbox"/> |   |   |                   |   |  |   |                       |
| 7c Check if withholding occurred in subsequent year with respect to a partnership interest <input type="checkbox"/>                                |   |   |                   |   |  |   |                       |
| 8 Tax withheld by other agents   |   |   |                   | 14a Primary Withholding Agent's Name (if applicable)  |  |   |                       |
| 9 Overwithheld tax repaid to recipient pursuant to adjustment procedures (see instructions) ( )  |   |   |                   | 14b Primary Withholding Agent's EIN                   |  | 15 Check if pro-rata basis reporting <input type="checkbox"/> |                       |
| 10 Total withholding credit (combine boxes 7a, 8, and 9)   |   |   |                   | 15a Intermediary or flow-through entity's EIN, if any |  | 15b Ch. 3 status code   | 15c Ch. 4 status code |
| 11 Tax paid by withholding agent (amounts not withheld) (see instructions)   |   |   |                   | 15d Intermediary or flow-through entity's name        |  |   |                       |
| 12a Withholding agent's EIN  | 12b Ch. 3 status code                         | 12c Ch. 4 status code   |                   | 15e Intermediary or flow-through entity's GIIN        |  |   |                       |
| 12d Withholding agent's name   |   |   |                   | 15f Country code                                      | 15g Foreign tax identification number, if any                            |   |                       |
| 12e Withholding agent's Global Intermediary Identification Number (GIIN)   |   |   |                   | 15h Address (number and street)                       |  |   |                       |
| 12f Country code   | 12g Foreign tax identification number, if any |   |                   |   | 15i City or town, state or province, country, ZIP or foreign postal code |   |                       |
| 12h Address (number and street)  |   |   |                   | 16a Payer's name                                      |  | 16b Payer's TIN   |                       |
| 12i City or town, state or province, country, ZIP or foreign postal code   |   |   |                   | 16c Payer's GIIN                                      |  | 16d Ch. 3 status code   | 16e Ch. 4 status code |
| 13a Recipient's name   |   | 13b Recipient's country code  |                   | 17a State income tax withheld                         |  | 17b Payer's state tax no.                                     | 17c Name of state     |
| 13c Address (number and street)  |   |   |                   |   |  |   |                       |
| 13d City or town, state or province, country, ZIP or foreign postal code   |   |   |                   |   |  |   |                       |

# 1042 Reporting

# 1042 Reporting Process



# Form 1042-S Required Fields

Complete all required fields

- At a minimum, you must enter information in
  - Box 1 – income code
  - Box 2 – gross income; cannot be zero
  - Box 3 – chapter indicator; either 3 or 4, not both
  - Box 7 – federal tax withheld; if any, if not 0.00
  - Box 12a – withholding agent’s EIN; 81-0302402
  - Box 12d – withholding agent’s name; State of Montana
  - Box 12h-i – withholding agent’s address; PO BOX 200102, Helena, MT 59620-1020
  - Box 13a – payee name
  - Specific instruction for withholding agent 1042-S
  - Depending on the status of each supplier, other entries may apply
- Penalty risk \$100 per form 1042-S if you file after August 1<sup>st</sup> or you do not file correct Forms 1042-S

# 1042 Reporting – Agency Responsibility

Never paying foreign suppliers with a ProCard

Verifying and procuring correct and complete W-8

Determining the type of payment being made and identifying the income source

Collecting invoices that specify “not from U.S. sources” if supplier has not made a valid treaty claim – submitting them to DOS

Withholding 30% if supplier has F.D.A.P income and has not provided appropriate documentation

Reporting withholding amount immediately and sending to DOS

Submitting 1042-S for all reportable suppliers by January 4th, 2021 to [saccounting@mt.gov](mailto:saccounting@mt.gov) using file transfer service

# DOS Agency Support

1

Verifying W-8s and 1042-S forms

2

Providing current 1042-S, IRS instructions, prior year reporting information, and Cokala recommendations

3

Identifying foreign supplier payments using query results

4

Researching treaty claims

5

Submitting information reporting to the IRS along with any withholding that has been taken during the calendar year

6

Answering agency inquiries and assisting in any way that we can

# Foreign Payment Process

Link to [FVP Release](#) form in ServiceNow.

Link to [Other Accounting/SABHRS Questions](#) form.

1

Agency receives invoice from foreign supplier

2

Agency decides whether the payment is reportable or not

3

Agency procures correct and complete documentation including W-8 form; sends to DOS

4

If payment does not require withholding, agency should verify that either the invoice states “not from U.S. sources,” there is a valid treaty claim, or there is a valid ECI claim

5

Agency enters payment into SABHRS AP module

6

SABHRS automatically holds foreign supplier payments until released by DOS

7

DOS verifies any new foreign supplier payments daily, including verifying all documentation

8

DOS releases foreign supplier payment if documentation is accurate and complete, otherwise contacts the agency with any issues



# Review Questions

Which IRS form is used by an individual making a treaty claim on U.S. source services income?

# Review Questions

When can a foreign payment be exempt from 30% withholding?

\*Hint: There are three instances.

# Review Questions

When is it okay to pay a foreign supplier with a ProCard?

# Review Questions

What is the minimum dollar amount for 1042 reporting?

# Review Questions

Is rental income sourced by where the renter lives, the owner of the rental lives, or the property location?

# Review Questions

What is the penalty risk for 1042 reporting per form?

# Review Questions

Who has the responsibility of verifying and procuring correct and complete W-8 forms?

# Thank you for viewing!

Please reach out to us with questions in ServiceNow or give us a call  
at 406-444-3092.