

---

*Information*  
*Reporting*  
*Forms 1099*

Sponsored by Office of  
Financial Management and  
Internal Revenue Service  
December 12, 2012



# Information Reporting

<u>Form</u>	<u>Code Section</u>
1098	6050H
1098-E	6050S
1098-T	6050S
1099-A	6050J
1099-B	6045
1099-C	6050P

# Information Reporting

<u>Form</u>	<u>Code Section</u>
1099-CAP	6043 (c)
1099-DIV	6042, 6043 (a)
1099-G	6041, 6050B, 6050D, 6050E
1099-H (2003)	6050T
1099-INT	6041, 6049
1099-LTC	6050Q

# Information Reporting

## Form

## Code Section

1099-MISC

6041, 6041A, 6045(d) & (f)  
6050A, 6050N, 6050R

1099-OID

6041, 6049

1099-PATR

6044

1099-Q

529(g) , 530 (h)

1099-R

408(i),6047 (d)

# Information Reporting

<u>Form</u>	<u>Code Section</u>
1099-S	6045(e), 6050N
1099-SA	220(h), 408(i) 138, 106(b)
5498	408(l), 6047(d)
5498-ESA(2003)	530(h)
5498-MSA	220(h)
W-2G	6041, 3402(q), 1.6011-3

# Form 1098, Mortgage Interest

IF . . .	THEN . . .
Interest of \$600 or more is paid to a governmental unit	The governmental unit files Form 1098

Exceptions:

- Interest payments received from government unit or subsidiary agency
- Payments from HUD on mortgages under § 235 of the National Housing Act
- Government subsidy payments **are not included**

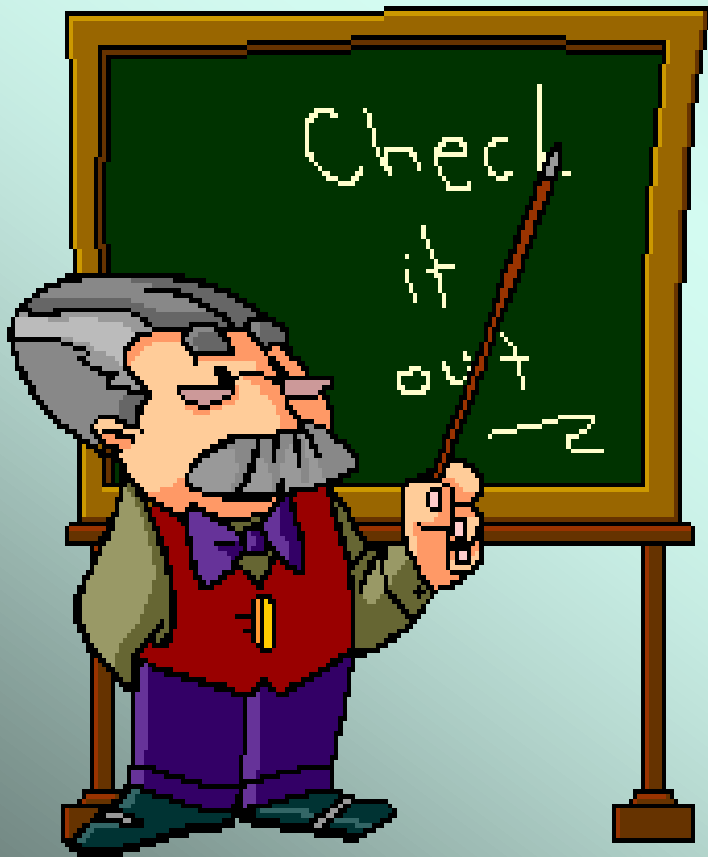
---

# **Form 1099-A, Acquisition or Abandonment of Secured Property**

A government unit, or any of its subsidiary agencies, that lends money secured by property must file Form 1099-A

---

# Form 1099-C, Cancellation of Debt



- For \$600 or more of debt canceled and an identifiable event has occurred
- Requirement to file extends to federal government agencies
- Not necessary to file both 1099-A and 1099-C



# Form 1099-C *(cont'd)*

- Regulations § 1.6050P-1(b) lists identifiable events that require reporting
- Amount reported may represent all or a part of the amount owed
- If a creditor later receives payment on the debt, no corrected form is required

---

# **Form 1099-B, Proceeds from Broker and Barter Exchange Transactions**

Government unit or subsidiary  
agency may be a broker

---

# Form 1099-G, Certain Government Payments

- Payments are separately reported for:
  - Unemployment compensation of \$10 or more, §6050B
  - State or local income tax refunds, credits, or offsets of \$10 or more, §6050E
  - Taxable grants of \$600 or more, §6050D
  - Agriculture subsidy payments
  - Backup withholding, if applicable

Beginning with 2002 version, qualified tuition payments are reported on Form 1099-Q, Qualified Tuition Program Payments (Under §529)

---

# Form 1099-INT, Interest Income

## Section 6041 vs. Section 6049

Interest is reportable under both code sections

- \$600 or more, §6041
- \$10 or more, §6049

However, Regulations § 1.6041-1(a),

- If amount is to be reported under §6049,
- Then not reported under §6041.



# Form 1099-INT *(cont'd)*

- Interest payments made in course of trade or business are subject to reporting **by** persons including a governmental unit, international organization, or any agency or instrumentality
- Interest payments made **to** these units are exempt from reporting

# Form 1099-LTC, Long-Term Care and Accelerated Death Benefits

Payers include  
governmental units



---

# Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

## Governmental section 457(b) plans

Beginning in 2002, distributions from section 457(b) plans maintained by state or local government are reported on Form 1099-R, not Form W-2.

However, payers/trustees may continue to rely on Notice 2000-38, 2000-2 C.B. 174

---

# Form 1099-MISC, Miscellaneous Income

- File form if you have paid (in the course of their trade or business):
    - \$10 or more in royalties or broker payments in lieu of dividends or tax-exempt interest
    - \$600 or more
      - Rents
      - Services
      - Prizes or awards
      - Medical or health care payments
      - Gross proceeds to an attorney
      - Certain other income
-

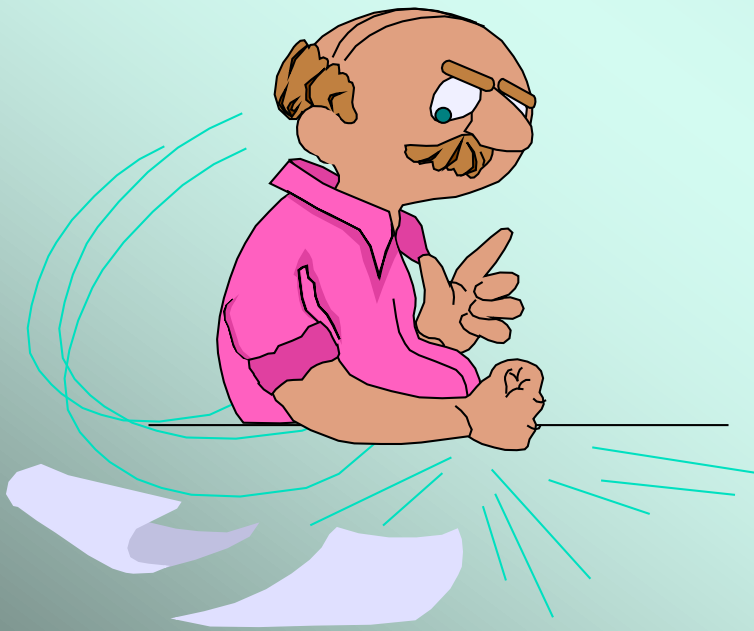


# Not Reported on Form 1099-MISC



- Payments to a corporation
  - Exceptions- attorney fees & medical payments
- Payments for merchandise
- Payments of rent to RE agents
- Scholarships
- Certain payment card transactions
- Payments to tax-exempt organizations, the U.S., states, D.C., a possession of the U.S. and political subdivisions of the foregoing

# Not Reported on Form 1099-MISC



- Wages to employees
- Payments to employees; such as fringe benefits or travel reimbursements

*(note: if not paid as part of an accountable plan, travel reimbursements and auto expenses should be included in wages and reported on W-2)*

# Recipient Information

- Recipient Name
  - Show full name and address
  - Sole proprietors
    - Individuals name on first line
    - DBA may be entered on second name line
    - For TIN either SSN or EIN

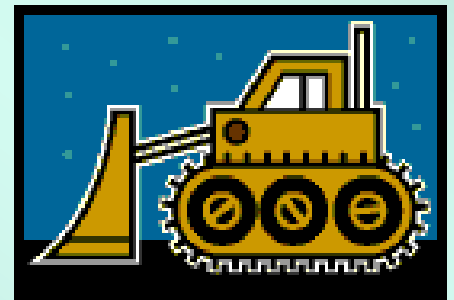


# Form 1099-MISC

## Box 1 - Rents

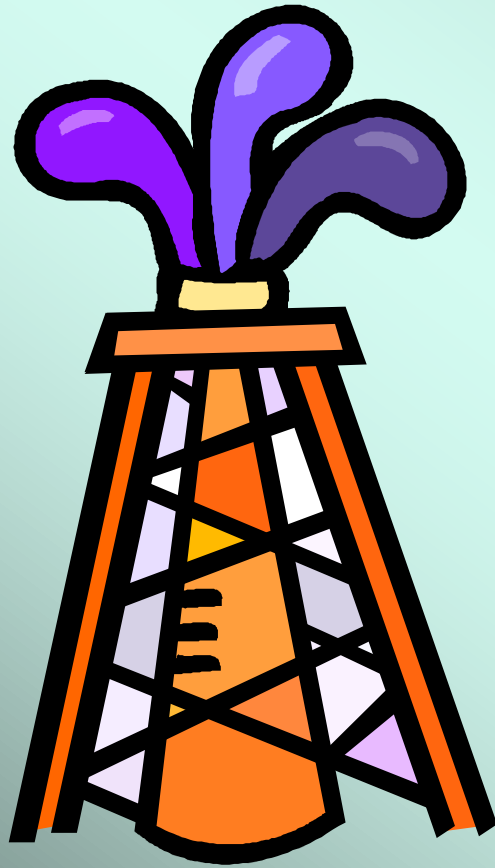


- Real estate rentals  
(unless paid to real estate agent)
- Machine rentals
- Rental assistance payments made to owners of housing projects



# Form 1099-MISC

## Box 2 - Royalties



- In Box 2 report oil and gas royalties of \$10 or more
  - Before reductions for severance and other taxes that may have been withheld and paid
- \* Surface royalties are reported in Box 1

# Form 1099-MISC

## Box 3 - Other Income

- Other income not reportable in one of the other boxes of the form
- Prizes and awards not for services performed
- Various damage payments
- Deceased employee's wages
- See General Instructions for Forms 1099, 1098, 5498 and W-2G for additional items to be reported

# Form 1099-MISC

## Box 4 – Income Tax Withheld

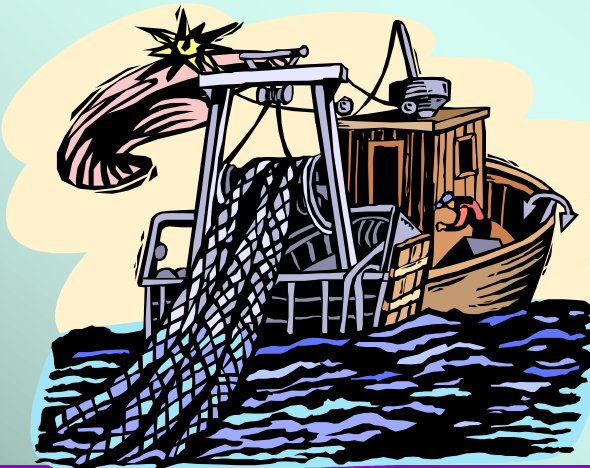


Backup  
withholding tax  
Current rate is  
28%

# Form 1099-MISC

## Box 5 – Fishing Proceeds

Proceeds from the sale of a catch or the FMV of a distribution in kind to each crew member of fishing boats with a crew of fewer than 10 members





# Form 1099-MISC – Box 6 Medical and Healthcare Payments

- Report payments to individuals, partnerships, and corporations
  - Medical payments include doctor fees, drug testing, lab fees, physical therapy, etc.
- \* *Do not report payments to pharmacies or tax exempt hospitals*



# Form 1099-MISC - Box 7

## Nonemployee Compensation

- Payment for services of a person who is not your employee (may include parts or materials in some instances)
  - Fee splits between professionals
  - Professional service fees – i.e., attorneys (including corporations), architects and accountants
  - Prizes and awards for services performed as a nonemployee
-

# Form 1099-MISC - Boxes 8-13

- Box 8- Substitute Payments in Lieu of Dividends or Interest
  - Box 9- Payer Made Direct Sales of \$5,000 or More
  - Box 10- Crop Insurance Proceeds
  - Boxes 11-12 Reserved
  - Box 13- Excess Golden Parachute Payments
-

# Form 1099-MISC.- Box 14

## Gross Proceeds Paid to an Attorney

- Defining Gross Proceeds
  - Payments made to an attorney as part of a legal settlement or court order
  - May be issued in the names of the attorney and the client
  - May include an amount for the attorney's services



# Reporting Gross Proceeds



- If you cannot determine the attorney fees, report all of gross proceeds in Box 14
- If you can determine the amount of attorney fees included in the gross proceeds:
  - Report the fee in Box 7
  - Report nothing in Box 14

# Reporting Gross Proceeds

## Example:

A state agency agrees to settle all matters involved with a property claim for \$30,000 and issues a warrant to claimant and the claimant's attorney for a release.

## Forms 1099-MISC (2):

Box 14 = 30000.00 (attorney)

Box 3 = 30000.00 (claimant)

---

# Reporting Gross Proceeds

## Exercise:

An attorney, working on a fee-plus expenses basis, submits an invoice to a state agency that show expenses for paralegal work, telephone calls, copying, and the monthly fee.

Box 7 or 14 reporting requirement?

---

---

# Reporting Gross Proceeds

## Exercise:

A court accepts payments for garnishments and, in turn, pays the prevailing attorney the garnishment money.

Box 7 or 14 reporting requirement?

---



# ATTORNEYS

- If not an employee, receives 1099-MISC for Legal Services regardless if:
  - Sole Proprietor
  - Partnership
  - Corporation
- Attorneys receiving 1099-MISC should not be in pension plan



# Form 1099-MISC

## BOX 15a – Section 409A Deferrals

- If \$600 or more in total deferrals
  - Report total deferrals for the nonemployee from all nonqualified deferred compensation plans subject to 409A
  - Includes earnings on current and prior year deferrals
  - See Notice 2005-1
-

# Form 1099-MISC

## BOX 15b – Section 409A Income

- Enter current year and prior year deferrals that are includable in income under §409A
  - Due to Nonqualified Deferred Comp plan fails 409A requirements
- Include earnings on the deferrals
- Do not include amounts previously included in income
- Do not include amounts considered to be subject to a substantial risk of forfeiture for purposes of §409A
- Amount included in 15b is also includable in box 7

# Form 1099-MISC

## Boxes 16-18 - State Information

- Box 16 - State income tax withheld
- Box 17 - Abbreviated name of the state  
Payer's state identification number
- Box 18 - Amount of the state payment
- Copy 1 goes to the state tax department
- Copy 2 goes to the recipient

# Form 1099 2<sup>ND</sup> TIN Notice

- Enter an “X” in this box if you were notified by the IRS twice within 3 calendar years that the payee provided an incorrect TIN
- If you mark this box, the IRS will not send you any further notices about this account if BWH tax is withheld.



# Form 1099 Corrected Returns

Use “Corrected” box when amending an unfiled  
Form 1099

- Input original information on the top form 1099 then enter correct information on bottom Form 1099

Use “Void” box when amending a filed Form 1099

- use same process described above

# Form 1099 Due Dates



- To Recipient - January 31<sup>st</sup>
- To IRS, if filed on paper, by February 28<sup>th</sup>
  - With Form 1096, Annual Summary and Transmittal of U.S. Information Returns
- If filed on *magnetic media*- February 28 \*\*
- If filed *electronically*- March 31<sup>st</sup>

\*\*Form 4804 is no longer required

# Who must file on magnetic media?

- If you are required to file 250 or more information returns, you must file on magnetic media \*
  - Filing requirement applies separately
    - To each type of form
    - To originals and corrections
- \* If you are required to file on magnetic media, you may choose to file electronically instead. You may choose magnetic media or electronic filing even if you are not required to file on magnetic media



# Form 1096

- You must submit a separate Form 1096 with each type of form you file by paper.

For example, if you file Forms 1098, 1099-A, and 1099-MISC, complete one Form 1096 to transmit Forms 1098, another for Forms 1099-A, and a third for Forms 1099-MISC.

# Furnishing Form 1099 Electronically



- Consent
- Change in hardware or software
- Format
- Posting
- Notice
- Undeliverable electronic address
- Corrected statements
- Retention

# Disclosure Requirements

- Provide clear and conspicuous disclosure statement containing:
  - Paper statement
  - Scope & duration of consent
  - Post-consent request for paper statement
  - Withdrawal of consent
  - Notice of termination
  - Updating information
  - Hardware & software requirements



---

# Information Return Penalties

## **Failure to File Correct Information Returns by the Due Date**

May be subject to penalties if:

- Fail to file timely
- Fail to include all information required to be shown on a return
- Include incorrect information on a return
- File on paper when you were required to file on magnetic media

**...and cannot show reasonable cause**

---

# Information Return Penalties

## Failure to File Correct Information Returns by Due Date (effective to December 31, 2010)

- Correctly file by March 30- \$15/return with \$75K cap
- Correctly file after March 30 but before August 1- \$30/return with \$150K cap
- No return filed or correctly file August 1 or later- \$50/return with \$250K cap

# Information Return Penalties

## Failure to File Correct Information Returns by Due Date (effective on January 1, 2011)

- Correctly file by March 30- \$30/return with \$250K cap
- Correctly file after March 30 but before August 1- \$60/return with \$500K cap
- No return filed or correctly file August 1 or later- \$100/return with \$1.5M cap

# Information Return Penalties

## Failure to Furnish Correct Payee Statements

- Immaterial when the correct statement is furnished after Jan. 31st
- \$50 per statement (12/31/2010)
- \$100 per statement (1/1/2011)



---

# IRC 6721 & 6722 Penalties

An automatic failure occurs when the information return/payee statement contains errors in the name, taxpayer identification number, and/or amount.

---



---

# IRC 6671 & 6672 Penalties

Civil penalties are not self-assessable. The IRS will notify the filer if penalties will be assessed unless the filer can establish a reasonable cause for the erroneous filing.

---

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

Purpose of form – solicit reportable information

- Secure W-9
    - Solicit TIN even for one-time transactions
    - May use substitute version
    - May incorporate into other business forms
    - May be required by policy
-

# Taxpayer Identification Number (TIN) and Certification ~ Form W-9

- Sole proprietor and single-owner LLC - use SSN (personal name) or EIN (business name)
- Corporations, partnerships & estates - use EIN
  - Enter business name as shown on required Federal tax documents on “Name” line
  - Can enter DBA or business name on “Business Name” line

# LLCs and Reportable Payments

- An LLC may be taxed as either a sole proprietorship, a partnership, or a corporation (Form 8322)
- Obtain a Form W-9 or other information from the payee to determine its status
- Name must match with SSN or EIN
  - Enter business name as shown on required Federal tax documents on “Name” line
  - Can enter DBA or business name on “Business Name” line
- Certify TIN is correct

# Electronic Submission of Form W-9

- System must
  - Ensure that the information received is the information sent by the payee
  - Make certain person accessing and submitting is person identified on the form
  - Provide same information as paper form
  - Upon request, you must furnish a hard copy to IRS
  - Must be signed with an electronic signature (final entry in the submission)

# **Common Errors** that prevent issuance of “correct” or “required” information returns

- Failure to obtain identifying information before making payment (use Form W-9)
  - Failure to aggregate payments from all expense categories (use vendor files)
  - Assuming payee is a corporation
    - Because EIN is furnished
    - Because name is of LLC designation
-

# Common Errors *(cont'd)*

Filing before deadline

- To allow for initial reporting errors
- To prevent subsequent filings and potential civil penalties

Where materials and services are provided, ensure proper allocation or inclusion of materials - see Treasury Regulation § 1.6041-1(a)(2)

# TIN Matching Program

- Allows payers or authorized agents who submit Forms 1099-INT, DIV, PATR, OID, MISC and B the capability of submitting an online taxpayer identification (TIN) and name combination to be matched against IRS records
- Matching completed prior to filing information returns



# Are you required to do Backup Withholding?

1. You make reportable payments to persons (or corporations) who have not furnished their valid TIN
2. IRS notifies you to impose backup withholding because the payee furnished an incorrect TIN (“B” notice).



# Are you required to do Backup Withholding?

3. The vendor is identified on the second “B” notice as providing incorrect information in 2 out of the past 3 years (audit issue)

Withholding rate is 28%



# When to begin Backup Withholding

- Backup withholding begins when aggregate payments for the calendar year equal or exceed \$600\*, or
- Immediately if:
  - Payee was paid >\$600 in prior year and an information return was issued, or
  - Payee was subject to backup withholding in the prior year

\* \$10 for Dividends and Interest



# When to end Backup Withholding

- 1 Failure to Furnish TIN:
  - Withhold on payments made until the TIN is furnished
2. 1<sup>st</sup> Notice from IRS (“B” Notice):
  - Stop withholding within 30 days after you receive a certified Form W-9



# When to end Backup Withholding

## 3. 2<sup>nd</sup> Notice from IRS (“B” Notice):

- Stop when the vendor provides IRS Letter 147C or SSA Form 7028

## 4. Erroneous information 2-of-3 years:

- Stop when the vendor provides IRS Letter 147C or SSA Form 7028



# How to report Backup Withholding

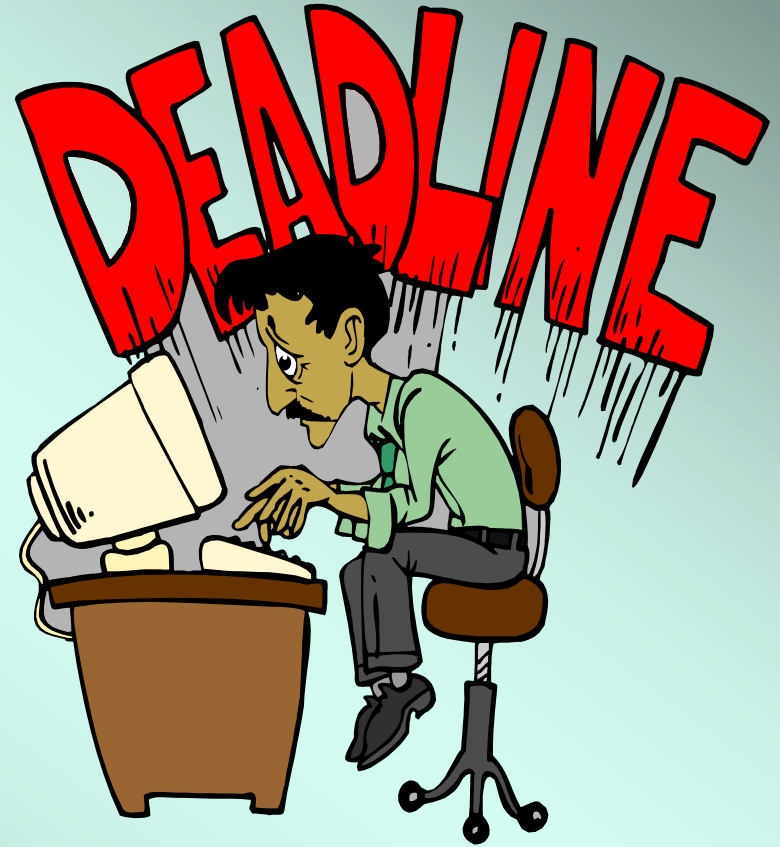
- Report withholding in Box 4 on Form 1099
- This applies even though the amount of the payment may be below the normal threshold for filing Form 1099

Note: Payee will not be charged civil penalties for not providing TIN on Form 1099-MISC if BWH is withheld.



# Form 945- Annual Return of Withheld Federal Income Tax

- Used to report & pay backup withholding to IRS
- Annual return, due 1/31 of the following year
- Ordinary deposit rules as applied to Form 941
  - Make deposits separate from Form 941 deposits



# Where to file Form 945

- Government entities:
  - Return without payment –  
Ogden, UT 84201-0042
  - Return with payment –  
P.O. Box 105153  
Atlanta, GA 30348-5153



---

# Backup Withholding

Once a reportable payments has been identified, the payor **MUST** secure a valid federal taxpayer identification number (TIN). *A failure to obtain a TIN or a refusal to provide a TIN initiates the backup withholding tax.*

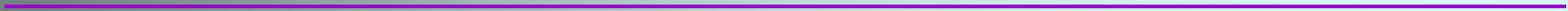
The payor is liable for the tax, whether or not the tax has been withheld from the vendor's payment.

---

---

# Other Information Returns

## **NONRESIDENT ALIENS**



---

# Other Information Returns - Form 1042 & 1042-S

A payor of US-sourced  
income to a foreign person  
may be required to report the  
earnings and withhold on the  
income

---

---

# Withholding Agent

You are a withholding agent if you have control, receipt, or custody of an amount subject to withholding or who can disburse or make payments of an amount subject to withholding

---

---

# Foreign Recipients

Section 1441 of the regulations divides foreign recipients into three classes of persons:

- Qualified intermediaries,
  - Nonqualified intermediaries, and
  - Beneficial owners
-

# Nonresident Aliens & Foreign Entities

- For tax purposes three types of individuals
  - U.S. citizens
  - Resident aliens
  - Nonresident aliens
    - Non-U.S. citizen is nonresident alien unless the person meets either the green card or substantial presence test
- Two basic tax regimes set forth in Internal Revenue Code
  - Tax rules applicable to U.S. citizens and resident aliens
  - Special tax rules applicable to nonresident aliens

# Income Sourcing Rules

- General Rule
  - U.S. taxes resident aliens on their worldwide income like U.S. citizens
  - Nonresident aliens taxed only on U.S. source income
- Determining nature of income
  - Classify the type of payment (wages, rent, etc.)
    - Different sourcing rules apply to different types of income
    - Example- Dividend income sourced based on location of corporation paying the dividend or rental income sourced based on location of property being rented

# Income Sourcing Rules *(cont'd)*

- Applying sourcing rules to income categories
  - Once classified, apply sourcing rule that pertains to that income category
  - Common types of income include wages, independent contractors, etc.
    - Wages
      - Sourced based on location where services are provided
    - Independent Contractor Payments
      - Same sourcing rule for wages applies to nonresident alien independent contractors



# Identity Status:

- Foreign persons who are recipients of U.S. sourced income need to submit one or more of these forms to provide their identity and status for tax purposes
  - Form 8233
  - Form W-8BEN
  - Form W-8ECI
  - Visa
  - Green card

# Form 8233

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

- Used by individual who is a non-resident alien
  - Receiving compensation for dependent or independent personal services performed in the U.S.,
  - To claim a treaty exemption amount, and to possibly claim the daily personal exemption amount
  - Should have Social Security Number (SSN) or Employer Identification Number (EIN)

# Forms W-8BEN

W-8BEN Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

Must have US TIN

Used by foreign person to

- Establish foreign status
- Claim that such person is the beneficial owner
- Claim a reduced rate of, or exemption from, withholding under an income tax treaty

# Forms W-8ECI

W-8 ECI Certificate of Foreign Person's Claim for Exemption From Withholding on Income Effectively Connected with the Conduct of a Trade or Business in the United States

Must have US TIN

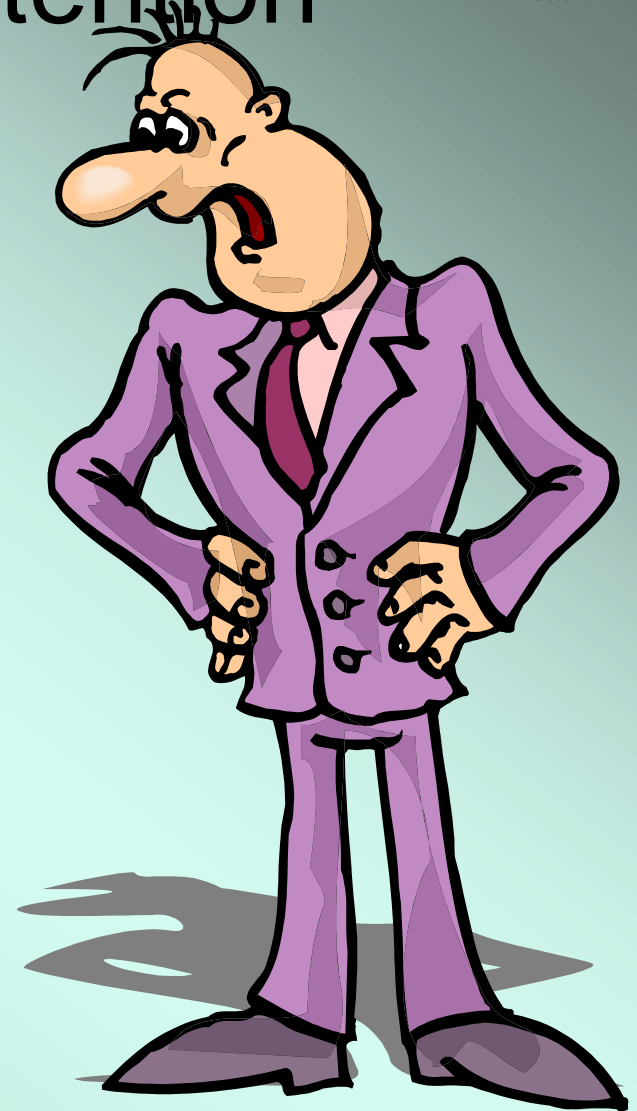
- Used by foreign person to
  - Establish foreign status
  - Claim that such person is the beneficial owner of the income
  - Claim that the income is effectively connected with the conduct of a trade or business in the U.S.

# Income Withholding Rules

- General Rule
  - Payment is subject to 30% withholding tax
  - There are exceptions
    - Tax treaty specifies a lower rate (Pub. 901)
    - Payee may apply for an exemption from withholding (Form 8233)

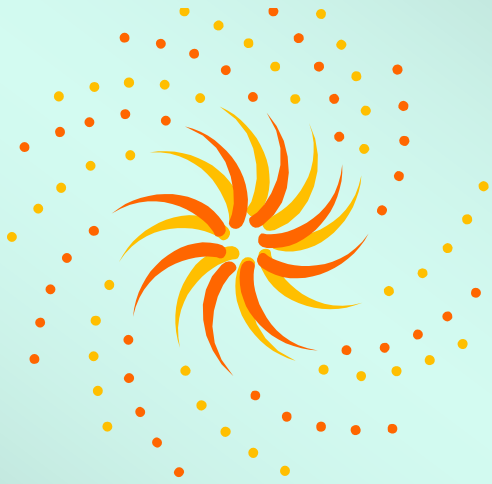
# Reporting and Retention

- Keep Form W-8 with your records
- Form 1042S and Form 1042 required to report earnings
- Withholding of tax may be required



# Questions?





Thank You For Coming  
Today!

