

Details on Final Version of Form W-8IMY and Instructions

Closing the distance

Global Financial Services Industry



IRS Issues Final Version of Form W-8IMY for Foreign Intermediaries, Foreign Flow-Through Entities, or Certain U.S. Branches for U.S. Tax Withholding and Reporting and corresponding instructions

Overview

The IRS has released the final version of Form W-8IMY “*Certificate of Foreign Intermediary, Foreign Flow-Through Entity or Certain U.S. Branches for United States Tax Withholding and Reporting*” (dated April 30, 2014) (“Form”). The Form, consisting of 8 pages, maintains the majority of the chapter 4 additions to the previously issued draft as of August 2013 while incorporating additional information to reflect recent chapter 4 clarifications.

Detailed changes are as follows:

- The Registered Deemed-Compliant Foreign Financial Institution (“FFI”) status now excludes a Reporting Model 1 FFI and a Sponsored FFI that has not obtained a Global Intermediary Identification Number (“GIIN”);
- The Foreign Government and Government of a U.S. Possession status was removed, leaving only Foreign Central Bank of Issue;
- Affiliates are no longer included in the Excepted Territory Non-foreign Financial Entity (“NFFE”) status;
- Two new fields are introduced to include the Direct Reporting NFFE and Sponsored Direct Reporting NFFE status;
- The catchall “Other Status” has been removed;

- Parts III and IV incorporate the chapter 3 coordination rules and updated chapter 4 regulations to provide additional clarity with respect to the documentation, withholding and reporting obligations of Qualified Intermediaries (QI) and Nonqualified Intermediaries (NQI);
- Part VI provides additional clarity on the status of U.S. Branches;
- Part X is revised to certify that the Sponsoring Entity is not a Nonparticipating FFI;
- Part XV modifies and condenses the classification explanation of a Certified Deemed-Compliant Limited Life Debt Entity;
- Part XVII now only applies to a Foreign Central Bank;
- Part XVIII incorporates the aforementioned updated regulations applicable to a Nonreporting IGA FFI; and
- Part XXVII was added to include the Sponsored Direct Reporting NFFE.

Conclusion

The 8 page Form is substantially larger than the previous version, containing various classifications required under chapter 4 accompanied by an additional 16 pages of Instructions that were released on June 19, 2014. Therefore, it is critical for withholding agents to review the updated Form along with the Instructions in order to finalize compliance efforts in updating systems, processes, and procedures to accommodate this new Form. The IRS has indicated that withholding agents must start accepting this Form by January 1, 2015, giving the industry additional time to prepare. However, it is important to note, withholding agents may start receiving this Form from clients prior to January 1, 2015.

A copy of the Form and Instructions are attached.

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