



## IRS expands list of jurisdictions included on No TIN List

### Closing the distance

On March 5, 2018, the IRS released an advanced version of Notice 2018-20 updating the list of jurisdictions that do not issue taxpayer identification numbers (“TINs”) to their residents (“[No TIN List](#)”), to include Australia and any jurisdictions that subsequently make a request to the U.S. competent authority to be included on the No TIN List, supplementing Notice 2017-46. Notice 2018-20 can be found at <https://www.irs.gov/pub/irs-drop/n-18-20.pdf>.

#### **Summary of IRS Notice 2018-20: IRS Expands No TIN List**

##### **Expansion of No TIN List to Include Jurisdictions that Request to be on the List**

In response to requests from jurisdictions with laws that restrict the collection or disclosure of the local jurisdiction TINs of their residents (“Foreign TIN”), the IRS has expanded its No TIN List to include any jurisdiction that requests to be included on the list, even if the jurisdiction issue TINs to individuals or entities tax resident therein. The Treasury Department and the IRS intend to amend Treas. Reg. §1.1441-1T(e)(2)(ii)(B) to clarify that withholding agents are not required to collect or report Foreign TINs of residents in:

- The three jurisdictions already present on the No TIN List (i.e. Bermuda, British Virgin Islands, and Cayman Islands);
- Australia (added to the No TIN List effective March 5, 2018); plus
- Any jurisdictions that subsequently request to be included on the No TIN List.

Pending amendment of Treas. Reg. §1.1441-1T(e)(2)(ii)(B), taxpayers may rely on the provisions of Notice 2018-20 with respect to the content of the pending amendment including the inclusion of Australia (and any jurisdiction subsequently included) on the No TIN list.

#### **Background**

On January 6, 2017, the IRS published temporary Treas. Reg. §1.1441-1T(e)(2)(ii)(B) under Chapter 3 of the Internal Revenue Code. Treas. Reg. §1.1441-1T(e)(2)(ii)(B) provides that a withholding agent may not treat a beneficial owner withholding certificate provided to document an account maintained at a U.S. branch or office of a withholding agent that is a financial institution as valid, unless the withholding certificate contains the TIN issued by the account holder’s jurisdiction of tax residence. Treas. Reg. §1.1441-1T(e)(2)(ii)(B) additionally provides that for withholding certificates associated with payments made on or after January 1, 2018, an account holder that does not provide a Foreign TIN must provide a reasonable explanation for its absence in order for the withholding certificate not to be considered invalid.

On September 25, 2017, the IRS, responding to industry comments, released Notice 2017-46 modifying the requirements of Treas. Reg. §1.1441-1T(e)(2)(ii)(B). Among other things, Notice 2017-46 provides that under regulations to be published at a later date, withholding agents are not required to obtain a Foreign TIN (or a reasonable explanation for why an account holder has not been issued a Foreign TIN) for an account held by a resident of a jurisdiction that has been identified by the IRS on a list of jurisdictions that do not issue Foreign TINs to their residents (i.e., the No TIN List). Notice 2018-20 supplements Notice 2017-46 by allowing any jurisdiction that so desires to be included on the No TIN List.

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