

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

▶ See separate instructions.

<p>Who Should Use This Form?</p> <p><i>Note: For definitions of terms used in this section and detailed instructions on required withholding forms for each type of income, see Definitions on pages 1 through 3 of the instructions.</i></p>	<p>IF you are a nonresident alien individual who is receiving . . .</p>	<p>THEN, if you are the beneficial owner of that income, use this form to claim . . .</p>
	<p>Compensation for independent personal services performed in the United States</p>	<p>A tax treaty withholding exemption for part or all of that compensation and/or to claim the daily personal exemption amount.</p>
	<p>Compensation for dependent personal services performed in the United States</p>	<p>A tax treaty withholding exemption for part or all of that compensation.</p> <p>Note: Do not use Form 8233 to claim the daily personal exemption amount.</p>
	<p>Noncompensatory scholarship or fellowship income and personal services income from the same withholding agent</p>	<p>A tax treaty withholding exemption for part or all of both types of income.</p>
<p>DO NOT Use This Form. . .</p>	<p>IF you are a beneficial owner who is . . .</p>	<p>INSTEAD, use . . .</p>
	<p>Receiving compensation for dependent personal services performed in the United States and you are not claiming a tax treaty withholding exemption for that compensation</p>	<p>Form W-4</p>
	<p>Receiving noncompensatory scholarship or fellowship income and you are not receiving any personal services income from the same withholding agent</p>	<p>Form W-8BEN or, if elected by the withholding agent, Form W-4 for the noncompensatory scholarship or fellowship income</p>
	<p>Claiming only foreign status or treaty benefits with respect to income that is not compensation for personal services</p>	<p>Form W-8BEN</p>

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

Part I Identification of Beneficial Owner (See instructions.)

1 Name of individual who is the beneficial owner	2 U.S. taxpayer identifying number	3 Foreign tax identifying number, if any (optional)
4 Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box.		
City or town, state or province. Include postal code where appropriate.		Country (do not abbreviate)
5 Address in the United States (street, apt. or suite no., or rural route). Do not use a P.O. box.		
City or town, state, and ZIP code		
Note: Citizens of Canada or Mexico are not required to complete lines 7a and 7b.		
6 U.S. visa type	7a Country issuing passport	7b Passport number
8 Date of entry into the United States	9a Current nonimmigrant status	9b Date your current nonimmigrant status expires

10 If you are a foreign student, trainee, professor/teacher, or researcher, check this box ▶

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



Specific Instructions

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Part I

Line 2

You are required to furnish a U.S. taxpayer identifying number on this form. You are generally required to enter your social security number (SSN) on line 2. To apply for an SSN, get Form SS-5 from a Social Security Administration (SSA) office. Fill in Form SS-5 and return it to the SSA.

If you do not have an SSN and are not eligible to get one, you must get an individual taxpayer identification number (ITIN). To apply for an ITIN, file Form W-7, Application for IRS Individual Taxpayer Identification Number, with the IRS. Generally, you apply for an ITIN when you file your tax return for which the ITIN is needed. However, if the reason for your ITIN request is because you need to provide Form 8233 to the withholding agent, you must file Form W-7 and provide proof that you are not eligible for an SSN (your Form SS-5 was rejected by the SSA) and include a Form 8233. It usually takes about 4-6 weeks to get an ITIN. For more information on requesting an ITIN, see the Form W-7 instructions.

If you have applied for a U.S. taxpayer identifying number but have not yet received it, you may attach a copy of a completed Form W-7 or SS-5 showing that a number has been applied for.



An ITIN is for tax use only. It does not entitle you to social security benefits or change your employment or immigration status under U.S. law.

Line 3

If your country of residence for tax purposes has issued you a tax identifying number, enter it here. For example, if you are a resident of Canada, enter your Social Insurance Number.

Line 4

Your permanent residence address is the address in the country where you claim to be a resident for purposes of that country's income tax. If you are completing Form 8233 to claim a tax treaty withholding exemption, you must determine your residency in the manner required by the treaty. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you are an individual who does not have a tax residence in any country, your permanent residence is where you normally reside.

Most tax treaties that provide for a tax treaty withholding exemption require that the recipient be a resident of the treaty country at the time of, or immediately prior to, entry into the United States. Thus, a student or researcher may generally claim the withholding exemption even if he or she no longer has a permanent address in the treaty country after entry into the United States. If this is the case, you may provide a U.S. address on line 4 and still be eligible for the withholding exemption if all other conditions required by the tax treaty are met. You must also identify on line 12a and/or line 13b the tax treaty country of which you were a resident at the time of, or immediately prior to, your entry into the United States.

Line 6

Enter your U.S. visa type. For example, foreign students are usually granted an "F-1" visa. Foreign professors, teachers, or researchers are usually granted a "J-1" visa. Business/vocational trainees are usually granted an "M-1" visa; however, some persons granted a "J-1" visa may also be considered business/vocational trainees (for example, a person admitted to complete a postgraduate residency in medicine).

If you do not have, or do not require, a visa, write "None."



Spouses and dependents admitted on secondary visas (for example, "F-2," "J-2," "H-4," and "O-3" visas) are *not* usually eligible to claim the same treaty benefits as the primary visa holder.

Line 8

You are generally required to enter your date of entry into the United States that pertains to your current nonimmigrant status. For example, enter the date of arrival shown on your current Immigration Form I-94, Arrival-Departure Record.

Exception. If you are claiming a tax treaty benefit that is determined by reference to more than one date of arrival, enter the earlier date of arrival. For example, you are currently claiming treaty benefits (as a teacher or a researcher) under article 15 of the tax treaty between the United States and Norway. You previously claimed treaty benefits (as a student) under article 16(1) of that treaty. Under article 16(4) of that treaty, the combination of exemptions under articles 15 and 16(1) may not extend beyond 5 tax years from the date you entered the United States. If article 16(4) of that treaty applies, enter on line 8 the date you entered the United States as a student.

Line 9a

Enter your current nonimmigrant status. For example, enter your current nonimmigrant status shown on your current Immigration Form I-94.

Line 9b

Enter the date your current nonimmigrant status expires. For example, you may enter the date of expiration shown on your current Immigration Form I-94. Enter "DS" on line 9b if the date of expiration is based on "duration of status."

Line 10

Nonresident alien students, trainees, professors/teachers, and researchers using Form 8233 to claim a tax treaty withholding exemption for compensation for personal services must attach to Form 8233 a statement. The format and contents of the required statements are shown in Appendix A and Appendix B in Pub. 519.

Part II

Line 11a

For compensation for independent personal services, examples of acceptable descriptions to enter on this line include: "Consulting contract to design software" or "give three lectures at XYZ University."

For compensation for dependent personal services, examples of acceptable descriptions to enter on this line include:

- A nonresident alien student may enter "part-time library assistant," "part-time restaurant worker," or "teaching one chemistry course per semester to undergraduate students."
- A nonresident alien professor or teacher may enter "teaching at ABC University."
- A nonresident alien researcher may enter "research at ABC University's school for liquid crystal research."
- A nonresident alien business/vocational trainee may enter "neurosurgical residency at ABC Hospital" or "one-year internship in hydraulic engineering at XYZ Corporation."

Line 11b

Enter the total amount of compensation for personal services you will receive from this withholding agent during the tax year. Enter an estimated amount if you do not know the exact amount.

Line 12a

Enter the specific treaty and article on which you are basing your claim for exemption from withholding (for example, "U.S./Germany tax treaty, Article 20(4)").

Line 12b

If all income received for the services performed to which this Form 8233 applies is exempt, write "All." If only part is exempt, enter the exact dollar amount that is exempt from withholding.

Line 12c

Generally, you may claim a withholding exemption based on a U.S. tax treaty with the country in which you claim permanent (or indefinite) residence. This is the foreign country in which you live most of the time. It is not necessarily the country of your citizenship. For example, you are a citizen of Pakistan but maintain your home in England. You cannot claim a withholding exemption based on the U.S./Pakistan tax treaty. Any withholding exemption you claim must be based on the U.S./United Kingdom tax treaty.

Line 13b

Enter the specific treaty and article on which you are basing your claim for exemption from withholding (for example, "U.S./Germany tax treaty, Article 20(3)").

Line 14

Provide sufficient facts to justify the exemption from withholding claimed on line 12 and/or line 13. Be sure you provide enough details to allow the IRS to determine the tax treaty benefit you are claiming.

Lines 15 through 18 (for certain independent personal services)

Do not complete lines 15 through 18 if you are claiming on line 12b that all of the compensation you are receiving for independent personal services is exempt from withholding.

Line 15

For compensation for independent personal services for which an exemption from withholding is not available, 30% must be withheld from that compensation after subtracting the value of one personal exemption. You will generally enter "1" on line 15; however, if the exception below applies to you, enter the total number of personal exemptions you are entitled to on line 15.

Exception. If you are a resident of Canada, Mexico, or the Republic of (South) Korea; a student from India; or a U.S. national; you may be able to claim additional personal exemptions for your spouse and children. For 2005, the new US-Japan treaty does not allow a deduction for additional personal exemptions unless you choose to have the old treaty apply in 2005. See Pub. 519 for more information.

Lines 16 and 17

Each allowable personal exemption must be prorated for the number of days during the tax year you will perform the personal services in the United States. Enter the number of days on line 16 that pertain to the independent personal services described in line 11a. To figure the daily personal exemption amount to enter on line 17, divide the personal exemption amount for the tax year (\$3,200 for 2005) by 365 (366 for a leap year) and multiply the result by the amount you entered on line 15. For example, if you are entitled to one personal exemption for 2005, enter \$8.77 (that is, $\$3,200 / 365 \text{ days} = \$8.77 \times 1 \text{ personal exemption} = \8.77) on line 17.

Part IV**Withholding Agent's Responsibilities**

When the nonresident alien individual gives you Form 8233, review it to see if you are satisfied that the exemption from withholding is warranted. If you are satisfied, based on the facts presented, complete and sign the certification in Part IV.

You will need three copies of a completed Form 8233. Within 5 days of your acceptance, forward one copy to:

Internal Revenue Service
International Section
P.O. Box 920
Bensalem, PA 19020-8518

Give one copy of the completed Form 8233 to the nonresident alien individual. Keep a copy for your records. Each copy of Form 8233 must include any attachments submitted by the nonresident alien individual.

The exemption from withholding is effective for payments made retroactive to the date of the first payment covered by Form 8233, even though you must wait at least 10 days after you have properly mailed Form 8233 to the IRS to see whether the IRS has any objections to the Form 8233.

You must not accept Form 8233, and you must withhold, if either of the following applies:

- You know, or have reason to know, that any of the facts or statements on Form 8233 may be false or
- You know, or have reason to know, that the nonresident alien's eligibility for the exemption from withholding cannot be readily determined (for example, you know the nonresident alien has a fixed base or permanent establishment in the United States).

If you accept Form 8233 and later find that either of the situations described above applies, you must

promptly notify the IRS (by writing to the above address) and you must begin withholding on any amounts not yet paid. Also, if you are notified by the IRS that the nonresident alien's eligibility for the exemption from withholding is in doubt or that the nonresident alien is not eligible for exemption from withholding, you must begin withholding immediately. See Regulations section 1.1441-4(b)(2)(iii) for examples illustrating these rules.

If you submit an incorrect Form 8233, you will be notified by the IRS that the form submitted is not acceptable and that you must begin withholding immediately. Examples of incorrect Forms 8233 include:

- Any Form 8233 that claims a tax treaty benefit that does not exist or is obviously false.
- Any Form 8233 that has not been completed in sufficient detail to allow determination of the correctness of the tax treaty benefit or exemption claimed.

Signature

You or your authorized agent must sign and date Form 8233. See Regulations section 1.1441-7(c) for information about authorized agents.

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