

Proposed 2001 Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding Announcement 2000-54

The Internal Revenue Service announces that it is requesting comments from the public on proposed revisions to the 2001 Form 1042-S. This form is used by U.S. withholding agents to report the withholding of U.S. income tax on certain U.S. source income paid to foreign persons.

This announcement provides a draft copy of the 2001 Form 1042-S. The form is being issued so that withholding agents can adapt their systems to comply with the regulations under sections 1441, 1442, and 1443, which were recently amended by T.D. 8881 (published on May 22, 2000, in 65 F.R. 32152 and again on June 5, 2000, in 2000-23 I.R.B. 1158). Filers and recipients of the form are advised that the form may be revised based on further developments and comments.

Form 1042-S was previously released for public comments on April 19, 1999 (Announcement 99-46, 1999-16 I.R.B. 13). We made the following changes to the form as the result of those comments:

- **VOID box.** This box has been added to the recipient copies (Copies B, C & D).
- **Box 2 (Gross income), Box 4 (Net income), Box 7 (U.S. Federal tax withheld), and Box 8 (Amount reimbursed to recipient).** We increased the width of these boxes.
- **Box 9 (Withholding agent's EIN) and Box 14 (Recipient's U.S. TIN).** We increased the width of the checkboxes so that they are easier to line up in a printer.
- **Box 10 (Withholding agent's name and address) and Box 13 (Recipient's name and address).** We positioned

these boxes so that the information entered will show through a standard double window envelope. In doing so, we increased the vertical size of box 13 so that 6 lines are available in the entry area (allowing for 4 lines of print and 2 extra lines for printer line-up).

- **Box 11 (Recipient's account number).** We increased the available entry area.
- **Box 19 (Nonqualified intermediary's/Flow-through entity's address).** We increased the height of this box.
- **Income codes on the back of Copy C.** We changed the codes back to the way they were on the 2000 form (i.e., income codes 01 through 28 are the same on the 2000 and 2001 forms). New codes 29 through 31 have been added, but are grouped with the other Interest Income codes. New code 32 has been added and placed with the Other Income codes.

Form 1042-S, as designed for the year 2001, contains only one income line. Some commentators requested that we restore multiple income reporting lines (i.e., lines 1 through 3 of the current year 2000 form). Although we were not able to accommo-

date this comment, in an effort to mitigate the impact of this change, a withholding agent may be permitted to use substitute payee copies of the form (i.e., copies B, C, and D) that contain more than one income line. Under no circumstances, however, will the copy of the form filed with the IRS (copy A) be permitted to contain more than one income line (i.e., boxes 1 through 8).

The following change has been made to the form as the result of changes to the regulations made by T.D. 8881: The **PRO-RATA BASIS REPORTING** box at the top of the form was added as an indicator that the withholding agent must use to notify the IRS that a nonqualified intermediary that used the alternative procedures of Regulations section 1.1441-1(e)(3)(iv)(D) (i.e., year-end allocation) failed to properly comply with those allocation requirements. If this box is checked, withholding agents will be instructed to complete box 5 (Tax rate) by including the appropriate rate of withholding in the box, not the rate of withholding actually applied. For example, a withholding agent that withheld 15% from payments made to a nonqualified interme-

diary should place 30% in box 5 for payments it reports under the pro rata reporting rule of sec. 1.1441-1(e)(3)(iv)(D)(6).

Several respondents inquired as to the intended use for box 8. This new box was added to reflect the reimbursement procedure described in Regulations section 1.1461-2(a)(2)(i).

We anticipate that the instructions for Form 1042-S will state that a qualified intermediary reporting payments on behalf of a private arrangement intermediary (PAI) must treat each PAI as a separate recipient and therefore must file a separate Form 1042-S for each withholding rate pool paid to a PAI.

The IRS would like to receive comments on this proposed draft form from all interested persons by July 26, 2000. Please send comments to Chairman, Tax Forms Coordinating Committee, Internal Revenue Service, OP:FS:FP, Room 5577, 1111 Constitution Avenue, NW, Washington, DC 20224. Alternatively, you may e-mail your comments to tfpmail@publish.no.irs.gov.

Form 1042-S		Foreign Person's U.S. Source Income Subject to Withholding				2001		OMB No. 1545-0096	
Department of the Treasury Internal Revenue Service		<input type="checkbox"/> VOID	<input type="checkbox"/> CORRECTED	<input type="checkbox"/> PRO-RATA BASIS REPORTING	Copy A for Internal Revenue Service				
1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient		
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN					
10 WITHHOLDING AGENT'S name and address (including ZIP code)				15 Recipient's country of residence for tax purposes			16 Country code		
				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name			18 Country code		
				19 NQI's/Flow-through entity's address					
11 Recipient's account number (optional)			12 Recipient code						
13 RECIPIENT'S name (first name, initial, and last name), street address, city or town, province or state, and country (including postal code)				20 NQI's/Flow-through entity's TIN, if any ▶					
				21 PAYER'S name and TIN (if different from withholding agent's)					
				22 State income tax withheld		23 Payer's state tax no.		24 Name of state	

Department of the Treasury
Internal Revenue Service

VOID CORRECTED PRO-RATA BASIS REPORTING

Copy B
for Recipient

1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN			
10 WITHHOLDING AGENT'S name and address (including ZIP code)				15 Recipient's country of residence for tax purposes		16 Country code	
				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name		18 Country code	
				19 NQI's/Flow-through entity's address			
11 Recipient's account number (optional)			12 Recipient code				
13 RECIPIENT'S name (first name, initial, and last name), street address, city or town, province or state, and country (including postal code)				20 NQI's/Flow-through entity's TIN, if any ▶			
				21 PAYER'S name and TIN (if different from withholding agent's)			
22 State income tax withheld		23 Payer's state tax no.		24 Name of state			

Form **1042-S** (2001)

U.S. Income Tax Filing Requirements

Every nonresident alien individual, nonresident alien fiduciary, and foreign corporation with United States income, including income that is effectively connected with the conduct of a trade or business in the United States, must file a United States income tax return. However, no return is required to be filed by a nonresident alien individual, nonresident alien fiduciary, or a foreign corporation if such person was not engaged in a trade or business in the United States at any time during the tax year and if the tax liability of such person was fully satisfied by the withholding of United States tax at the source. (Corporations file Form 1120-F; all others file Form 1040NR (or Form 1040NR-EZ if eligible).) You may get the return forms and instructions at any United States Embassy or consulate or by writing to: Eastern Area Distribution Center, P.O. Box 85074, Richmond, VA 23261-5074, U.S.A.

Tout étranger non-résident, tout organisme fideicommissaire étranger non-résident et toute société étrangère percevant un revenu aux Etats-Unis, y compris tout revenu dérivé, en fait, du fonctionnement d'un commerce ou d'une affaire aux Etats-Unis, doit soumettre aux Etats-Unis, une déclaration d'impôt sur le revenu. Cependant aucune déclaration d'impôt sur le revenu n'est exigée d'un étranger non-résident, d'un organisme fideicommissaire étranger non-résident, ou d'une société étrangère s'ils n'ont pris part à aucun commerce ou affaire aux Etats-Unis à aucun moment pendant l'année fiscale et si les impôts dont ils sont redevables, ont été entièrement acquittés par une retenue à la source, de leur montant. (Les sociétés doivent faire leur déclaration d'impôt en remplissant le formulaire 1120-F; tous les autres redevables doivent remplir le formulaire 1040NR (ou 1040NR-EZ si éligible).) On peut se procurer formulaires de déclarations d'impôts et instructions dans toutes les Ambassades et tous les Consultats des Etats-Unis. L'on peut également s'adresser pour tous renseignements à: Eastern Area Distribution Center, P.O. Box 85074, Richmond, VA 23261-5074, U.S.A.

Todo extranjero no residente, todo organismo fideicomisario extranjero no residente y toda sociedad anónima extranjera que reciba ingresos en los Estados Unidos, incluyendo ingresos relacionados con la conducción de un negocio o comercio dentro de los Estados Unidos, deberá presentar una declaración estadounidense de impuestos sobre ingreso. Sin embargo, no se requiere declaración alguna a un individuo extranjero, una sociedad anónima extranjera u organismo fideicomisario extranjero no residente, si tal persona no ha efectuado comercio o negocio en los Estados Unidos durante el año fiscal y si la responsabilidad con los impuestos de tal persona ha sido satisfecha plenamente mediante retención del impuesto de los Estados Unidos en la fuente. (Las sociedades anónimas envían la Forma 1120-F; todos los demás contribuyentes envían la Forma 1040NR (o la Forma 1040NR-EZ si le corresponde).) Se podrán obtener formas e instrucciones en cualquier Embajada o Consulado de los Estados Unidos o escribiendo directamente a: Eastern Area Distribution Center, P.O. Box 85074, Richmond, VA 23261-5074, U.S.A.

Jede ausländische Einzelperson, jeder ausländische Bevollmächtigte und jede ausländische Gesellschaft mit Einkommen in den Vereinigten Staaten, einschliesslich des Einkommens, welches direkt mit der Ausübung von Handel oder Gewerbe innerhalb der Staaten verbunden ist, müssen eine Einkommensteuererklärung der Vereinigten Staaten abgeben. Eine Erklärung, muss jedoch nicht von Ausländern, ausländischen Bevollmächtigten oder ausländischen Gesellschaften in den Vereinigten Staaten eingereicht werden, falls eine solche Person während des Steuerjahres kein Gewerbe oder Handel in den Vereinigten Staaten ausgeübt hat und die Steuerschuld durch Einbehaltung der Steuern der Vereinigten Staaten durch die Einkommensquelle abgegolten ist. (Gesellschaften reichen den Vordruck 1120-F ein; alle anderen reichen das Formblatt 1040NR oder wenn passend das Formblatt 1040NR-EZ ein.) Einkommensteuererklärungen und Instruktionen können bei den Botschaften und Konsulaten der Vereinigten Staaten eingeholt werden. Um weitere Informationen wende man sich bitte an: Eastern Area Distribution Center, P.O. Box 85074, Richmond, VA 23261-5074, U.S.A.

1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN			
10 WITHHOLDING AGENT'S name and address (including ZIP code)				15 Recipient's country of residence for tax purposes		16 Country code	
				17 NONQUALIFIED INTERMEDIARY'S (NQI's)/ FLOW-THROUGH ENTITY'S name		18 Country code	
11 Recipient's account number (optional)				12 Recipient code			
13 RECIPIENT'S name (first name, initial, and last name), street address, city or town, province or state, and country (including postal code)				19 NQI's/Flow-through entity's address			
				20 NQI's/Flow-through entity's TIN, if any ▶			
				21 PAYER'S name and TIN (if different from withholding agent's)			
22 State income tax withheld		23 Payer's state tax no.		24 Name of state			

Explanation of Codes

Box 1. Income code.

Code	Interest Income
01	Interest paid by U.S. obligors—general
02	Interest on real property mortgages
03	Interest paid to controlling foreign corporations
04	Interest paid by foreign corporations
05	Interest on tax-free covenant bonds
29	Deposit interest
30	Original issue discount (OID)
31	Short-term OID
Dividend Income	
06	Dividends paid by U.S. corporations—general
07	Dividends paid by U.S. subsidiaries to foreign parent corporations (including consent dividends)
08	Dividends paid by foreign corporations
Other Income	
09	Capital gains
10	Industrial royalties
11	Motion picture or television copyright royalties
12	Other royalties (e.g., copyright, recording, publishing)
13	Real property income and natural resources royalties
14	Pensions, annuities, alimony, and/or insurance premiums
15	Scholarship or fellowship grants
16	Compensation for independent personal services ¹
17	Compensation for dependent personal services
18	Compensation for teaching ¹
19	Compensation during studying and training ¹
20	Earnings as an artist or athlete ²
24	Real estate investment trust (REIT) distributions of capital gains
25	Trust distributions subject to IRC section 1445
26	Unsevered growing crops and timber distributions by a trust subject to IRC section 1445
27	Publicly traded partnership distributions subject to IRC section 1446
28	Gambling winnings
32	Notional principal contract income ³
50	Other income

Box 6. Exemption code (applies if the tax rate entered in box 5 is 0%).

Code	Authority for Exemption
01	Income effectively connected with a U.S. trade or business
02	Exempt under an Internal Revenue Code section (income other than portfolio interest)
03	Income is not from U.S. sources ⁴
04	Exempt under tax treaty
05	Portfolio interest exempt under an Internal Revenue Code section
06	Qualified intermediary that assumes primary withholding responsibility
07	Withholding foreign partnership
08	U.S. branch treated as a U.S. person
09	Qualified intermediary represents income is exempt

Box 12. Recipient code.

Code	Type of Recipient
01	Individual ¹
02	Corporation ²
03	Partnership other than withholding foreign partnership ²
04	Withholding foreign partnership or withholding foreign trust
05	Trust
06	Government or international organization
07	Tax-exempt organization (IRC section 501(a))
08	Private foundation
09	Artist or athlete ²
10	Estate
11	U.S. branch treated as U.S. person
12	Qualified intermediary
13	Private arrangement intermediary ⁵
14	Qualified intermediary withholding rate pool ⁵
15	Qualified intermediary withholding rate pool—exempt organizations ⁵
20	Unknown recipient

¹If compensation that otherwise would be covered under Income Codes 16–19 is directly attributable to the recipient's occupation as an artist or athlete, use Income Code 20 instead.

²If Income Code 20 is used, Recipient Code 09 (artist or athlete) should be used instead of Recipient Code 01 (individual), 02 (corporation), or 03 (partnership other than withholding foreign partnership).

³Use appropriate Interest Income Code for embedded interest in a notional principal contract.

⁴Non-U.S. source income received by a nonresident alien is not subject to U.S. tax. Use Exemption Code 03 when entering an amount for information reporting purposes only.

⁵May be used only by a qualified intermediary.

Form **1042-S****Foreign Person's U.S. Source Income
Subject to Withholding****2001**

OMB No. 1545-0096

Department of the Treasury
Internal Revenue Service VOID CORRECTED PRO-RATA BASIS REPORTING**Copy D** for Recipient
Attach to any state tax return you file

1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN			
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13 RECIPIENT'S name (first name, initial, and last name), street address, city or town, province or state, and country (including postal code)				19 NQI's/Flow-through entity's address			
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				22 State income tax withheld	23 Payer's state tax no.	24 Name of state	

Form **1042-S** (2001)Form **1042-S****Foreign Person's U.S. Source Income
Subject to Withholding****2001**

OMB No. 1545-0096

Department of the Treasury
Internal Revenue Service VOID CORRECTED PRO-RATA BASIS REPORTING**Copy E**
for Withholding Agent

1 Income code	2 Gross income	3 Withholding allowances	4 Net income	5 Tax rate	6 Exemption code	7 U.S. Federal tax withheld	8 Amount reimbursed to recipient
9 Withholding agent's EIN ▶ <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN				14 Recipient's U.S. TIN, if any ▶ <input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN <input type="checkbox"/> QI-EIN			
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Form **1042-S** (2001)