

## Exemption From Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual

This exemption is applicable for compensation for calendar year 19 ....., or other tax year beginning ....., 19....., and ending ....., 19.....

**Part I Nonresident Alien Individual** (*Students, teachers, and researchers: See General Instructions.*)

Name	Taxpayer identification number ..... (See Specific Instructions.)
U.S. address (number and street) (Include apt. or suite no. or P.O. box)	United States visa number (if any) .....
City, state, and ZIP code	

Citizens of Canada or Mexico complete either lines 1a and 1b or line 2; all other filers complete lines 1a, 1b, and 2.

<b>1a</b> Country issuing passport ..... <b>b</b> Passport number .....	<b>2</b> Permanent foreign address
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**3 Compensation for independent personal services:**

**a** Description (See Specific Instructions.) .....

**b** Amount (See Specific Instructions.) \$ .....

**c** If compensation is exempt from withholding because of a U.S. tax treaty, provide:

**(1)** Tax treaty and provision under which you are claiming exemption from withholding .....

**(2)** Your country of residence .....

**d** Is your compensation otherwise exempt (or will it be otherwise exempt) from income tax during the tax year?  Yes  No  
 (If you checked "Yes," attach a statement explaining why.)

**e** Additional facts to justify the exemption from withholding .....

<b>4</b> Number of personal exemptions you are claiming (See Specific Instructions.) ▶	<b>5</b> Number of days in the period during which independent personal services are to be performed in the United States ▶
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Under penalties of perjury, I declare that I have examined this form and any accompanying statements, and, to the best of my knowledge and belief, they are true, correct, and complete. I also declare, under penalties of perjury, that I am not a citizen or resident of the United States.

Signature of nonresident alien individual ▶ Date ▶

**Part II Withholding Agent Certification**

Name	Employer identification number
Address (number and street) (Include apt. or suite no. or P.O. box, if applicable.)	
City, state, and ZIP code	Telephone number (     )

Under penalties of perjury, I certify that I have examined this form and any accompanying statements, that I am satisfied that an exemption from withholding is warranted, and that I do not know or have reason to know that the nonresident alien individual's compensation is not entitled to the exemption or that the eligibility of the nonresident alien's compensation for the exemption cannot be readily determined.

Signature of withholding agent ▶ Date ▶

**General Instructions**

(Section references are to the Internal Revenue Code unless otherwise indicated.)

**Paperwork Reduction Act Notice.**— We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to receive exemption from withholding on compensation for independent personal services, you are required to give us

the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

- The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:
- Recordkeeping** . . . . . 26 min.
  - Learning about the law or the form** . . . . . 12 min.

**Preparing and sending the form to IRS.** . . . . . 41 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Attention: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and the **Office of Management and Budget**, Paperwork Reduction Project

(1545-0795), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, give it to your withholding agent as specified in the instructions under **Purpose of Form**.

**Students, Teachers, Researchers.**—Form 8233 should be used by nonresident alien students, teachers, and researchers to claim exemption from withholding on compensation for services that is exempt from taxation under a U.S. tax treaty. Students must provide the statement required by Revenue Procedure 87-8. Teachers and researchers must provide the information required by Revenue Procedure 87-9. These statements are in **Pub. 519**, U.S. Tax Guide for Aliens. This publication is available by calling 1-800-TAX-FORM (1-800-829-3676). All these individuals must also provide the information required by Form 8233, disregarding references to independent personal services. Then, they should submit the form with the required statement to their withholding agent.

**Purpose of Form.**—In general, section 1441 requires that 30% of amounts paid to a nonresident alien individual as compensation for independent personal services (i.e., services performed where there is no employer-employee relationship) be withheld by the person paying the amount (the withholding agent) to the individual. This form is used by nonresident alien individuals to claim exemption from withholding on compensation for independent personal services (under section 1441 and its regulations) if the exemption is based on a U.S. tax treaty or on the personal exemption amount. The form is completed by the nonresident alien individual claiming exemption and presented to the withholding agent for review. If the withholding agent accepts Form 8233, the withholding agent so certifies on the same form and forwards it to the Director, Office of Compliance, Assistant Commissioner (International), at the address shown under Part II on this page. An accepted Form 8233 is effective only for the tax year shown on the form. **Do not use Form 8233** if you have an office in the United States regularly available to you for performing personal services. If you have an office in the United States regularly available to you, contact the Director, Office of Compliance, Assistant Commissioner (International), for more information.

## Definitions

**Nonresident Alien Individual.**—Any individual who is not a resident or citizen of the United States is a nonresident alien individual. The term also includes a nonresident alien fiduciary. An alien individual meeting either the "green card test" or the "substantial presence test" for the calendar year is a resident. Those not meeting either test are nonresident alien individuals.

**Note:** *Nonresident alien individuals married to U.S. citizens or resident aliens may choose to be treated as resident aliens for income tax purposes (e.g., for purposes of filing a joint income tax return). However, these individuals are considered nonresidents for purposes of withholding taxes on nonresident aliens.* For further information on resident and nonresident alien status, the tests for residence, and the exceptions to them, see Pub. 519.

**Nonresident Alien Fiduciary (Estates and Trusts).**—A nonresident alien fiduciary is a nonresident alien guardian, trustee, executor, administrator, receiver, conservator, or other person acting in any fiduciary capacity for any person. However, a nonresident alien fiduciary is not a nominee.

**Compensation for Independent Personal Services.**—Independent personal services are personal services performed in the United States by an independent nonresident alien

contractor, rather than by a nonresident alien employee. Included in compensation are payments for professional services, such as fees of an attorney, physician, or accountant made directly to the person performing the services; consulting fees; and payments for performances by public entertainers, such as artists, actors, musicians, and athletes.

**Withholding Agent.**—Any person required to withhold tax on payments made to a nonresident alien individual is a withholding agent. Generally, the person who pays or conveys the item of U.S. source income to the nonresident alien individual (or to his or her agent) is liable for the tax and must withhold. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity. For further information, see **Pub. 515**, Withholding of Tax on Nonresident Aliens and Foreign Corporations.

## Specific Instructions

### Part I

**Taxpayer identification number.**—If you are a nonresident alien individual (other than a nonresident alien estate or trust) and you have a social security number or you are required to get a social security number, you must use it when an identification number is required for Federal tax purposes. If you do not have a social security number, apply for one on **Form SS-5**, which you can get at Social Security Administration offices. When the number is received, promptly give it to the withholding agent. In some cases, if you do not have a social security number or are not otherwise required to get one, you may use an IRS-issued identification number. If an application has been made for a number but it has not been received, write "TIN applied for" and the date you applied in the space provided on this form. For (non-resident alien) estates or trusts, use your employer identification number.

**Lines 1a, 1b, and 2.**—All filers must complete lines 1a, 1b, and 2, except citizens of Canada or Mexico, who can complete either lines 1a, 1b, or line 2.

**Line 3a.**—Describe the independent personal services for which the compensation is being (or will be) received, and describe the manner of compensation (e.g., lump sum, monthly payments, etc.).

**Line 3b.**—Enter the amount of compensation for independent personal services you will be receiving during the tax year to which this Form 8233 applies. Enter an estimated amount if the exact amount is not known.

**Line 3d.**—If the exemption from income tax withholding is (or will be) based on other than a U.S. tax treaty (e.g., the personal exemption amount), explain this in an attached statement.

**Line 4.**—For determining the amount of compensation exempt from 30% withholding because of the personal exemption amount, one personal exemption is allowed a nonresident alien individual who is not a resident of Canada or Mexico, or is not a U.S. national during the tax year. However, a nonresident alien individual covered by a U.S. tax treaty with his or her country may be entitled to exemptions for a spouse and dependents under certain circumstances. See the applicable tax treaty for further information. A nonresident alien individual who is a resident of Canada or Mexico or is a U.S. national is generally allowed the same personal exemptions as a U.S. citizen or resident. (For further information, see Pub. 519.) Each allowable exemption must be prorated according to the number of

days in the period during which the personal services are to be performed in the United States (line 5 on Form 8233). To figure the daily proration amount for each allowable exemption, divide the personal exemption amount (for example, \$2,350 if the individual's tax year begins in 1993) by 365 (366 for a leap year). Round off the result to the nearest cent. **Note:** *The personal exemption amount for any year can be obtained from the IRS.*

**Signature.**—The nonresident alien individual, or his or her legally authorized representative, must sign and date Form 8233 in the appropriate place.

### Part II

#### Withholding Agent's Responsibilities

**Regarding Form 8233.**—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, certify that you accept the Form 8233 by completing and signing Part II.

Within 5 days of your acceptance, forward Form 8233 and any attachments to:

Assistant Commissioner (International)  
Director, Office of Compliance  
IN:C:E:62  
Internal Revenue Service  
950 L'Enfant Plaza South, S.W.  
Washington, DC 20024

Give a copy of the completed Form 8233 to the nonresident alien individual. Attach a copy of Form 8233 to the **Form 1042**, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, that you file with the IRS. Keep a copy of Form 8233 for your records.

**Note:** *Each copy of Form 8233 must also include any attachments originally submitted by the nonresident alien individual.*

The exemption from withholding becomes effective for payments made at least 10 days after you have mailed Form 8233 to the IRS. (See the instructions for Part I, line 4, for information on amounts exempt from withholding because of the personal exemption amount.)

You must not accept Form 8233 if either of the following applies:

- If 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 eligibility of the nonresident alien individual's compensation for the exemption cannot be readily determined (e.g., if you know or have reason to know that a nonresident alien individual has an office in the United States regularly available for performing personal services).

If you accept Form 8233 and subsequently find that either of the situations described immediately above applies, you must promptly notify the Director, Office of Compliance, Assistant Commissioner (International), in writing, and you must withhold on any amounts not yet paid. If you are notified by that office that the eligibility for the exemption of the nonresident alien individual's compensation is in doubt or that the compensation is ineligible for the exemption, you must withhold. See Regulations section 1.1441-4(b)(2)(iii) for examples illustrating these rules.

**Signature.**—The withholding agent, or a duly authorized agent of the withholding agent, must sign and date Form 8233 in the appropriate place. (See Regulations section 1.1441-7(b) for further information regarding duly authorized agents.)