

Exemption From Withholding on Investment Income of Foreign Governments and International Organizations

▶ See instructions on back of form. ▶ Please type or print.

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

| | | |
|-------------------------|---|---------------------------------|
| Beneficial Owner | Name | U.S. identifying number, if any |
| | Address (number and street) | |
| | City, state or province, and ZIP or postal code | Country |

Complete Part I or Part II, whichever applies.

Part I Foreign Government

| Qualification for Exemption | Yes | No |
|---|-----|----|
| 1a Is the foreign government (for which this form is filed) an integral part of a foreign sovereign (see instructions)? (If "Yes," go to line 4.) | | |
| b Is the foreign government (for which this form is filed) a controlled entity of a foreign sovereign (see instructions)? (If "No" to both lines 1a and 1b, do not complete this form.) | | |
| 2a Is the controlled entity a central bank of issue (as defined in Regulations section 1.895-1(b))? | | |
| b Is the central bank of issue engaged in commercial activities within the United States (see instructions)? | | |
| 3 Is the controlled entity engaged in commercial activities anywhere in the world (see instructions)? | | |

Investment Income From U.S. Sources

4 Check type(s) of income to which this form applies.

- a** Income from stocks
- b** Income from bonds
- c** Income from other domestic securities (attach a list and specify type (e.g., annuity contracts, mortgages))
- d** Income from investments in financial instruments held in the execution of governmental financial or monetary policy (attach a list and specify type (e.g., forward contracts in Canadian dollars, option contract in French francs))
- e** Income from interest on deposits in banks

| Controlled Commercial Entities | Yes | No |
|--|-----|----|
| 5 For each type of income checked on line 4 above, does the foreign government (for which this form is filed) receive such income directly or indirectly from any controlled commercial entities (see instructions)? (If "Yes," specify which sources of income are from controlled commercial entities and list the identity of each controlled commercial entity payer.) | | |

Part II International Organization

| Qualification for Exemption | Yes | No |
|--|-----|----|
| 6 Is the organization (for which this form is filed) an international organization (see instructions)? (If "No," do not complete this form.) | | |

Investment Income From U.S. Sources

7 Check type(s) of income to which this form applies.

- a** Income from stocks
- b** Income from bonds
- c** Income from other domestic securities (attach a list and specify type (e.g., annuity contracts, mortgages))
- d** Income from interest on deposits in banks
- e** Other income (attach a list and specify type)

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.

Sign Here ▶ _____ (Signature of authorized official, fiduciary, or agent) _____ (Date)

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. To verify exemption from withholding on investment income exempt from tax under section 892, you may be required to provide 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.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 13 min.; **Learning about the law or the form**, 25 min.; **Preparing the form**, 26 min.; **Copying, assembling, and sending the form to the withholding agent**, 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the form to this office. Instead, see **Where and When To File** on this page.

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Temporary Regulations sections 1.892-7T(e) and 1.1441-8T(a) state that withholding is not required on amounts paid to a foreign government or international organization from sources within the United States that are exempt from tax under section 892. Form 8709 is used by foreign governments or international organizations ("the taxpayer") to claim exemption from withholding under sections 1441 and 1442 on items of income qualifying for tax exemption under section 892. The taxpayer may use Form 8709 instead of the written statement described in Temporary Regulations section 1.1441-8T(b). For foreign government taxpayers, only investment income can qualify for exemption from tax under section 892. See **Definitions** below. The taxpayer should complete and file this form with the withholding agent for each tax year the exemption is claimed.

Definitions

Foreign government.—The term "foreign government" means only the integral parts or controlled entities of a foreign sovereign as defined under Temporary Regulations section 1.892-2T.

In general, an "integral part of a foreign sovereign" is any person, body of persons, organization, agency, bureau, fund, instrumentality, or other body, however

designated, that constitutes a governing authority of a foreign country. The net earnings of the governing authority must be credited to its own account, or to other accounts of the foreign sovereign, with no portion benefiting any private person.

A "controlled entity of a foreign sovereign" is an entity that is separate from the foreign sovereign or otherwise constitutes a separate juridical entity **only** if (1) it is wholly owned and controlled by the foreign sovereign directly or indirectly through one or more controlled entities; (2) it is organized under the laws of the foreign sovereign by which it is owned; (3) its net earnings are credited to its own account or to other accounts of the foreign sovereign with no portion of its income benefiting any private person; and (4) its assets vest in the foreign sovereign upon dissolution.

Note: The term "controlled entity" also includes pension trusts defined in Temporary Regulations section 1.892-2T(c).

International organization.—The term "international organization" means any public international organization entitled to privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288-288f). In general, to qualify as an international organization, the United States must participate in the organization pursuant to a treaty or under the authority of an Act of Congress authorizing the participation. See Regulations section 1.893-1(b)(3).

Note: Only foreign governments and international organizations defined above qualify for exemption from tax under section 892 and exemption from withholding under sections 1441 and 1442.

Investment income.—The term "investment income" means income from investments in the United States in stocks, bonds, other domestic securities (as defined in Temporary Regulations section 1.892-3T(a)(3)), financial instruments held in the execution of governmental financial or monetary policy (as defined in Temporary Regulations section 1.892-3T(a)(4) and (a)(5)), and interest on deposits in banks in the United States.

Controlled commercial entity.—Generally, a "controlled commercial entity" means any entity engaged in commercial activities (whether conducted within or outside the United States) if the foreign government (1) holds any interest in the entity that is 50% or more of the total of the interests in the entity, or (2) holds a sufficient interest or any other interest in the entity that provides the foreign government with effective practical control of the entity. See Temporary Regulations section 1.892-5T.

A central bank of issue (as defined in Regulations section 1.895-1(b)) shall be treated as a controlled commercial entity only if it engages in commercial activities within the United States.

Note: The section 892 exemption for a foreign government taxpayer does not apply to income from the conduct of a commercial activity, or from sources other than those listed in Part I, line 4, of Form 8709. (For the definition of "commercial activities," see Temporary Regulations section 1.892-4T.) In addition, the exemption for a foreign

government taxpayer does not apply to any income (1) received by a controlled commercial entity; (2) received directly or indirectly from a controlled commercial entity; or (3) received from the disposition of any interest in a controlled commercial entity.

Where and When To File

Taxpayers may file Form 8709 with the withholding agent as proof that exemption from withholding is warranted. Taxpayers are not required to file Form 8709, but a withholding agent may require taxpayers to file the form prior to the payment of income. If, after filing this form, the taxpayer becomes ineligible for benefits under section 892, the taxpayer must notify the withholding agent in writing.

Instructions for Withholding Agent

A withholding agent must determine whether exemption from withholding is warranted. Although a taxpayer is not required to submit Form 8709 nor is a withholding agent required to obtain Form 8709 from a taxpayer prior to the payment of investment income, a withholding agent will be subject to liability if it is later determined that the income was not in fact exempt from tax.

Except as provided below, obtaining Form 8709 excuses a withholding agent from liability for failure to withhold. A withholding agent may request that the taxpayer submit Form 8709. If the taxpayer does not submit the form, the withholding agent may withhold tax and will be considered for purposes of sections 1461 through 1463 to have been required to withhold the tax.

A withholding agent will not be protected from liability by obtaining Form 8709, and must withhold, if (1) the withholding agent knows or has reason to know that the taxpayer is not eligible for the exemption from tax under section 892, either because the taxpayer does not qualify as a foreign government or international organization (as defined above) or the income is not eligible for exemption; or (2) the withholding agent knows or has reason to know that any of the facts or assertions on Form 8709 may be false. In addition, withholding must be made on any item of income paid to a foreign government taxpayer by a payer identified on line 5.

A withholding agent who accepts Form 8709 and then finds that either (1) or (2) above applies must promptly notify in writing the Office of the Assistant Commissioner (International), Director, Office of International District Operations, Attn: CP:IN:D:C:E, 950 L'Enfant Plaza, SW, Washington, DC 20024, and must withhold on any amounts not yet paid. In addition, a withholding agent who is notified by the Director, Office of International District Operations, that a taxpayer's eligibility for the section 892 exemption is in doubt or that particular items of income are ineligible for exemption under section 892 must withhold on any amounts not yet paid.

Do not send Form 8709 to the IRS. Instead, keep Form 8709 for at least 4 years after the end of the calendar year in which the income was paid for which this form was filed.

