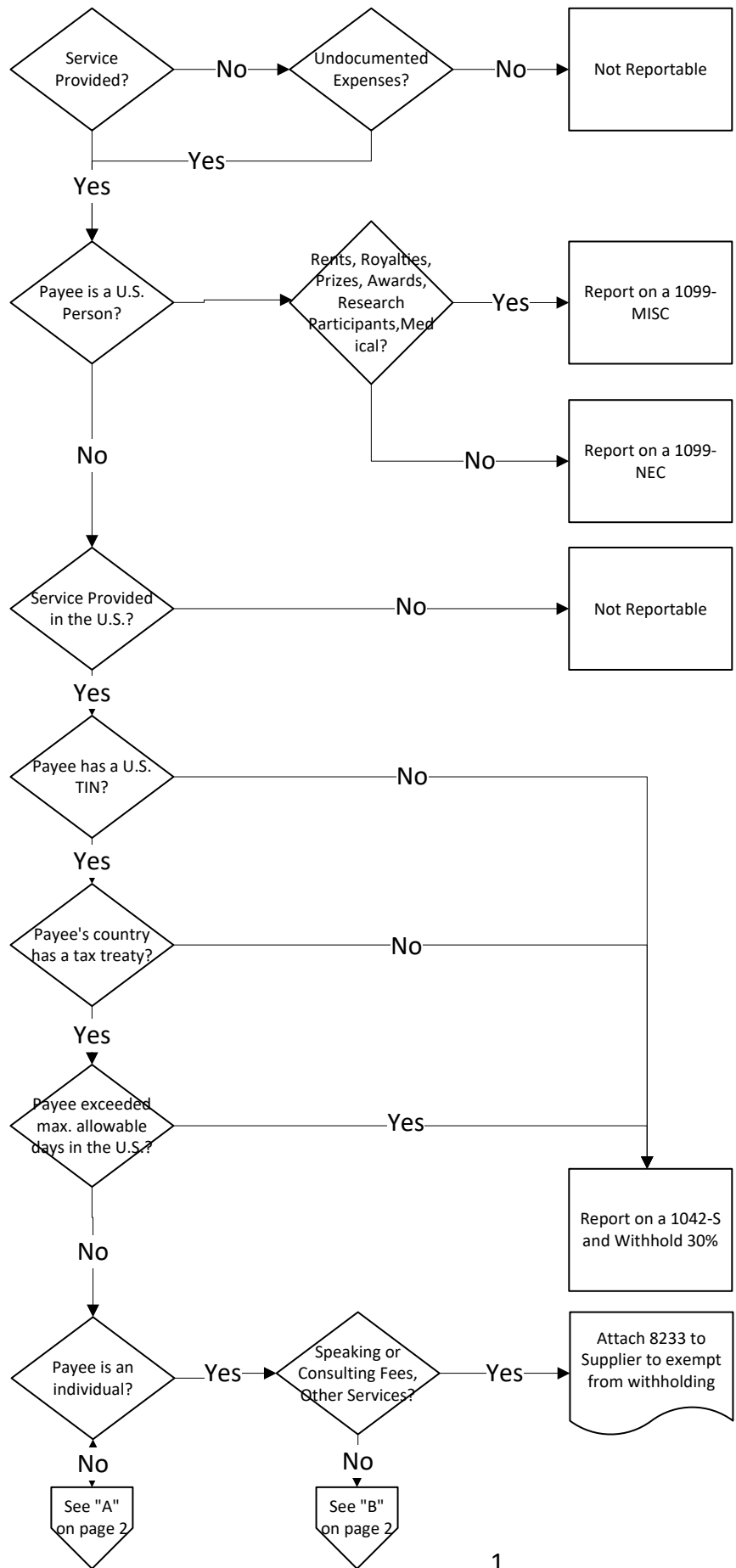


Taxability of Payments to Non-U.S. Persons (Nonresident Aliens and Foreign Businesses) 04/26/2023

(See pages 3 and 4 for explanations of the terms used in this flowchart.)



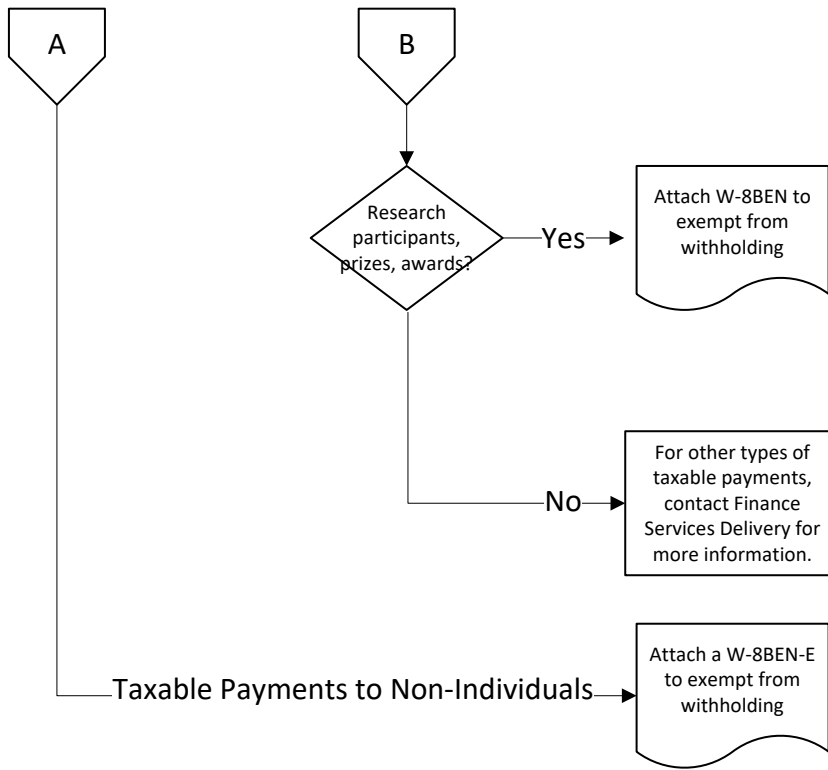
Reportable payments to U.S. persons require having a Supplier record with a valid TIN. Otherwise, 24% must be withheld for taxes.

Speaking fees, consulting fees, and other personal services are reported on a 1099-NEC.

The Supplier must have a U.S. TIN as part of the Supplier record. Otherwise, 30% withholding is required.

The "allowable days" are determined by the tax treaty. If the individual already knows s/he has exceeded the limit, there is no point in completing a Form 8233.

Without a properly completed 8233, 30% withholding is required. In either case, the income will be reported on a 1042-S.



Without a properly completed W-8BEN, 30% withholding is required. In either case, the income will be reported on a 1042-S.

Without a properly completed W-8BEN-E, 30% withholding is required. In either case, the income will be reported on a 1042-S. A W-8BEN-E does not require a U.S. TIN to qualify for exemption from withholding, which is different from the requirements for individuals submitting an 8233 or W-8BEN.

Explanatory Notes (In Flowchart Order)

Services Provided

The mostly commonly reported services are speaking fees, consulting fees, and research participant fees, but we must also report rents, royalties, prizes, awards, medical services, and software licenses.

Undocumented Expenses

Undocumented expenses are those for which we normally would require a receipt. Meal per diems for foreign visitors are considered documented expenses in this context.

Reportable vs. Non-Reportable

Reportable payments result in a tax form being generated. Reportable payments to U.S. Persons will result in a 1099-NEC or 1099-MISC, depending on the type of payment. Withholding 24% for U.S. Persons generally is not required, unless the Supplier record does not have a valid TIN. Reportable payments to Non-U.S. Persons require 30% withholding.

Definition of a "U.S. Person" (Per the W-9 Form Instructions)

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

(A resident alien for tax purposes either is a "green card" holder or meets the "substantial presence" test. The International Students and Scholars Office usually can provide information on whether a person qualifies as a resident alien.)

W-9

This tax form is completed by a U.S. Person to provide a name, classification, address, and either a Social Security Number or Employer Identification Number. Ideally, this would have been supplied at the time the Supplier record was created.

1099-MISC

This tax form is used to report rents, royalties, prizes, awards, research participant payments and medical services provided by U.S. persons. U.S. corporations are exempted from 1099-MISC reporting, except for medical services.

1099-NEC

This tax form is used to report non-employee compensation (speaking fees, consulting fees, etc.) provided by U.S. persons.

Service Provided in the U.S.

U.S. Persons require reporting for services or undocumented expenses regardless of the location. Non-U.S. Persons only require reporting if the location was in the U.S. Software licenses and royalties are considered to be provided in the U.S., even if the Non-U.S. Person never set foot in the U.S.

U.S. TIN (Taxpayer Identification Number)

Social Security Numbers (SSNs), Federal Employer Identification Numbers (EINs/FEINs), and Individual Taxpayer Identification Numbers (ITINs) qualify as TINs. Canadian Social Insurance Numbers (SINs) also have nine digits but do not qualify as a TIN. VAT numbers also do not qualify as a TIN. A Supplier with a company name ending in PLC, GMBH, AG, or SA should be considered a Non-U.S. Person, even if that Supplier mistakenly completed a W-9 form.

Tax Treaty Countries

https://www.irs.gov/pub/irs-utl/Tax_Treaty_Table_2.pdf lists the countries having a tax treaty with the U.S. If there is no treaty, we must withhold 30%. Also, if there is no tax treaty, there is no point in having the payee complete either an 8233 or a W-8BEN.

Maximum Allowable Days in the U.S.

The tax treaty for each country determines the maximum allowable days an individual is allowed to be in the U.S. Usually, the maximum number of days allowed is 182 or 183. If the individual exceeds the maximum days allowed in the U.S., the treaty benefits do not apply and we must withhold 30%.

Payee Is An Individual

The purpose of this question is to determine the form required to be attached to qualify for exemption from withholding. For Non-U.S. Persons who are either individuals or non-individuals (corporations and other businesses), the taxable income would be reported on a 1042-S form, which also would reflect whether 30% was withheld for federal taxes.

8233

An individual would attach a Form 8233 to be exempted from withholding on payments for personal services (e.g., speaking fees or consulting fees).

W-8BEN

An individual would attach a Form W-8BEN to be exempted from withholding on other taxable payments (e.g., research participant payments, prizes, and awards).

W-8BEN-E

A non-individual (e.g., corporations and other businesses) would attach a Form W-8BEN-E to be exempted from withholding on taxable payments (e.g., services, royalties, and software licenses). In rare cases, a W-8ECI, W-8IMY, or W-8EXP might be required instead. See the top of Form W-8BEN-E for additional information on those exceptions.