

OPERATIONS Update

September 30, 2010

Enhanced Internal Revenue Service (IRS) W-8BEN Document for Nonresident Alien (NRA) Tax Withholding Adjustments

Effective January 1, 2011, requests to reverse or adjust nonresident alien tax withholding will be processed based on the signature date of the Internal Revenue Service (IRS) Form W-8BEN. Given this criteria, please note the following:

- Pershing will no longer be able to process any current year nonresident alien tax withholding reversal or adjustment requests that occur prior to the W-8BEN signature date, unless the enhanced W-8BEN form is used.
- Request that your client complete the enhanced W-8BEN form when documenting the account if the client was undocumented when income was paid to his/her account and his/her tax status remained unchanged during the current tax year
- The enhanced W-8BEN form being provided by Pershing contains the retroactive addendum language that is needed to verify that the client's tax status remained the same and was unchanged throughout the entire current tax year.
- The enhanced W-8BEN form includes an additional Affidavit of Unchanged Status, which states that, "Under penalties of perjury, I declare that I have examined and signed the attached Form W-8BEN and hereby confirm and certify that the information contained therein was true, correct and complete since this account has been established and remained the same and unchanged to date. I further understand that this certification will be used to determine the amount of U.S. tax to be withheld from payments made to me during this period."

NOTE: A dated signature and description of capacity in which the signatory is acting is required for BOTH the retroactive addendum language and "Under penalties of perjury" sections of the enhanced W-8BEN form.

The enhanced W-8BEN form, featuring the retroactive addendum language, is available in the Material Catalog located within the Resources tab of NetX360™ (choose Form from dropdown menu, then search for W-8BEN With Retroactive Addendum; see attached form sample). The enhanced W-8BEN form provided by Pershing should be used in situations where there is a need to validate requests to reverse or adjust tax withholding for the current tax year when that withholding precedes the W-8BEN signature date.

Benefits of the Enhanced W-8BEN Document

The enhanced W-8BEN form available through Pershing's Material Catalog offers:

- *Better coverage for your firm from an audit trail perspective*, since the updated form ensures that your office has possession of documentation from the account owner that covers the entire period of the tax-withholding adjustments being requested
- *Enhanced ability to reverse and/or adjust all current year tax withholding to the correct tax rate*
- *A single form that lets you certify your client's foreign status not only for the date signed, but for the entire current tax year as well*

OPERATIONS Update

Procedural Updates

- Request that your client complete the enhanced W-8BEN form when documenting the account if the client was undocumented when income was paid to his/her account and his/her tax status remained unchanged during the current tax year
- When a W-8BEN form with the retroactive addendum language is provided, you will need to update the retroactive addendum date in the effective date field (KUSB) within the Document Recording and Tracking System (KUST). The date entered cannot be earlier than January 1 of the current calendar year.
- When a W-8BEN form is received without the retroactive addendum language, Pershing can only reverse and/or adjust withholding based upon the W-8BEN signature date going forward. We will no longer be able to reverse withholding prior to the W-8BEN signature date without the retroactive addendum information.
- When a W-8BEN form is received with the retroactive addendum language, Pershing can reverse and/or adjust withholding based upon the W-8BEN effective date going forward.
- Requests to reverse and/or adjust withholding must be received no later than February 1 of the year following receipt of income.

Additional Information

Instructions for updating the retroactive addendum date via KUST are available in the KUST Participant Guide, which can be found in the Material Catalog, located within the Resources tab of NetX360. Additional Information regarding this enhancement can also be obtained by contacting the Credit Services Team at (888) 367-2563 or (201) 413-4200, option #2.

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

▶ Section references are to the Internal Revenue Code. ▶ See separate instructions.
▶ Give this form to the withholding agent or payer. Do not send to the IRS.



Do not use this form for:

- A U.S. citizen or other U.S. person, including a resident alien individual W-9
- A person claiming that income is effectively connected with the conduct of a trade or business in the United States W-8ECI
- A foreign partnership, a foreign simple trust, or a foreign grantor trust (see instructions for exceptions) W-8ECI or W-8IMY
- A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession that received effectively connected income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (see instructions) W-8ECI or W-8EXP

Note: These entities should use Form W-8BEN if they are claiming treaty benefits or are providing the form only to claim they are a foreign person exempt from backup withholding.

- A person acting as an intermediary W-8IMY

Note: See instructions for additional exceptions.

Instead, use Form:

Part I Identification of Beneficial Owner (See instructions.)

1 Name of individual or organization that is the beneficial owner		2 Country of incorporation or organization	
3 Type of beneficial owner: <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Disregarded entity <input type="checkbox"/> Partnership <input type="checkbox"/> Simple trust <input type="checkbox"/> Grantor trust <input type="checkbox"/> Complex trust <input type="checkbox"/> Estate <input type="checkbox"/> Government <input type="checkbox"/> International organization <input type="checkbox"/> Central bank of issue <input type="checkbox"/> Tax-exempt organization <input type="checkbox"/> Private foundation			
4 Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box or in-care-of address.			
City or town, state or province. Include postal code where appropriate.		Country (do not abbreviate)	
5 Mailing address (if different from above)			
City or town, state or province. Include postal code where appropriate.		Country (do not abbreviate)	
6 U.S. taxpayer identification number, if required (see instructions)		7 Foreign tax identifying number, if any (optional)	
<input type="checkbox"/> SSN or ITIN <input type="checkbox"/> EIN			
8 Reference number(s) (see instructions)			

Part II Claim of Tax Treaty Benefits (if applicable)

9 I certify that (check all that apply):

a The beneficial owner is a resident of within the meaning of the income tax treaty between the United States and that country.

b If required, the U.S. taxpayer identification number is stated on line 6 (see instructions).

c The beneficial owner is not an individual, derives the item (or items) of income for which the treaty benefits are claimed, and, if applicable, meets the requirements of the treaty provision dealing with limitation on benefits (see instructions).

d The beneficial owner is not an individual, is claiming treaty benefits for dividends received from a foreign corporation or interest from a U.S. trade or business of a foreign corporation, and meets qualified resident status (see instructions).

e The beneficial owner is related to the person obligated to pay the income within the meaning of section 267(b) or 707(b), and will file Form 8833 if the amount subject to withholding received during a calendar year exceeds, in the aggregate, \$500,000.

10 Special rates and conditions (if applicable—see instructions): The beneficial owner is claiming the provisions of Article of the treaty identified on line 9a above to claim a% rate of withholding on (specify type of income):

Explain the reasons the beneficial owner meets the terms of the treaty article:

Part III Notional Principal Contracts

11 I have provided or will provide a statement that identifies those notional principal contracts from which the income is **not** effectively connected with the conduct of a trade or business in the United States. I agree to update this statement as required.

Part IV Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- I am the beneficial owner (or am authorized to sign for the beneficial owner) of all the income to which this form relates,
- The beneficial owner is not a U.S. person,
- The income to which this form relates is (a) not effectively connected with the conduct of a trade or business in the United States, (b) effectively connected but is not subject to tax under an income tax treaty, or (c) the partner's share of a partnership's effectively connected income, **and**
- For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Sign Here ▶ _____
Signature of beneficial owner (or individual authorized to sign for beneficial owner) Date (MM-DD-YYYY) Capacity in which acting

AFFAVIT OF UNCHANGED STATUS. Under penalties of perjury, I declare that I have examined and signed the attached Form W-8BEN and hereby confirm and certify that the information contained therein was true, correct and complete since this account has been established and remained the same and unchanged to date. I further understand that this certification will be used to determine the amount of U.S. tax to be withheld from payments made to me during this period.

Sign Here ▶ _____
Signature of beneficial owner (or individual authorized to sign for beneficial owner) Date (MM-DD-YYYY) Capacity in which acting