

1990



Department of the Treasury
Internal Revenue Service

Instructions for Forms 1042 and 1042S

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

Paperwork Reduction Act Notice.—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us this 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 these forms will vary depending on individual circumstances. The estimated average times are:

Forms	1042	1042S
Recordkeeping . . .	5 hrs., 59 min.	4 hrs., 47 min.
Learning about the law or the form . . .	5 hrs., 42 min.	2 hrs., 10 min.
Preparing the form	7 hrs., 55 min.	3 hrs., 16 min.
Copying, assembling, and sending the form to IRS	32 min.	16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget, Paperwork Reduction Project (1545-0096)**, Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see the instructions below for information on where to file.

General Instructions

Item To Note

Publicly traded partnership distributions subject to section 1446 are now reported under new Income Code 27 instead of Income Code 25.

Purpose of Form

Use **Form 1042**, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, to report tax withheld on nonresident aliens, foreign partnerships, foreign corporations, and nonresident alien or foreign fiduciaries of an estate or trust, and to transmit any paper document **Forms 1042S**, Foreign Person's U.S. Source Income Subject to Withholding.

Who Must File

Every U.S. withholding agent who receives, controls, has custody, disposes of, or pays a fixed or determinable annual or periodic income, and certain Canadian withholding agents, must file an annual return for the preceding calendar year on Form 1042. The withholding agent must transmit with Form 1042 the information called for on Form 1042S.

Also file Form 1042 if you pay gross investment income to foreign private foundations that are subject to the tax under section 4948(a).

You must file Form 1042 whether or not any tax was withheld or was required to be withheld if you are required to file Form 1042S. Form 1042S must be filed to report all items of income described under **Income Subject to Withholding**, except income that is required to be reported on Form W-2.

Who is a Withholding Agent

Any person required to withhold the tax is a withholding agent. A withholding agent may be an individual, trust, estate, partnership, corporation, government agency, association, or tax-exempt foundation, whether domestic or foreign.

If you are a nominee, representative, fiduciary, or partnership in Canada and you receive dividends from sources in the United States for the account of any person who is not entitled to the reduced rate granted under the tax treaty between the United States and Canada, you are a withholding agent and you must withhold the additional tax due on the income. Send the additional U.S. tax withheld, in U.S. dollars, with Form 1042 to the Internal Revenue Service Center, Philadelphia, PA 19255, by March 15, 1991.

Income Subject to Withholding

Generally, fixed or determinable annual or periodic income from sources in the United States is subject to withholding. This includes interest, dividends, rents, salaries, wages, premiums, annuities, or other gains, profits, or income unless specifically exempted under the Internal Revenue Code or a tax treaty.

Payers of income are required to withhold and deduct a tax from the income at the rate in effect when the payment is made.

You do not have to withhold tax on any of the above income (other than compensation for personal services) if: (1) the income is effectively connected with the conduct of a trade or business in the United States; (2) the income is includible in the recipient's gross income for the tax year under section 871(b)(2), 842, or 882(a)(2); and (3) the recipient has filed **Form 4224**, Exemption From Withholding of Tax on Income Effectively Connected With the Conduct of a Trade or Business in the United States, or a written statement giving the same information shown on Form 4224.

The tax paid at the source upon tax-free covenant bond interest payable to a domestic or resident fiduciary and allocable to any nonresident alien beneficiary under section 652 or 662 is allowable, pro rata, as

a credit against the tax required to be withheld by the fiduciary from the income of the beneficiary.

Forms You Must Send With Form 1042

You must send Copy A of all paper document Forms 1042S when you file Form 1042 even if income is exempt from tax withholding. Also, see **Magnetic Tape Reporting** below.

Attach to Form 1042 a copy of Form 8233, or any other certificate, statement, letter, or form relating to exemption from withholding as described in Regulations section 1.1441-4. Also attach Forms W-8 or substitute statements received from beneficial owners of interest on registered obligations not targeted to foreign markets. **Note: Form 1001, Ownership, Exemption, or Reduced Rate Certificate, and Form 4224, Exemption From Withholding of Tax on Income Effectively Connected With the Conduct of Trade or Business in the United States, are no longer required to be attached to Form 1042 or Form 1042S.**

Where and When To File

File Form 1042 and any paper document Forms 1042S, along with other required forms and attachments, with the Internal Revenue Service Center, Philadelphia, PA 19255, by March 15, 1991. You are also required to furnish Form 1042S to the recipient of the income.

If you need more time, you may file **Form 2758, Application for Extension of Time to File Certain Excise, Income, Information, and Other Returns**, to request an extension of time to file Forms 1042 and 1042S. However, Form 2758 does not extend the time for payment of tax.

Magnetic Tape Reporting

Generally, you must use magnetic tape to file 250 or more Forms 1042S.

A. Standard mail shipments should be addressed to:

Internal Revenue Service
Martinsburg Computing Center
Magnetic Media Reporting
P.O. Box 1359
Martinsburg, WV 25401-1359

B. Shipments by land carriers (UPS, for example) should be addressed to:

Internal Revenue Service
Martinsburg Computing Center
Magnetic Media Reporting
Route 9 - Needy Road
Martinsburg, WV 25401

Note on the address side of the shipment:
"EXPEDITE FORM 1042S STATEMENTS
ON MAGNETIC TAPE, DELIVER UNOPENED
TO TAPE LIBRARY."

Magnetic tape reporting to IRS for Forms 1042S must be on a calendar year basis. The dates prescribed for filing paper documents with IRS also apply to magnetic tape filing. Files must be submitted to the Martinsburg Computing Center by March 15.

See **Pub. 1187** for requirements and conditions for filing Forms 1042S on magnetic tape. You may also contact Martinsburg Computing Center by telephone at (304) 263-8700, for more information.

Income Exempt From Withholding

Interest on Deposits.—No withholding (or reporting) is required on interest paid on deposits to nonresident aliens, foreign partnerships, or foreign corporations if such interest is not effectively connected with the conduct of a trade or business in the United States. For this purpose the term "deposits" means amounts which are on deposit with a U.S. bank, savings and loan association, or similar institution, and from certain deposits with an insurance company.

Form 8233, Exemption From Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual, can be used by nonresident alien students, teachers, and researchers to claim exemption from withholding on compensation for services that are exempt from taxation under a U.S. tax treaty. Students must provide the information required by Revenue Procedure 87-8, 1987-1 C.B. 366. Teachers and researchers must provide the information required by Revenue Procedure 87-9, 1987-1 C.B. 368. All these individuals must also provide the information required by Form 8233, disregarding references to independent personal services, and then submit the form to their withholding agent.

Portfolio Interest.—Generally, for obligations issued after July 18, 1984, no withholding is required on interest paid on portfolio debt investments to nonresident aliens, foreign partnerships, or foreign corporations.

● For interest on a **registered obligation not targeted to foreign markets** to qualify as portfolio interest and not be subject to 30% withholding, you must receive from the beneficial owner of the obligation a **Form W-8, Certificate of Foreign Status,** or a substitute statement; or you must receive a statement from a securities clearing organization, bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business that the institution has received a **Form W-8** or substitute form. A copy of **Form W-8** or substitute must be attached to the statement.

Even though the portfolio interest is not subject to 30% withholding, you must prepare a **Form 1042S** (or magnetic tape report) to report the interest payment. Attach the **Form W-8** or the substitute you received to **Form 1042**.

● You may treat interest on a **registered obligation that is targeted to foreign markets** as portfolio interest if you do not have actual knowledge that the beneficial owner is a U.S. person and you receive the required certification from a payee that is a financial institution or a member of a clearing organization. (See Temporary

Regulations section 35a.9999-5, A-12, A-14, and A-15.) You must receive a **Form W-8** or substitute form if you pay interest to a beneficial owner that is not a financial institution or a member of a clearing organization. However, a U.S. withholding agent that is a foreign branch of a U.S. financial institution is not required to receive a **Form W-8** if the beneficial owner provides the withholding agent with documentary evidence that the beneficial owner is not a U.S. person. Do not file **Form 1042S** to report interest not subject to withholding on registered obligations targeted to foreign markets when a **Form W-8** is not required.

● You need not receive **Form W-8** or substitute for **bearer obligations targeted to foreign markets.** Treat the interest on a bearer obligation as portfolio interest not subject to 30% withholding if the obligation is considered targeted to foreign markets. Do not file **Form 1042S** to report interest not subject to withholding on bearer obligations when a **Form W-8** is not required.

Additional Information.—For more information, see **Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Corporations.**

Withholding Upon Dispositions of U.S. Real Property Interests by Publicly Traded Trusts and Real Estate Investment Trusts (REITs)

Temporary Regulations section 1.1445-8T provides rules for withholding required upon the disposition of a U.S. real property interest by a publicly traded trust or a REIT. The special rules of Temporary Regulations section 1.1445-8T only apply to distributions by a publicly traded trust or a REIT.

In general, when a publicly traded trust or a REIT makes a distribution to a foreign person attributable to the disposition of a U.S. real property interest, it must withhold tax under section 1445. However, this withholding liability is shifted to the person that pays the distribution to a foreign person (or to the account of the foreign person) if the special notice requirement of Temporary Regulations section 1.1445-8T(f) and other requirements of Temporary Regulations section 1.1445-8T(b)(1) are satisfied.

The amount subject to withholding for a distribution by a publicly traded trust is determined under the large trust rules of Regulations section 1.1445-5(c)(3). The amount subject to withholding for a distribution by a REIT generally is the amount of each share or beneficial interest designated by the REIT as a capital gain dividend multiplied by the number of shares or certificates of beneficial interests owned by a foreign person. If the withholding liability is shifted to the payer of the distribution under Temporary Regulations section 1.1445-8T(b), the payer will receive notice as described in Temporary Regulations section 1.1445-8T(f) of the amount of the distribution subject to withholding.

The rate of withholding is as follows: (1) distribution by a publicly traded trust that makes recurring sales of growing crops and timber, 10%; (2) distribution by a publicly traded trust not described in (1) above, 34%; (3) distribution by a REIT 34%.

To determine whether an interest holder is a foreign person, see Temporary Regulations section 1.1445-8T(e).

Use Forms 1042 and 1042S to report and pay over the withheld amounts. All other withholding required under section 1445 is reported and paid over using **Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests,** and **Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests.**

The rules of Regulations section 1.1461-4 control the timing and manner of obtaining refunds of overwithheld amounts. Thus, the early refund procedure in Regulations section 1.1445-6(g) does not apply to persons whose payments were withheld under Temporary Regulations section 1.1445-8T.

Publicly Traded Partnerships (Section 1446 Withholding Tax)

1. In general.—The term "publicly traded partnership" means any partnership in which interests are regularly traded on an established securities market (regardless of the number of its partners). However it does not include a publicly traded partnership treated as a corporation under the general rule of section 7704(a).

A publicly traded partnership that has effectively connected income, gain or loss, must pay a withholding tax under section 1446 from distributions to a foreign partner, unless an election is made to pay a withholding tax based on effectively connected taxable income allocable to foreign partners. The amount of the withholding tax on distributions is 28% of any distributions not excluded under these instructions that are made during any partnership tax year. Publicly traded partnerships that withhold on distributions as described in these instructions use Forms 1042 and 1042S to pay over and report any section 1446 withholding tax. See Rev. Proc. 89-31, 1989-1 C.B. 895, for more information.

2. Election to withhold based on effectively connected taxable income allocable to foreign partners instead of withholding on distributions.—A publicly traded partnership will not be required to withhold on distributions under the rules of these instructions if it elects instead to pay section 1446 withholding tax based on the effectively connected taxable income allocable to foreign partners. For information on this election, see the Instructions for Forms 8804, 8805, and 8813.

3. Definition of effectively connected taxable income.—**In general.** The term "effectively connected taxable income" means the excess of the gross income of the partnership that is effectively connected or treated as effectively connected with the conduct of a trade or business in the United States, over the allowable deductions that are connected to such income.

4. Time and manner of payment.—The withholding tax under section 1446 to be paid from distributions by a publicly traded partnership, must be paid according to the rules and procedures of section 1461, its regulations, and Regulations section 1.6302-2.

5. Determining foreign status of partners.— In general. A partnership must determine whether any partner is a foreign person subject to section 1446. For purposes of section 1446, a foreign person is a nonresident alien individual, foreign corporation, foreign partnership, or foreign trust or estate. A partnership may determine a partner's status by relying on a certification of non-foreign status.

No particular form is required for a certification of non-foreign status, nor is any particular wording required. However, the certification must:

1. state that the partner is not a foreign person,
2. state the partner's name, U.S. taxpayer identifying number, and home address (for individuals) or office address (for entities),
3. state that the partner will notify the partnership within 60 days of a change to foreign status, and
4. be signed under penalties of perjury.

In addition to a certification of non-foreign status described above, a publicly traded partnership that wants to determine whether any of its partners are foreign persons may rely on the information provided on Form 1001, Ownership, Exemption, or Reduced Rate Certificate; Form W-8, or Form W-9, Request for Taxpayer Identification Number and Certification. In addition, the partnership may rely on a certification signed under penalties of perjury from a nominee about the non-foreign status of partners who own partnership interests through that nominee.

No particular form is required from a nominee, but the certification should identify the partner and indicate the basis for the certification. When making a certification, a nominee may also rely on a certification of non-foreign status provided by a foreign partner, or may rely on information provided to it on Form 1001, Form W-8, or Form W-9 in determining whether a partner is a foreign person. Neither a partnership nor a nominee may directly or indirectly rely on information on a Form 1001, Form W-8, or Form W-9 after the date that such a form must be reexecuted, nor on a certification of non-foreign status based on an election under section 897(i).

A publicly traded partnership that is permitted to rely on a certification of non-foreign status or the alternative forms of information (Form 1001, W-8, or W-9) in determining non-foreign status, and that relies in good faith on any of those will not be subject to the liability for failure to withhold under section 1446. However, a partnership that has actual knowledge of the falsity of any information relied on may not rely on that information any time after obtaining that knowledge, and the partnership will be liable under section 1461 for any failure to withhold tax as of the time it obtained that knowledge. The partnership must retain the documentation used to determine the non-foreign status of a partner until the end of the 5th tax year following the last tax year in which the partnership properly relied on that documentation as provided in these instructions.

A publicly traded partnership is not required to obtain a certification of

non-foreign status, nor, the approved alternate forms of information. It can rely on other means to learn the non-foreign status of the partner. But if the partnership relies on other means and erroneously determines that the partner was not a foreign person, the partnership is subject to the penalty for failure to withhold and pay over tax under section 1446. A partnership is not required to rely on other means to determine the non-foreign status of a partner and may demand a certification of non-foreign status. If a certification is not provided, the partnership may withhold tax under section 1446 and will be considered, according to sections 1461 through 1463, required to withhold such tax.

6. Distributions subject to withholding.—

A. In general. Except as stated here, a publicly traded partnership must withhold tax in an amount equal to 28% of any actual distributions to a foreign partner. The amount of a distribution subject to section 1446 withholding includes the amount of any section 1446 tax required to be withheld and, in the case of a partnership that receives a partnership distribution from another partnership (a "tiered" structure described in Instruction 7, below), section 1446 tax that was withheld from such distribution.

For example, foreign publicly traded partnership A owns an interest in domestic publicly traded partnership B. Partnership B makes a section 1446 distribution of \$100 to partnership A and withholds 28% of that distribution under section 1446. Partnership A receives a net distribution of \$72, which it immediately redistributes to its partners. Upon making an actual distribution of \$72, Partnership A is deemed to have also made a distribution of \$100 to its partners for purposes of section 1446, consisting of \$72 in cash and a \$28 deemed distribution in the form of tax payments on behalf of all its (U.S. and foreign) partners. Partnership A has a liability to pay 28% of the total actual and deemed distributions to its foreign partners as a section 1446 withholding tax. Partnership A may credit the \$28 withheld by Partnership B against this liability. In addition, Partnership A's (U.S. and foreign) partners may claim a credit against their U.S. income tax liability for their allocable share of this \$28 section 1446 tax paid on their behalf.

If a distribution is made with property other than money, the partnership may not release the property until it has funds sufficient to enable it to pay over in money the tax required to be withheld under section 1446(a) on the entire amount of the section 1446 distribution to the foreign partner.

B. Excluded amounts. Distributions from partnerships are deemed to be paid first out of the following types of income in the order indicated, and are excluded from the term "section 1446 distribution" to that extent:

(1) Amounts attributable to non-effectively connected income distributed by a partnership that have been or are subject to the withholding requirements of section 1441 or 1442 (regardless of whether any amount was or is required to be withheld because of a treaty or statutory exemption);

(2) Amounts attributable to recurring dispositions of crops and timber that are

subject to withholding under Regulations section 1.1445-5(c)(3)(iv), which continue to be subject to the rules of Regulations section 1.1445-5(c)(3); and

(3) Amounts subject to withholding by the partnership in the manner required by Regulations section 1.1445-5(c)(1) on the partnership's disposition of a U.S. real property interest.

C. Coordination with section 1445. A publicly traded partnership that complies with the requirements of withholding under section 1446 and these instructions is deemed to have satisfied the requirements of section 1445(e)(1) and its regulations. Regardless of Instruction 6B above, section 1446 distributions subject to withholding at the 28% rate include:

(1) The fair market value of a U.S. real property interest distributed to a partner and potentially subject to withholding under section 1445(e)(4);

(2) Amounts subject to withholding under section 1445(e)(1) on distributions pursuant to an election under Regulations section 1.1445-5(c)(3); and

(3) Amounts not subject to withholding under section 1445 because the distributee is a partnership or is a foreign corporation that has made an election under section 897(i).

7. Tiered partnerships.—The term "tiered partnership" describes the situation in which a partnership owns an interest in another partnership (the latter is a "subsidiary partnership"). A partnership that directly or indirectly owns a partnership interest in a subsidiary partnership will be allowed a credit against its own section 1446 liability for any section 1446 tax paid by the subsidiary partnership for that partnership's interest.

8. Reporting requirements.—A publicly traded partnership is required to notify its partners of the amount of section 1446 tax withheld after each distribution, and give the partner Form 1042S as required by Regulations section 1.1461-2.

Income Tax Withholding on Wages, Pensions, Annuities, and Certain Other Deferred Income

Use Form 941, Employer's Quarterly Federal Tax Return, to report income tax withheld under section 3402 from wages paid to a nonresident alien employee. Also use Form 941 (or Form 941E, Quarterly Return of Withheld Federal Income Tax and Hospital Insurance (Medicare) Tax) to report income tax withheld under section 3405 from pensions, annuities and certain other deferred income paid to a nonresident alien individual. However, if an election of no withholding under section 3405(a)(2) or (b)(3) is in effect, such payments are subject to withholding under section 1441 and the tax withheld is to be reported using Forms 1042 and 1042S.

Tax Treaties

Residents of certain foreign countries may be entitled to reduced rates of, or exemptions from, tax under an applicable tax treaty between the country of which they are residents and the United States. See Pub. 515 for the procedures recipients must follow to establish that they qualify for a reduced rate of tax, or an exemption from tax.

Deposit Requirements

Generally, you must deposit the tax withheld and required to be shown on Form 1042 with an authorized financial institution or a Federal Reserve bank or branch using a Federal Tax Deposit Coupon (Form 8109) from the coupon book that IRS sent you. Please do not use anyone else's coupons. If you do not have your coupons when a deposit is due, contact your IRS district office. To avoid a penalty, do not mail your deposits directly to the IRS. The following rules explain how often you must make deposits.

Note: If you are requesting an extension of time to file using Form 2758, follow these rules to see if you must make a deposit of any balance due or if you can pay it with Form 2758.

1. If at the end of any quarter-monthly period the total amount of undeposited taxes is \$2,000 or more, you must deposit the taxes within 3 banking days after the end of the quarter-monthly period. (A quarter-monthly period ends on the 7th, 15th, 22nd, and last day of the month.) To determine banking days, do not count any local holidays observed by authorized financial institutions, as well as Saturdays, Sundays, and legal holidays. The deposit requirements are considered met: (1) if you deposit at least 90% of the actual tax liability for the deposit period, and (2) if the quarter-monthly period is in a month other than December, you deposit any underpayment with your first deposit that is required to be made after the 15th day of the following month. Any underpayment of \$200 or more for a quarter-monthly period ending in December must be deposited by January 31.

2. If at the end of any month the total amount of undeposited taxes is \$200 or more but less than \$2,000, you must deposit the taxes by the 15th day of the following month.

Exception to Rule 2.—If you made a deposit of \$2,000 or more during the month (except December) under rule 1 above, carry over any balance of less than \$2,000 to the next month. If you made a deposit of \$2,000 or more during December, any balance of less than \$2,000 should be paid directly to IRS along with your Form 1042 by March 15, 1991.

3. If at the end of the year the total amount of undeposited taxes is less than \$200, you may either pay the taxes directly to IRS along with your Form 1042 or deposit them by March 15, 1991.

If you are requesting an extension of time to file using Form 2758, you can either pay the taxes directly to IRS with Form 2758, or deposit them by March 15, 1991.

Completing Form 8109, Federal Tax Deposit Coupon.—In most cases, you will fill out a deposit coupon following the instructions in **How to determine the proper tax period** in the coupon book. However, if a deposit liability arises from a distribution reportable on Form 1042 for the prior year, darken the 4th quarter box on Form 8109. If the distribution is reportable for the current year, darken the 1st quarter box. In all cases, follow the coupon book instructions for completing the rest of the deposit coupon.

Deposits Made By Foreign

Corporations.—Fill in a preinscribed Federal Tax Deposit Coupon showing the "Amount of Deposit" in U.S. dollars. Mail the completed coupon with a bank draft in U.S. dollars to:

Federal Reserve Bank of Philadelphia
P.O. Box 66
Philadelphia, PA 19105-USA
Attn: Treasury Tax and Loan Unit

Interest and Penalties

Interest and penalties are described below. If you file Form 1042 or Forms 1042S late, fail to furnish correct Forms 1042S, or fail to pay or deposit the tax when due, you may be liable for penalties and interest unless you can show that failure to file or pay was due to reasonable cause and not willful neglect.

1. Interest.—Interest is charged on taxes not paid by the due date, even if an extension of time to file is granted. Interest is also charged on penalties imposed for failure to file, negligence, fraud, and substantial understatements of tax from the due date (including extensions) to the date of payment. The interest charge is figured at a rate determined under section 6621.

2. Late filing of Form 1042.—The penalty for not filing Form 1042 when due (including extensions) is usually 5% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax.

3. Late filing of correct Form 1042S.—A penalty may be imposed for failure to file each Form 1042S when due (including extensions). The penalty may also be imposed for failure to include all required information on Form 1042S or if you furnish incorrect information. The penalty is based on when you file a correct Form 1042S. The penalty is:

- \$15 per Form 1042S if you correctly file within 30 days; maximum penalty \$75,000 per year (\$25,000 for a small business). A "small business" has average annual gross receipts of \$5 million or less for the most recent 3 tax years (or for the period of its existence, if shorter) ending before the calendar year in which the Forms 1042S were due.

- \$30 per Form 1042S if you correctly file more than 30 days after the due date but by August 1, maximum penalty \$150,000 per year (\$50,000 for a small business).

- \$50 per Form 1042S if you file after August 1 or you do not file correct Forms 1042S; maximum penalty \$250,000 per year (\$100,000 for a small business).

If you intentionally disregard the requirement to report correct information, the penalty per Form 1042S is increased to \$100 or, if greater, 10% of the aggregate amount of items required to be reported, with no maximum penalty.

See section 6721(c) for an exception to the penalty for de minimus failures to include all required information for which corrections of Forms 1042S are filed by August 1. For more information, see sections 6721 and 6724.

4. Failure to furnish correct Form 1042S.—A penalty of \$50 may be imposed for each failure to furnish Form 1042S to the recipient when due. The penalty may also be imposed for each failure to give the

recipient all required information on each Form 1042S or if you furnish incorrect information. The maximum penalty is \$100,000 for all failures to furnish correct payee statements during a calendar year. If you intentionally disregard the requirement to report correct information, each \$50 penalty is increased to \$100 or, if greater, 10% of the aggregate amount of items required to be reported, and the \$100,000 maximum does not apply. See sections 6722 and 6724 for more information.

5. Late payment of tax.—The penalty for not paying tax when due is usually ½ of 1% of the unpaid tax, for each month or part of a month the tax is unpaid. The penalty cannot exceed 25% of the unpaid tax.

6. Failure to deposit tax when due.—The penalty for failure to deposit tax when due is 2% for deposits not more than 5 days late, 5% for deposits more than 5 days late but not more than 15 days late, and 10% for deposits more than 15 days late. The penalty is increased to 15% if the tax is not deposited within 10 days after the date of the first delinquency notice sent to the taxpayer.

7. Failure to withhold and pay over tax.—Any person required to withhold, account for, and pay over withholding tax, but who fails to do so, may be subject to a civil penalty under section 6672 equal to the amount that should have been withheld and paid over.

8. Other penalties.—There are also penalties that can be imposed for negligence, substantial understatement of tax, and fraud. See sections 6662 and 6663.

Specific Instructions for Withholding Agents

Form 1042

Note: If you are a withholding agent for many clients, you must make required Federal Tax Deposits (FTDs) and file only one Form 1042 (consolidating all Forms 1042S recipient information), using your name, address, and employer identification number (EIN), regardless of the number of different clients, branches, divisions, or types of income for which you are the withholding agent.

Address.—Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and you have a P. O. box, show the P.O. box number instead of the street address.

Line 63.—The amount on line 63a should equal the sum of all Forms 1042S, line 3, column (b), plus the amount shown on Forms 1000. If during 1990 you withheld more tax than required, you may release it to the recipient any time before you file Form 1042 for the year. In this case, enter in column (g) of Form 1042S the tax withheld less any tax released. The amount on line 63b should equal the sum of all Forms 1042S, line 3, column (g), plus the tax assumed from Forms 1000. If it does not, attach a statement explaining the difference.

To determine tax withheld on remuneration for labor or personal services that a nonresident alien performs in the United States, a deduction for personal exemptions, to the extent allowed by

section 873(b)(3), is allowed prorated on the basis of \$5.62 a day for 1990 for each exemption for the period in which the alien performs the services in the United States. Attach a statement to Form 1042 explaining the amount of compensation for labor or personal services in the United States and the amount of exemptions prorated. For more information, see Pub. 515.

Lines 68 and 69.—You may claim an overpayment shown on line 68 as a refund or a credit. Check either box on line 69 to show which you are claiming. If you claim a credit, it can reduce your required deposits of withheld tax for 1991.

Form 1042S

Complete Form 1042S to report income subject to withholding under section 1441 or 1442 of the Internal Revenue Code (and Temporary Regulations section 1.1445-8T) paid to nonresident aliens, foreign partnerships, foreign corporations, or a nonresident alien or foreign fiduciary of an estate or trust. Form 1042S is also used by publicly traded partnerships who must pay a tax under section 1446 by withholding from distributions to foreign partners. File Copy A with the Internal Revenue Service. Copies B, C, and D are for the recipient, and Copy E is for your records.

You must file a Form 1042S even if: (1) you did not withhold tax because the income was exempt from tax under a U.S.

tax treaty or the Code, including the exemption for income effectively connected with conducting a trade or business in the United States; or (2) you released the tax withheld to the recipient.

Alien Entertainers, Athletes, etc.—Nonresident alien entertainers, athletes, and similar individuals subject to U.S. income tax withholding on account of performances or participation in athletic events in the United States can request central withholding agreements and qualify for reduced rates of withholding. For more information, see Pub. 515.

Completing Form 1042S.—Be sure to enter the correct income code, exemption code, country code, country name, and recipient code on Form 1042S. These items determine the correct rate of tax to be applied to the gross amount of income paid. The recipient's country of residence for tax purposes (the country in which the recipient is resident for that country's tax laws which entitles the recipient to the benefits of that country's tax treaty) is extremely important to reconcile the tax per return for administrative purposes and to identify the information required to be furnished to a foreign government under a mutual exchange of information agreement provided under the treaty. The country shown in Box 8 may be different from the country shown in the address in Box 7.

The income codes, exemption codes, and recipient codes are listed on the back of Copy C and below. The country code for the country of which the recipient is a resident for tax purposes is listed on page 6 of these instructions.

Note: When reporting gambling winnings use Income Code 28. If the official Form 1042S is used to report gambling winnings during 1991, cross out 1990 and insert 1991.

You must obtain and enter a taxpayer identification number for (1) any citizen or resident of the United States, and (2) any recipient whose income is effectively connected with the conduct of a trade or business in the United States (in which case Exemption Code 1 should be entered in column (f)), and (3) any nonresident alien individuals claiming exemption from withholding on compensation for independent personal services (in which case Exemption Code 4 should be entered in column (f)).

In column (g) enter any withheld tax minus any tax that has been released (repaid) to the recipient. At your option, you may use line 6 to enter the recipient's account number assigned by you.

Caution: Be sure to reconcile amounts on Forms 1042S and magnetic tape files with amounts on Form 1042, to avoid unnecessary correspondence with IRS.

Column (a).—Enter the appropriate income code.

Code	Type of 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 (U.S. Agents)
05	Interest on tax-free covenant bonds
06	Dividends paid by U.S. corporations—general
07	Dividends paid by U.S. subsidiaries to foreign parent corporations
08	Dividends paid by foreign corporations
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*
17	Compensation for dependent personal services*
18	Compensation for teaching*
19	Compensation during training*
20	Earnings as an artist or athlete
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
50	Other income (specify)

*If compensations covered under Income Codes 16-19 are directly attributable to the recipient's occupation as an artist or athlete, Income Code 20 should be used. Also, wherever appropriate, Recipient Code 09 should be used instead of Recipient Code 01 (individual), 02 (corporation), or 03 (partnership).

Column (f).—If the tax rate entered in column (e) is 0%, enter the appropriate exemption code.

Code	Authority for Exemption
1	Income effectively connected with a U.S. trade or business (copy of Form 4224 attached)
2	Exempt under the Internal Revenue Code (specify IRC section
3	Income is not from U.S. sources
4	Exempt under tax treaty

Line 4.— Enter the appropriate recipient code.

Code	Type of Recipient
01	Individual*
02	Corporation*
03	Partnership*
04	Fiduciary
05	Nominee
06	Government or International Organization
07	"Tax-Exempt" Organization (IRC section 501(a))
08	Private Foundation
09	Artist or athlete
19	Other (specify)
20	Type of recipient unknown

Country Codes

Enter in column (h) the code, from the list below, for the country of which the recipient is a resident for tax purposes. These codes are used by IRS to provide information to all tax treaty countries for purposes of their tax administration. Generally, the recipient's country for both tax and mailing purposes will be the same. In some cases, however, two different countries are involved.

Country	Code	Country	Code	Country	Code
Afghanistan	AF	French Guiana	FG	New Zealand	NZ
Albania	AL	French Polynesia	FP	Nicaragua	NU
Algeria	AG	French Southern and Antarctic Lands	FS	Niger	NG
American Samoa	AQ	Gabon	GB	Nigeria	NI
Andorra	AN	Gambia, The	GA	Niue	NE
Angola	AO	Gaza Strip	GZ	Norfolk Island	NF
Anguilla	AV	Germany	GM	Northern Ireland	UK
Antarctica	AY	Ghana	GH	Northern Mariana Islands	CQ
Antigua and Barbuda	AC	Gibraltar	GI	Norway	NO
Argentina	AR	Glorious Islands	GO	Oman	MU
Aruba	AA	Greece	GR	Pakistan	PK
Ashmore and Cartier Islands	AT	Greenland	GL	Palmyra Atoll	LQ
Australia	AS	Grenada	GJ	Panama	PM
Austria	AU	Guadeloupe	GP	Papua New Guinea	PP
Azores	PO	Guam	GQ	Paracel Islands	PF
Bahamas, The	BF	Guatemala	GT	Paraguay	PA
Bahrain	BA	Guernsey	GK	Peru	PE
Baker Island	FO	Guinea	GV	Philippines	RP
Bangladesh	BG	Guinea-Bissau	PU	Pitcairn Islands	PC
Barbados	BB	Guyana	GY	Poland	PL
Bassas da India	BS	Haiti	HA	Portugal	PO
Belgium	BE	Heard Island and McDonald Islands	HM	Puerto Rico	PQ
Belize	BH	Honduras	HO	Qatar	QA
Benin	BN	Hong Kong	HK	Reunion	RE
Bermuda	BD	Howland Island	HQ	Romania	RO
Bhutan	BT	Hungary	HU	Rwanda	RW
Bolivia	BL	Iceland	IC	St. Kitts and Nevis	SC
Botswana	BC	India	IN	St. Helena	SH
Bouvet Island	BV	Indonesia	ID	St. Lucia	ST
Brazil	BR	Iran	IR	St. Pierre and Miquelon	SB
British Indian Ocean Territory	IO	Iraq	IZ	St. Vincent and the Grenadines	VC
Brunei	BX	Iraq-Saudi Arabia Neutral Zone	IY	San Marino	SM
Bulgaria	BU	Ireland	EI	Sao Tome and Principe	TP
Burkina	UV	Isle of Man	IM	Saudi Arabia	SA
Burma	BM	Israel	IS	Senegal	SE
Burundi	BY	Italy	IT	Seychelles	SE
Cambodia	CB	Ivory Coast	IV	Sierra Leone	SL
Cameroon	CM	Jamaica	JM	Singapore	SN
Canada	CA	Jan Mayen	JN	Solomon Islands	BP
Canary Islands	SP	Japan	JA	Somalia	SO
Cape Verde	CV	Jersey	JE	South Africa	SF
Cayman Islands	CJ	Johnston Atoll	JQ	Spain	SP
Central African Republic	CT	Jordan	JO	Spraty Islands	PG
Chad	CD	Juan de Nova Island	JU	Sri Lanka	CE
Chile	CI	Kenya	KE	Sudan	SU
China, People's Republic of	CH	Kingman Reef	KQ	Suriname	NS
Christmas Island (Indian Ocean)	KT	Kiribati	KR	Svalbard	SV
Christmas Island (Pacific Ocean)	KR	Korea, Democratic People's Republic of (North)	KN	Swaziland	WZ
Clipperton Island	IP	Korea, Republic of (South)	KS	Sweden	SW
Cocos (Keeling) Islands	CK	Kuwait	KU	Switzerland	SZ
Colombia	CO	Laos	LA	Syria	SY
Comoros	CM	Lebanon	LE	Taiwan	TW
Congo	CF	Lesotho	LT	Tanzania, United Republic of	TZ
Cook Islands	CW	Liberia	LI	Thailand	TH
Coral Sea Islands Territory	CR	Libya	LY	Togo	TO
Costa Rica	CS	Liechtenstein	LS	Tokelau	TL
Cuba	CU	Luxembourg	LU	Tonga	TN
Cyprus	CY	Macau	MC	Trinidad and Tobago	TD
Czechoslovakia	CZ	Madagascar	MA	Tromelin Island	TE
Denmark	DA	Malawi	MI	Trust Territory of the Pacific Islands	PS
Djibouti	DJ	Malaysia	MY	Tunisia	TS
Dominica	DO	Maldives	MV	Turkey	TU
Dominican Republic	DR	Mali	ML	Turks and Caicos Islands	TK
Ecuador	EC	Malta	MT	Tuvalu	TV
Egypt	EG	Marshall Islands	RM	Uganda	UG
El Salvador	ES	Martinique	MB	Union of Soviet Socialist Republics	UR
Equatorial Guinea	EK	Mauritania	MR	United Arab Emirates	TC
Ethiopia	ET	Mauritius	MP	United Kingdom	UK
Europa Island	EU	Mayotte	MF	Uruguay	UY
Falkland Islands (Isias Malvinas)	FA	Mexico	MX	Vanuatu	NH
Faroe Islands	FO	Micronesia, Federated States of	FM	Vatican City	VT
Fiji	FJ	Midway Islands	MQ	Venezuela	VE
Finland	FI	Monaco	MO	Vietnam	VM
France	FR	Mongolia	MN	Virgin Islands (British)	VI
		Montserrat	MG	Virgin Islands (U.S.)	VO
		Morocco	MH	Wake Island	WQ
		Mozambique	MO	Wallis and Futuna	WF
		Namibia	MZ	West Bank	WE
		Nauru	WA	Western Sahara	WS
		Navassa Island	NR	Western Samoa	WI
		Nepal	BO	Yemen	YM
		Netherlands	NP	Yugoslavia	YO
		Netherlands Antilles	NL	Zaire	CG
		New Caledonia	NA	Zambia	ZA
			NC	Zimbabwe	ZI
				Other Countries	OC