



Instructions for Emory Short-Form Form W-8BEN-E
(Revised December 2022)

**Certificate of Status of Beneficial Owner for
United States Tax Withholding and Reporting (Entities)—Substitute Form**

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

Part I – Identification of Beneficial Owner

Line 1. Enter the entity's name. If the entity is a disregarded entity or branch, do not enter the business name of the disregarded entity ("DRE") or branch here. Instead, enter the legal name of the entity that owns the disregarded entity (looking through multiple disregarded entities if applicable) or maintains the branch. Indicate the name of the DRE on Line 3 to inform Emory University that this form relates to the DRE. If the entity is a disregarded entity that is a hybrid entity filing a treaty claim, however, see Hybrid entities under Special Instructions, later.

Line 2. If the entity is a corporation, enter the country of incorporation. If the entity is another type of entity, enter the country under whose laws it was created, organized, or governed.

Line 3. If the entity is a disregarded entity receiving a payment, enter its name here. This line may be used to inform the withholding agent that the payment being made should be made or credited in the name of the disregarded entity (rather than the foreign single owner).

Line 4. Check the one box that applies. By checking a box, the entity is representing that it qualifies for the classification indicated. The entity must check the box that represents its classification (for example, corporation, complex trust, estate, etc.) under U.S. tax principles (not under the law of the treaty country or its home jurisdiction).

If the entity is a partnership, simple trust, or grantor trust, please contact the Emory University Nonresident Tax office at nonresident.tax@emory.edu

Line 5. Enter the permanent residence address of the entity identified in line 1. An entity's permanent residence address is generally the country in which it is a resident for income tax purposes. If an entity is providing Form W-8BEN-E to claim a reduced rate of, or exemption from, withholding under an income tax treaty, the entity must determine residency in the manner required by the treaty.

Please do not provide any of the following as a substitute for the entity's permanent residence address:

- The address of a financial institution (unless the entity is a financial institution providing its own address);



- A post office box or “in-care-of” address (unless it is the only address used by the entity and the address appears in the entity’s organizational documents (i.e., its registered address)).

If the entity does not have a tax residence in any country, the permanent residence address is where it maintains its principal office.

If the entity’s permanent residence address is a **U.S. address**, you will need to provide additional documentation to support your claim that you are a non-U.S. person. Please consult your personal tax advisor if you have any questions regarding your specific circumstances.

Line 6. Enter the entity’s mailing address only if it is different from the address shown on line 5. If the entity’s mailing address is an address in the US, you will need to provide additional documentation to support your claim that you are a non-U.S. person. Please consult your personal tax advisor if you have any questions regarding your specific circumstances.

Line 7. Enter the entity’s U.S. employer identification number (“EIN”) if it has one. An EIN is a U.S. taxpayer identification number (“TIN”) for entities. If you do not have a U.S. EIN (and are required to obtain one), you can apply for one on Form SS-4, *Application for Employer Identification Number*. You must provide a U.S. TIN if you are claiming benefits under an income tax treaty and do not provide a foreign TIN on line 8.

Line 8. If the entity’s country of residence for tax purposes has issued it a tax identifying number (“TIN”), enter it here. The entity must provide a foreign TIN if it is claiming benefits under an income tax treaty and does not provide a U.S. TIN on line 7.

Line 9. This line may be used by either the entity or the withholding agent (i.e., Emory University) to include any referencing information that may be useful when documenting the entity’s status. For example, an entity may want to use line 9 to include the number of the account, invoice, purchase order number, etc. for which it is providing the form. A foreign single owner of a DRE may use line 9 (instead of Line 3) to inform the withholding agent that the account, invoice, etc. to which a payment is made or credited is held in the name of the disregarded entity.

Part II – Claim of Tax Treaty Benefits

Note: This section should only be completed if you are entitled to an exemption or reduced rate of withholding under the terms of an income tax treaty between the U.S. and your country of residence.

Note: *Generally, a non-U.S. person is subject to U.S. tax on its U.S. source income. Most types of U.S. source income received by a non-U.S. person are subject to U.S. tax at a rate of 30%. An exemption or reduced rate of withholding may apply if there is a tax treaty between the non-U.S. person's country of residence and the United States. The exemptions and rates vary under each treaty. You are responsible for determining whether you are entitled to a treaty benefit.*



In order to help make this determination, you should consult IRS Publication 901 (“U.S. Tax Treaties”) and IRS Publication 515 (“Withholding of Tax on Nonresident Aliens and Foreign Entities”) and/or consult your personal tax advisor.

Line 10a. An entity that is claiming a reduced rate of, or exemption from, withholding under an income tax treaty must enter the country where the entity identified on line 1 is a resident for income tax treaty purposes and check the box to certify that it is a resident of that country. For treaty purposes, a person is a resident of a treaty country if the person is a resident of that country under the terms of the treaty.

Line 10b. An entity that is claiming a reduced rate of, or exemption from, withholding under an income tax treaty must check the box to certify that it:

- . Derives the item of income for which the treaty benefit is claimed (i.e., it is the beneficial owner of the income, not a pass-through entity (i.e., partnership or trust)), and
- . Meets the limitation on benefits provisions contained in the treaty, if any.

To determine whether an entity meets the limitation on benefits provisions of a treaty, you must consult the specific provisions or articles under the treaty. Income tax treaties are available on the IRS website at <http://www.irs.gov/Businesses/International-Businesses/United-States-Income-Tax-Treaties---A-to-Z>

***Note:** In order to enjoy the benefits of a U.S. income tax treaty, a person must satisfy a number of requirements, including residence in one of the treaty countries. Residence alone, however, is not sufficient. As a result, most U.S. income tax treaties include a Limitation on Benefits (“LOB”) article. The purpose of the LOB article is to determine whether a resident of a treaty country has a sufficient connection with that country to justify entitlement to treaty benefits. Thus, LOB provisions generally prohibit third country residents from obtaining treaty benefits. For example, a foreign corporation may not be entitled to a reduced rate of withholding unless a minimum percentage of its owners are citizens or residents of the U.S. or a treaty country. A summary of the LOB tests is included at the end of these instructions.*

Line 11. Line 11 must be used only if an entity is claiming treaty benefits that require it to meet special conditions not covered by the representations made in line 10(a) and (b).

***Note:** This line is only required to be completed in limited circumstances. For example, non-U.S. persons claiming treaty benefits related to royalties must generally complete Line 15 because the treaty rates differ depending on the type of royalty. In contrast, non-U.S. persons claiming treaty benefits for income from services **do not** need to complete Line 11 because all of the necessary information is provided if you meet the requirements of Lines 10a and 10b. If you have any questions, please contact your personal tax advisor*



Part III – Certification

Form W-8BEN-E must be signed and dated by an authorized representative or officer of the beneficial owner. ELECTRONIC SIGNATURES ARE NOT ACCEPTED.

An authorized representative or officer must check the box to certify that it has the legal capacity to sign for the entity identified on line 1.

If Form W-8BEN-E is completed by an agent acting under a duly authorized power of attorney, the form must be accompanied by the power of attorney in proper form or a copy thereof specifically authorizing the agent to represent the principal in making, executing, and presenting the form. Form 2848, Power of Attorney and Declaration of Representative, may be used for this purpose. The agent, as well as the beneficial owner, payee, or account holder (as applicable), may incur liability for the penalties provided for an erroneous, false, or fraudulent form.

By signing Form W-8BEN-E, the authorized representative, officer, or agent of the entity also agrees to provide a new form within 30 days following a change in circumstances affecting the correctness of the form.

Special Instructions

Note: For special instructions on hybrid entities and reverse hybrid entities making claims for treaty benefits, please refer to <http://www.irs.gov/pub/irs-pdf/iw8bene.pdf>, pages 13 and 14.

LOB Test Summary

Each of the tests is summarized below for your general convenience but may not be relied upon for determination that you meet an LOB test. Rather you must check the text of the LOB article itself to determine which tests are available under that treaty and the particular requirements of those tests. See Table 4, Limitation on Benefits, at [IRS.gov/Individuals/International-Taxpayers/Tax-Treaty-Tables](https://www.irs.gov/Individuals/International-Taxpayers/Tax-Treaty-Tables), for a summary of the major tests within the Limitation on Benefits article that are relevant for documenting any entity's claim for treaty benefits.

LOB Test Summary (Continued)

- **Government**—this test is met if the entity is the Contracting State, political subdivision, or local authority.
- **Tax-exempt pension trust or pension fund**—this test generally requires that more than half the beneficiaries or participants in the trust or fund be residents of the country of residence of the trust or fund itself.



- Other tax-exempt organization—this test generally requires that more than half the beneficiaries, members, or participants of religious, charitable, scientific, artistic, cultural, or educational organizations be residents of the country of residence of the organization.
- Publicly-traded corporation—this test generally requires the corporation's principal class of shares to be primarily and regularly traded on a recognized stock exchange in its country of residence, while other treaties may permit trading in either the United States or the treaty country, or in certain third countries if the primary place of management is the country of residence.
- Subsidiary of publicly-traded corporation—this test generally requires that more than 50% of the vote and value of the company's shares be owned, directly or indirectly, by five or fewer companies that are publicly-traded corporations and that themselves meet the publicly-traded corporation test, as long as all companies in the chain of ownership are resident in either the United States or the same country of residence as the subsidiary.
- Company that meets the ownership and base erosion test—this test generally requires that more than 50% of the vote and value of the company's shares be owned, directly or indirectly, by individuals, governments, tax-exempt entities, and publicly-traded corporations resident in the same country as the company, as long as all companies in the chain of ownership are resident in the same country of residence, and less than 50% of the company's gross income is accrued or paid, directly or indirectly, to persons who would not be good shareholders for purposes of the ownership test.
- Company that meets the derivative benefits test—this test is generally limited to NAFTA, EU, and EEA country treaties, and may apply to all benefits or only to certain items of income (interest, dividends, and royalties). It generally requires that more than 95% of the aggregate vote and value of the company's shares be owned, directly or indirectly, by seven or fewer equivalent beneficiaries (ultimate owners who are resident in an EU, EEA, or NAFTA country and are entitled to identical benefits under their own treaty with the United States under one of the ownership tests included within the LOB article (other than the stock ownership and base erosion test)). In addition, this test requires that less than 50% of the company's gross income be paid or accrued, directly or indirectly, to persons who would not be equivalent beneficiaries.

LOB Test Summary (Continued)

- Company with an item of income that meets the active trade or business test—this test generally requires that the company be engaged in an active trade or business in its country of residence, that its activities in that country be substantial in relation to its U.S. activities, if the payer is a related party, and the income be derived in connection to or incidental to that trade or business.



- Favorable discretionary determination received—this test requires that the company obtain a favorable determination granting benefits from the U.S. competent authority that, despite the company's failure to meet a specific objective LOB test in the applicable treaty, it may nonetheless claim the requested benefits. Unless a treaty or technical explanation specifically provides otherwise, you may not claim discretionary benefits while your claim for discretionary benefits is pending.
- Other—for other LOB tests that are not listed above (for example, a headquarters test). Identify the other test relied upon, or enter N/A if the treaty has no LOB article. For example, if you meet the headquarters test under the United States-Netherlands income tax treaty, you should write “Headquarters test, Article 26(5)” in the space provided.