Instructions for Form W-14

(August 2016)

Certificate of Foreign Contracting Party Receiving Federal Procurement Payments

Department of the Treasury
Internal Revenue Service

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

Future Developments

For the latest information about developments related to Form W-14 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/w14*.

General Instructions

Purpose of Form

Section 5000C imposes a 2% tax on foreign persons that receive specified federal procurement payments pursuant to certain contracts with the U.S. government entered into on and after January 2, 2011.

This tax is imposed on the gross amount of specified federal procurement payments and is generally collected by withholding under chapter 3. A specified federal procurement payment is considered to have been paid whether it is paid directly to the contracting party or to a nominee or agent on behalf of the contracting party.

Provide Form W-14 to the acquiring agency (U.S. government department, agency, independent establishment, or corporation) to:

- Establish that you are a foreign contracting party; and
- If applicable, claim an exemption from withholding based on an international agreement (such as a tax treaty); or
- Claim an exemption from withholding, in whole or in part, based on an international procurement agreement or because goods are produced, or services are performed, in the United States.

Provide Form W-14 to the acquiring agency before you earn or receive payments under the contract. Provide Form W-14 as early as practicable (for example, when the offer for contract is submitted to the U.S. government) but in any event **no later than** the date of execution of the contract. You must also submit a revised Section 5000C Certificate within 30 days of a change in circumstances that causes the information in a Section 5000C Certificate held by the acquiring agency to be incorrect.

Who Must Provide Form W-14

You must provide Form W-14 to the acquiring agency when requested if you are a foreign contracting party that is due to receive a specified federal procurement payment (see definition later) under the terms of the contract, and you are seeking to claim an exemption (in whole or in part) from the tax imposed by section 5000C. You must also submit Form W-14 when requested by the acquiring agency, whether or not you are claiming an exemption, in whole or in part, from withholding under section 5000C.

Do not use Form W-14 if:

- The payment is for any purpose other than for goods or services;
- You are a U.S. person; instead, use Form W-9, Request for Taxpayer Identification Number and Certification;
- The payment is for purchases or personal services under the simplified acquisitions procedures that do not exceed the simplified acquisition threshold as described in 48 CFR 2.101;
- The payment is for emergency acquisitions under contracts that were awarded under the “unusual and compelling urgency” authority of 48 CFR 6.302-2 or were entered into under the emergency acquisition flexibilities as defined in 48 CFR Part 18;
- The payment is for purchases made pursuant to a foreign humanitarian assistance contract described in Treasury Regulations section 1.5000C-1(d)(4); and
- You choose to submit a section 5000C certificate that includes all the necessary information required by Treasury Regulations section 1.5000C-2(d).

Change in circumstances. If a change in circumstances makes any information on the Form W-14 you have submitted incorrect, you must notify the acquiring agency within 30 days of the change in circumstances and you must provide a new Form W-14 or other appropriate form.

Expiration of Form W-14. Generally, a Form W-14 will remain valid for the term of the contract unless a change in circumstances makes any of the information incorrect.

Definitions

Acquiring agency. An acquiring agency is any U.S. government department, agency, independent establishment, or corporation described in 5 U.S.C. 101, 5 U.S.C. 102, 5 U.S.C. 104(1), and 31 U.S.C. 9101(3), that is a party to a contract. An acquiring agency does not include U.S. government departments, agencies, independent establishments, or corporations that are quasi-governmental entities or instrumentalities of the U.S. government.

To the extent that a U.S. government department, agency, independent establishment, or corporation, other than the acquiring agency, is making the specified federal procurement payments pursuant to a contract, that department or agency is also considered to be the acquiring agency.

Foreign contracting party. A foreign contracting party is any foreign person that is a party to a contract with the U.S. government that is entered into on or after January 2, 2011. A foreign person is any person other than a U.S. person (as defined in section 7701(a)(30)).

International procurement agreement. An international procurement agreement includes the World Trade Organization Government Procurement Agreement within the meaning of 48 CFR 25.400(a)(1) and any free trade agreement to which the United States is a party that includes government procurement obligations that provide appropriate competitive government procurement opportunities to U.S. goods, services, and suppliers. A party to an international procurement agreement is a signatory to the agreement and does not include a country that is merely an observer with respect to the agreement.

Specified federal procurement payment. A specified federal procurement payment is any payment made pursuant to a contract with a foreign contracting party that is for goods manufactured or produced or services provided in a foreign country that is not a party to an international procurement agreement with the United States. For purposes of section 5000C, a foreign country does not include an outlying area.

Outlying areas are the same areas as set forth in 48 CFR 2.101(b), which currently include Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.

Specific Instructions

Part I—Identification of Foreign Contracting Party and Acquiring Agency

Line 1. Enter the name of the foreign contracting party. See the definition of “foreign contracting party” above. If the foreign contracting party is a branch, do not enter the business name of the branch here. Instead, enter the legal name of the entity that maintains the branch.

Line 2. If the foreign contracting party is a corporation, enter its country of incorporation. If the foreign contracting party is another type of entity, enter the country under whose laws the foreign contracting party is created, organized, or governed. Do not abbreviate the name of the country.

Line 3. Enter the permanent resident address of the foreign contracting party. A permanent resident address is the address in the country where the foreign contracting party claims to be a resident for purposes of that country's income tax. Do not provide the address of a financial institution (unless the foreign contracting party is a financial institution), a post office box, or an address used solely for mailing purposes unless it is the only address used by the entity and such address appears in the entity's organizational documents (that is, its registered address).

Line 4. Enter the mailing address of the foreign contracting party only if it is different from the address in line 3.

Line 5. Enter the foreign contracting party's U.S. taxpayer identification number (TIN), if applicable. If the foreign contracting party is an entity, enter its U.S. employer identification number (EIN), if applicable. If the foreign contracting party is an entity and does not have an EIN, apply for one on Form SS-4, Application for U.S. Employer Identification Number, if the foreign contracting party is required to obtain a U.S. TIN.

Line 6. Enter the contract/reference number, if known.

Line 7. Enter the name and address of the acquiring agency (see definition, earlier).

Part II—Exemption Based on International Agreement

Check the box on line 8 if the foreign contracting party is claiming relief from the tax under section 5000C pursuant to an international agreement with the United States (such as a qualified income tax treaty).

International Agreements/Qualified Income Tax Treaties. Section 5000C does not apply if the payment is made to a foreign person entitled to relief from the tax imposed under section 5000C pursuant to an international agreement with the United States, including relief pursuant to a non-discrimination provision of a qualified income tax treaty when the foreign person is entitled to the benefit of that provision.

A “qualified income tax treaty” means a U.S. income tax treaty in force that contains a non-discrimination article that applies to the tax imposed by section 5000C and prohibits taxation that is more burdensome on a foreign national than on a U.S. national (or in the case of certain income tax treaties, taxation that is more burdensome on a foreign citizen than a U.S. citizen), regardless of residence. A foreign person that is entitled to relief from tax under section 5000C pursuant to a qualified income tax treaty is exempt from the tax under section 5000C, regardless of whether the payment it receives is for goods manufactured or produced, or for services provided, in a country that is not a party to an international procurement agreement with the United States.

To assist both the U.S. government and foreign persons in determining whether the tax is imposed under section 5000C and the regulations thereunder, these instructions identify all “qualified income tax treaties” in effect on the date this form is published (see Appendix A and Appendix B at the end of these instructions). For updates to this list, visit *www.irs.gov/w14*. For more information, see Notice 2015-35, 2015-18 I.R.B. 943.

Part III—Exemption Based on International Procurement Agreement or Because Goods/ Services Produced/Performed in the United States

Line 9. Check the box on line 9 if the foreign contracting party is identifying specific exempt and nonexempt amounts (for example, by contract line number). See the definition of “nonexempt amount” in the line 11 instructions, later.

Line 10. Enter the total contract price or estimated total contract price. The total contract price is the total cost to the U.S. government of the goods and services procured under a contract and paid to the contracting party. The total contract price may be known on the date of execution of the contract (for example, a fixed-price contract) or may have to be recomputed after the date of execution of the contract (for example, a cost-reimbursement contract that is paid on the basis of actual incurred cost).

Line 11. Enter the foreign contracting party's nonexempt amount or estimated nonexempt amount.

Nonexempt amount. A nonexempt amount is the portion of the contract price allocated to nonexempt goods and nonexempt services, or when necessary, the portion of the contract price allocated to an estimate of either the nonexempt goods or nonexempt services, or both.

Nonexempt goods. Nonexempt goods are manufactured or produced in a foreign country that is not a party to an international procurement agreement with the United States.

Nonexempt services. Nonexempt services are provided in a foreign country that is not a party to an international procurement agreement with the United States.

Line 12. Enter the contract ratio (line 11 divided by line 10).

Part IV—Explanation

Complete Part IV if Part II or Part III is applicable.

Part V—Certificate

The foreign contracting party must make certain certifications under penalties of perjury (see Part V of Form W-14). With respect to item #4, see Treasury Regulations section 1.5000C-4 for the rules relating to procedural obligations under section 5000C. With respect to item #5, see Treasury Regulations section 1.5000C-5 for the definition of “engaged in any transaction (or series of transactions) with a principal purpose of avoiding the tax imposed under section 5000C.”

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 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	3 hr., 49 min.
Learning about the law or the form	1 hr.
Preparing the form	1 hr., 6 min.
Copying, assembling, and sending the form to the IRS	0 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 send us comments from www.irs.gov/formspubs. Click on "More Information" and then on "Give us feedback." Or you can send your comments to: Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send Form W-14 to this office. Instead, give it to the acquiring agency, defined earlier.

APPENDIX A

The following qualified income tax treaties cover all nationals of the treaty country and exempt all such nationals from the tax imposed by section 5000C.

Austria
Bangladesh
Belgium
Bulgaria
Canada
Czech Republic
Denmark
Estonia
Finland
Germany
Hungary
Iceland
Italy
Jamaica
Japan
Latvia
Lithuania
Luxembourg
Malta
Mexico
Netherlands
Portugal
Slovak Republic
Slovenia
South Africa
Spain
Sri Lanka
Sweden
Switzerland
Turkey
United Kingdom
Venezuela

APPENDIX B

The following qualified income tax treaties cover only individual nationals of the treaty country and exempt all such individual nationals from the tax imposed by section 5000C.

Cyprus
Israel
Kazakhstan
Russia
Ukraine