

# Exemption From Withholding on Compensation for Independent Personal Services of a Nonresident Alien Individual

This exemption is applicable for compensation for calendar year 19 . . . . , or other tax year beginning . . . . . , 19 . . . . , and ending . . . . . , 19 . . . .

**Part I Nonresident Alien Individual**

Name _____	Taxpayer identification number _____ (see instructions)
Address (number and street) _____	United States visa number (if any) _____
City, State, and ZIP code _____	

Citizens of Canada or Mexico complete either item 1 or item 2; all other filers complete item 1. <b>1. a.</b> Country issuing passport _____ <b>b.</b> Passport number _____	<b>2. Permanent address</b>
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**3. Compensation for independent personal services**

**a.** Description \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**b.** Amount (see instructions) \$ \_\_\_\_\_

**c.** If compensation is exempt from withholding because of a U.S. tax treaty provide:  
 (1) Tax treaty and provision under which you are claiming exemption from withholding \_\_\_\_\_  
 \_\_\_\_\_  
 (2) Your country of residence \_\_\_\_\_

**d.** Is your compensation otherwise exempt (or will it be otherwise exempt) from income tax during the tax year?  Yes  No  
 (If you checked "Yes," attach a statement explaining why.)

**e.** Additional facts to justify the exemption from withholding \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

<b>4. Number of personal exemptions you are claiming</b> (see instructions) _____	<b>5. Number of days independent personal services are to be performed in the United States during the tax year</b> _____
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Under penalties of perjury, I declare that I have examined this form and any accompanying statements, and to the best of my knowledge and belief, they are true, correct, and complete. I also declare, under penalties of perjury, that I am not a citizen or resident of the United States.

Signature of nonresident alien individual ► \_\_\_\_\_ Date ► \_\_\_\_\_

**Part II Withholding Agent Certification**

Name _____	Employer identification number _____
Address (number and street) _____	
City, State, and ZIP code _____	

Under penalties of perjury, I certify that I have examined this form and any accompanying statements, that I am satisfied that an exemption from withholding is warranted, and that I do not know or have reason to know that the nonresident alien individual's compensation is not entitled to the exemption or that the eligibility of the nonresident alien's compensation for the exemption cannot be readily determined.

Signature of withholding agent ► \_\_\_\_\_ Date ► \_\_\_\_\_

# General Instructions

(All references are to the Internal Revenue Code unless otherwise indicated.)

**Paperwork Reduction Act Notice.**—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. If you want to receive exemption from withholding on compensation for independent personal services, you are required to give us this information.

**Purpose of Form.**—In general, section 1441 requires that 30 percent of amounts paid to a nonresident alien individual as compensation for independent personal services (i.e., services performed where there is no employer-employee relationship) be withheld by the person paying the amount (the withholding agent) to the individual. This form is used by nonresident alien individuals to claim exemption from withholding on compensation for independent personal services (under section 1441 and its regulations), if the exemption is based on a tax treaty to which the United States is a party (a “U.S. tax treaty”), or on the personal exemption amount. The form is completed by the nonresident alien individual claiming exemption and presented to the withholding agent for review. If the withholding agent accepts Form 8233, the withholding agent so certifies on the same form and forwards it to the Director, Foreign Operations District. An accepted Form 8233 is effective only for the tax year shown on the form. **Do not use Form 8233** if you have an office in the United States regularly available to you for performing personal services. If you have an office in the United States regularly available to you, contact the Director, Foreign Operations District, at the address shown on this page for more information.

## Definitions

**Nonresident Alien Individual.**—Any individual who is not a resident or citizen of the United States is a nonresident alien individual. The term also includes a nonresident alien fiduciary. An alien individual meeting either the “green card test” or the “substantial presence test” for the calendar year is a resident. Those not meeting either test are nonresident alien individuals. **Note:** *Nonresident alien individuals married to U.S. citizens or resident aliens may choose to be treated as resident aliens for income tax purposes (e.g., for purposes of filing a joint income tax return). However, these individuals are considered nonresidents for purposes of withholding taxes on nonresident aliens.* For further information on resident and nonresident alien status, the new tests for residence, and the exceptions to them, see **Publication 519**, U.S. Tax Guide for Aliens, available at most IRS offices.

**Nonresident Alien Fiduciary.**—A nonresident alien fiduciary is a nonresident alien guardian, trustee, executor, administrator, receiver, conservator, or other person acting in any fiduciary capacity for any person. However, a nonresident alien fiduciary is not a nominee.

**Compensation for Independent Personal Services.**—Independent personal services are personal services performed in the United States by an independent nonresident alien contractor, rather than by a nonresident alien employee. Included in compensation are

payments for professional services, such as fees of an attorney, physician, or accountant made directly to the person performing the services, consulting fees, and payments for performances by public entertainers, such as artists, actors, musicians, and athletes. For further information, see **Publication 515**, Withholding of Tax on Nonresident Aliens and Foreign Corporations, available at most IRS offices.

**Withholding Agent.**—Any person required to withhold tax on payments made to a nonresident alien individual is a withholding agent. Generally, the person who pays or conveys the item of U.S. source income to the nonresident alien individual (or to his or her agent) is liable for the tax and must withhold. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity. For further information, see **Publication 515**.

## Specific Instructions

### Part I

**Taxpayer identification number.**—Nonresident alien individuals (other than nonresident alien fiduciaries) must enter their social security number. If you have applied for one but have not yet received it, enter “Applied For” on the line. If you do not have a social security number, apply for one using **Form SS-5**, Application for a Social Security Number Card, and enter “Applied For” on the line. When the number is received, promptly give it to the withholding agent. If you are a nonresident alien fiduciary, enter your employer identification number.

**Items 1 and 2.**—All filers must complete item 1, except for citizens of Canada or Mexico, who can complete either item 1 or item 2.

**Item 3a.**—Describe the independent personal services for which the compensation is being (or will be) received, and describe the manner of compensation (e.g., lump sum, monthly payments, etc.).

**Item 3b.**—Enter the amount of compensation for independent personal services you will be receiving during the tax year to which this Form 8233 applies. Enter an estimated amount if the exact amount is not known.

**Item 3d.**—If the exemption from income tax withholding is (or will be) based on other than a U.S. tax treaty (e.g., the personal exemption amount), explain this in an attached statement.

**Item 4.**—For determining the amount of compensation exempt from 30% withholding because of the personal exemption amount, one personal exemption is allowed a nonresident alien individual who is not a resident of Canada, Mexico, or Japan, or is not a U.S. national during the tax year. A nonresident alien individual who is a resident of Canada, Mexico, or Japan, or is a U.S. national is generally allowed the same personal exemptions as a U.S. citizen or resident. (For further information, see **Publication 519**.) Each allowable exemption must be prorated according to the number of days the personal services are performed in the United States (see item 5). If the nonresident alien individual’s tax year begins in 1984, the proration amount is \$2.74 a day; if it begins in 1985, the amount is \$2.85 a day.

**Signature.**—The nonresident alien individual, or his or her legally authorized representative, must sign and date Form 8233 in the appropriate place.

## Part II

**Withholding Agent’s Responsibilities Regarding Form 8233.**—When you are presented Form 8233 by the nonresident alien individual, review it to see if you are satisfied that the exemption from withholding is warranted. If, based on the facts presented, you are so satisfied, accept Form 8233 by making a certification, under penalties of perjury:

- That you have examined Form 8233 and any accompanying statements;
- That you are satisfied that an exemption from withholding is warranted; and
- That you do not know or have reason to know that the nonresident alien individual’s compensation is not entitled to exemption or that the eligibility of the nonresident alien individual’s compensation for the exemption cannot be readily determined.

Forward Form 8233 within 5 days of your acceptance to:

Director, Foreign Operations District  
Internal Revenue Service  
1325 K Street, N.W.  
Washington, DC 20225  
Attn: FOD:67

Give the nonresident alien individual a copy of Form 8233, and attach a copy of Form 8233 to the Form 1042S you file with IRS for the nonresident alien individual. Keep a copy of Form 8233 for your records.

The exemption from withholding becomes effective for payments made at least 10 days after you have mailed Form 8233 to the IRS. (See the instructions for Part I, item 4, for information on amounts exempt from withholding because of the personal exemption amount.)

You must not accept Form 8233 if either of the following apply:

- If you know or have reason to know that any of the facts or assertions on Form 8233 may be false; or
- You know or have reason to know that the eligibility of the nonresident alien individual’s compensation for the exemption cannot be readily determined (e.g., if you know or have reason to know that a nonresident alien individual has an office in the United States regularly available for performing personal services).

If you accept Form 8233 and subsequently find that either of the situations described immediately above apply, you must promptly notify the Director, Foreign Operations District, in writing and you must withhold on any amounts not yet paid. If you are notified by the Foreign Operations District that the eligibility of the nonresident alien individual’s compensation for the exemption is in doubt or that the compensation is ineligible for the exemption, you must withhold. See section 1.1441-4(b)(2)(iii) of the regulations for examples illustrating these rules.

**Signature.**—The withholding agent, or a duly authorized agent of the withholding agent, must sign and date Form 8233 in the appropriate place. (See section 1.1441-7(b) of the regulations for further information regarding duly authorized agents.)