



## **Payments to Non-U.S. Entities Frequently Asked Questions (“FAQs”)**

Note: Emory must review and approve all Forms W-8 before it issues payments to vendors. Your personal tax advisor and/or Tax Department is in the best position to help you properly complete these forms. However, we are providing the following “frequently asked questions” as an additional resource for you.

### **1) Why am I being asked to complete this form?**

A Form W-8 must be completed to establish that you are a non-U.S. person. In general, a non-U.S. person (individuals and entities) is subject to U.S. withholding tax on any income that is earned from U.S. sources. For example, if a non-US person performs services in the United States, then it is subject to U.S. income tax on the amounts earned while working in the U.S. In order to ensure that the amounts are properly reported and subjected to U.S. tax, the Internal Revenue Service (IRS) requires persons that make payments to non-U.S. persons (e.g., Emory) to withhold 30 percent of the payment and deposit the amounts with the IRS.

### **2) Can the rate of withholding be reduced?**

Yes, the 30 percent rate of withholding may be reduced if you are a tax resident of a country that has an income tax treaty with the United States and the type of income you receive (e.g., compensation for services, royalties, interest, etc.) is eligible for a treaty benefit. An entity (e.g., corporation) generally claims treaty benefits on a Form W-8BEN-E. (There is a different process for individuals.)

In addition, the rate of withholding may also be reduced if the income received is exempt under a U.S. Tax code provision (e.g., payments to tax-exempt organizations, tax-exempt interest, etc.). A properly completed Form W-8 is required in order to reduce or exempt the payment from withholding based on the tax code.

### **3) How can I determine whether I qualify for a treaty benefit? Can Emory help make this determination for me?**

Unfortunately, Emory cannot make this determination for you. But we can provide some general guidance to help point you in the right direction. Ultimately, you should seek professional tax advice to work through your specific facts.

The first step is to determine whether you live in a country that has an income tax treaty with the United States (see IRS Publication 901 for a complete list). Next, you will need to determine if the type of income you receive from Emory (e.g., payment for services, royalty, etc.) is eligible for a lower tax rate based on a specific tax treaty provision. You can either consult your personal tax advisor and/or review the following IRS Publications for help with this determination:



- IRS Pub 901 ("US Tax Treaties") -- Provides a complete list of countries that have income tax treaties with the U.S. (<https://www.irs.gov/pub/irs-pdf/p901.pdf>)
- IRS Pub 515 ("Withholding of Tax on Nonresident Aliens and Foreign Corporations") -- Discusses the rules that generally apply to payments of U.S. source income to non-U.S. persons (<https://www.irs.gov/pub/irs-pdf/p515.pdf>)
- Tax treaty tables -- The following link provides tax treaty tables that can help you determine the rate of withholding (e.g., 0%, 5%, 15%, etc.) that may apply based on the type of income you are making. (<https://www.irs.gov/Individuals/International-Taxpayers/Tax-Treaty-Tables>)
- You can also obtain the full text of these treaties at [www.IRS.gov](http://www.IRS.gov). Enter "Tax treaties" in the search box. Click "United States Income Tax Treaties--A to Z."

**4) If I am claiming a treaty benefit, what part of the Form W-8BEN-E must I complete?**

Emory has developed a substitute Form W-8BEN-E ("Emory Short-Form W-8BEN-E") as permitted by IRS rules. The specific items that must be completed as described in this response reflects the Emory Short-Form W-8BEN-E.

You must complete Part II ("Claim of Tax Treaty Benefits") of the Emory Short-Form W-8BEN-E. In addition, you must provide either a U.S. Taxpayer Identification Number (e.g., SSN, EIN, or ITIN) or a foreign tax identifying number in the space provided. If Part II is not completed properly (or you do not provide your US or foreign TIN), then Emory will be required to withhold 30% of its grosspayment to you and deposit the amounts with the IRS.

**5) If I am not claiming treaty benefits, why do I need to complete a Form W-8?**

Emory needs to collect documentation, or proof, that you are a non-U.S. person in order to fulfill its information reporting and withholding obligations. If you are not making a treaty claim, you only need to complete the following information on the Emory Short-Form W-8BEN-E: Lines 1, 2, 3 (if applicable), 4, 5, 6 (if applicable), 7 (if applicable), and the certification in Part III (print your name, sign and date the form and check the capacity box).

**6) What are some common mistakes made when completing a Form W-8?**

- Please do not provide a P.O. Box or an "in care of" address as your permanent residence address.
- If you provide a U.S. address to Emory (either on a Form W-8 or otherwise), you will need to supply additional information to support the fact that you are not a U.S. person. (If you are providing a U.S. address, please refer to the relevant form instructions for more information or contact your tax advisor).
- If any of the information on the form becomes outdated please notify us within 30 days and complete and submit an updated form.



**7) What is a Form W-8EXP? What type of entity should complete a Form W-8EXP?**

This form is generally provided by the following non-U.S. entities: tax-exempt organizations, private foundations, international organizations, and foreign governments. The form is used to claim a reduced rate or an exemption from withholding based on the entity's special status (as opposed to a tax treaty claim).

A foreign tax-exempt organization and foreign private foundation must generally provide additional documentation (i.e., either an opinion from U.S. counsel or the date a determination letter was issued by the IRS that confirms that the entity is exempt under 501(c)) to support an exemption claim (or claim of a reduced rate).

**8) What is a Form W-8ECI? What type of entity should complete a Form W-8ECI?**

A Form W-8ECI is generally provided by a non-U.S. entity that has a U.S. trade or business. An entity that has a U.S. trade or business generally files a U.S. income tax return.

**9) What is a Form W-8IMY? What type of entity completes a Form W-8IMY?**

A Form W-8IMY is generally provided by a non-U.S. flow-through entity or intermediary (e.g., partnership, simple or grantor trust, etc.) to claim that it is **not** the beneficial owner of the income (i.e., the income in question belongs to the underlying partners, account holders, beneficiaries, etc.). The Form W-8IMY must generally be accompanied by additional documentation (e.g., withholding statement and withholding certificates of the underlying beneficial owners).

**10) What if I'm not sure which Form W-8 to complete?**

Emory cannot make this determination for you. Thus, our best recommendation would be to contact a professional tax advisor to determine the appropriate form (and whether you qualify for a lower rate or exemption from withholding). You can also find information regarding the different forms and form instructions by visiting the IRS website at [www.irs.gov](http://www.irs.gov) (click on the "Forms and Pubs" tab and enter the form number). Or you can call the IRS at (800) 829-3676.

**11) How long is a Form W-8 valid? When do I have to submit a new form?**

Forms W-8 are generally valid for three calendar years after the year signed. Generally that means a form signed in 2016 would remain valid until December 31, 2019. However, if any of the information on the form changes (address, country of residence, etc.) you must notify us within 30 days and complete and submit an updated form.