

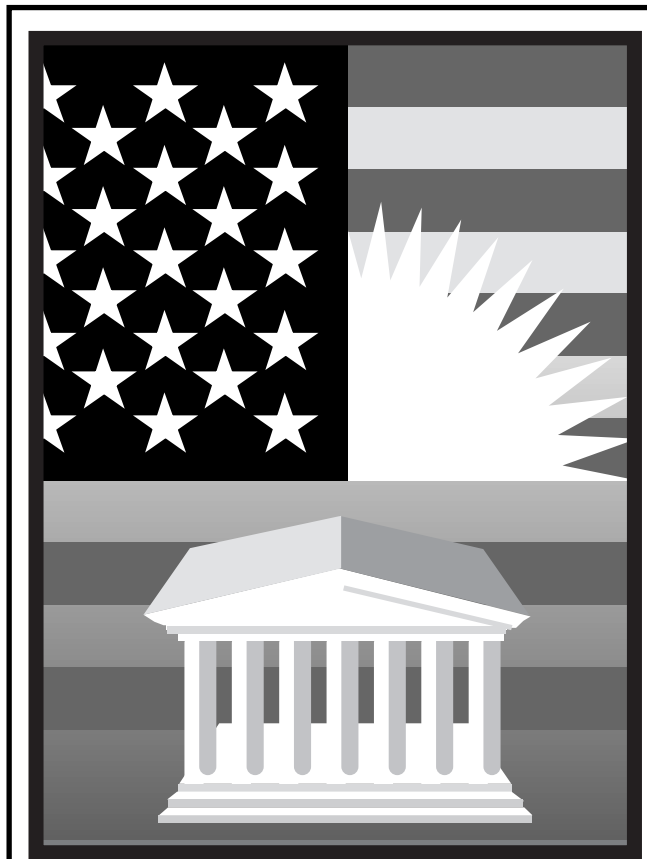


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Certification for Reduced Tax Rates in Tax Treaty Countries



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Introduction

Many foreign countries withhold tax on certain types of income paid from sources within those countries to residents of other countries. The rate at which any country withholds tax on each type of income is generally set by that country's statutes. The United States has tax treaties with many countries. Generally, these treaties reduce the statutory tax rate (sometimes to zero) for income paid to U.S. citizens, U.S. corporations, U.S. partnerships, and some resident aliens living in the United States. This reduced rate is referred to as the treaty-reduced rate.

Proof of U.S. residency is generally required to get the reduced rates. This proof of residency often must be certified by the U.S. Government. This publication explains the general procedures for requesting certification for individuals, partnerships, corporations, and exempt organizations. It explains the additional procedures needed for certification with Italy and Spain. It also covers where to get the foreign government applications for tax treaty benefits.

U.S. Residency

Upon receiving proof of U.S. residency, some countries will allow withholding of the tax at the treaty-reduced rate. Other countries always withhold tax at their statutory tax rate and will refund the amount that is more than the treaty-reduced rate upon receiving proof of U.S. residency.

Proof of U.S. residency. As proof of residency in the United States and of entitlement to the benefits of the tax treaty, U.S. treaty partner countries require a U.S. Government certification that the applicant is a U.S. citizen, U.S. corporation or partnership, or resident of the United States for purposes of taxation. Most treaty partner countries will accept this certification in the form of a computer-generated certification letter from the Internal Revenue Service (IRS). This letter is also known as **Form 6166**.

Some treaty partner countries require additional information that is not provided on Form 6166. Taxpayers can provide that information on that country's form and attach Form 6166.

Procedures for Certification

Most treaty countries that require certification provide special forms for that purpose. These forms contain questions to be answered by the taxpayer claiming treaty benefits, followed by a statement for the U.S. taxing authority's (the IRS) certification. However, the IRS generally does not certify U.S. residency by using forms from other countries. Instead, upon receiving a written request from a taxpayer, the IRS provides certification by means of Form 6166, a computer-generated letter to the applicant. This letter is on stationery bearing the U.S. Treasury Department letterhead, the U.S. Government watermark, and the copied signature of the Director, Philadelphia Service Center (PSC).

After the applicant receives the Form 6166 from the PSC, the applicant may send it to the foreign country to claim treaty benefits. Along with that Form 6166, the applicant should enclose the foreign country's certification form, if any, completed by the applicant. Spain and Italy have certain additional requirements, as explained later.

Sending to third party. If the applicant requests that the certification be mailed to a third party, the applicant must provide written authorization for the IRS to release his or her certification to a third party. If the certification is for a partnership, each partner must provide such written authorization. Form 8821, *Tax Information Authorization*, or Form 2848, *Power of Attorney*, is used for this authorization.

Where to send request. Applicants should send a letter requesting certification to:

IRS-Philadelphia Service Center
Foreign Certification Request
P.O. Box 16347
Philadelphia, PA 19114-0447


Applicants can also fax their requests to the Philadelphia Service Center at (215) 516-1035 or (215) 516-3412.

Certification requests are processed in the order received. Certifications are usually issued within 30 days of the request. If certification is not received within that time, applicants can call the certification unit at (215) 516-7229.

Individuals. Requests for certification must include the applicant's name, mailing address, social security number, tax return form number (for example, 1040), and the tax period for which certification is requested.

The Service Center Director will certify that the applicant is a resident of the United States for purposes of U.S. taxation. Before the certification can be issued, the Director must be able to verify that the applicant either:

- 1) Filed a U.S. income tax return as a U.S. resident,
- 2) Filed a valid extension to file a U.S. income tax return,
- 3) Is not liable to file a U.S. tax return,
- 4) Is exempt from U.S. tax, or
- 5) Has an immigrant identification card that is required of all aliens admitted for permanent residence in the United States.

 *If the applicant is eligible to receive certification from the IRS, he or she should file a tax return even if not required to do so. The Service Center can then make the certification under normal procedures without the delay caused by corre-*

sponding when no tax returns have been filed.

However, a delay could occur if the applicant requests certification shortly after he or she files a return, but before it is properly recorded. Under these circumstances, the IRS will request a copy of the applicant's latest return, along with a written statement from the applicant, made under penalties of perjury, that he or she was a resident of the United States for the period during which the treaty benefit is claimed.

Resident aliens who have recently arrived in the United States and who have not yet filed an income tax return will normally be asked to get a statement from the Immigration and Naturalization Service giving their alien registration number, date and port of entry, date of birth, and classification.

Partnerships. A request for certification of a partnership must include the partnership's name, address, employer identification number, and the tax year for which certification is requested. It must also include a written authorization from each individual partner to release the certification information. A partner may use either Form 2848 or Form 8821 to permit this disclosure.

The Service Center Director will certify that:

- 1) The partnership has filed Form 1065, *U.S. Partnership Return of Income*, and
- 2) Either:
 - a) Each partner listed on the partnership return is a resident of the United States for purposes of U.S. taxation, or
 - b) Those partners named on an attached list are residents of the United States for purposes of U.S. taxation.

Corporations. Certification requests must include the corporation's name, employer identification number, tax return form number (for example, 1120, 1120A, etc.), and tax period for which the certification is requested. If the corporation filed as a subsidiary on the return of a parent corporation, a copy of page one of the latest consolidated income tax return filed and a copy of the listing of the subsidiaries and their employer identification numbers must be included in the corporation's request.

If a corporation or other similar entity is newly formed and has not yet filed an income tax return because the tax year has not ended, a copy of the corporate charter must be submitted.

The Service Center Director will certify that the corporation is a U.S. corporation and

a resident of the United States for purposes of U.S. taxation.

Exempt organizations. In general, the same procedures that corporations follow to obtain certification should be used for any exempt organization wishing to show that it is a U.S. resident organization. This is true whether the organization filed a Form 1120 or an exempt organization return. Exempt organizations that are not required to file a tax return must send either a copy of their determination letter or a copy of the determination letter for a parent organization to the PSC when requesting certification.

The Service Center Director will certify that the exempt organization is a U.S. exempt organization and a resident of the United States for purposes of U.S. taxation.

Italy and Spain

These countries do not accept the usual wording in the certification of U.S. residency provided by the IRS as valid proof of U.S. residency. As a result, the IRS uses different wording in certifications for Italy and Spain.

Italy. Each certification request for Italy must include, in addition to the information described under *Procedures for Certification*, a statement declaring, under penalties of perjury, the following:

- 1) That the applicant is a U.S. resident,
- 2) That the applicant does not have a permanent establishment in Italy,
- 3) The applicant's permanent street address, and
- 4) If a corporation, the applicant's state of incorporation.

Spain. Each certification request for Spain must include, in addition to the information described under *Procedures for Certification*, a signed statement declaring, under penalties of perjury, that the applicant was or will be a resident of the United States for the period for which the treaty benefit is claimed.

Where To Get the Foreign Government Applications for Tax Treaty Benefits

Applications for tax treaty benefits can be obtained from the foreign payer, the tax authority of the treaty country involved, or in some cases from the IRS. You may write or call the IRS at:

Internal Revenue Service
OP:IN:D:CS
950 L'Enfant Plaza, SW
Washington, DC 20024

Telephone: (202) 874-1460