



# Instructions for Form 8802

(Rev. September 2005)

## Application for United States Residency Certification

Section references are to the Internal Revenue Code.

### General Instructions

#### Purpose of Form

Use Form 8802 to request certification of U.S. residency for purposes of claiming benefits under a tax treaty. You can request certification for the current and any prior calendar years.

You can also use Form 8802 to obtain proof of tax status for other purposes, such as obtaining an exemption from a value added tax (VAT) imposed by a foreign country. However, in connection with a VAT request, the United States can certify only certain matters in relation to your U.S. federal income tax status, and not that you meet any other requirements for a VAT exemption in a foreign country.

For more information, see Publication 686, Certification for Reduced Tax Rates in Tax Treaty Countries.

#### Who Is Not Eligible for Certification

Generally, you are not eligible for U.S. residency certification if, for the tax period on which your certification is to be based, any of the following apply.

- You did not file a required U.S. return.
- You filed a return as a nonresident, including Form 1040NR, U.S. Nonresident Alien Income Tax Return, Form 1040NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents, Form 1120-F, U.S. Income Tax Return of a Foreign Corporation, Form 1120-FSC, U.S. Income Tax Return of a Foreign Sales Corporation, or any of the U.S. possession tax forms.
- You are a dual resident individual who has made (or intends to make), pursuant to the tie breaker provision within an applicable treaty, a determination that you are not a resident of the United States and are a resident of the other treaty country. For more information and examples, see Reg. section 301.7701(b)-7.
- You are not liable for tax to the United States by reason of your

residence, place of incorporation, or other similar criteria. Accordingly, a U.S. limited liability company (LLC) owned by a foreign corporation, trust, or estate is not eligible for certification if it is a disregarded entity (DRE) separate from its owner or if the LLC has elected to be treated as a partnership for federal tax purposes and all of the partners are foreign.

- The entity requesting certification is a U.S. grantor trust and the owner is a foreign person.
- The entity requesting certification is an exempt organization that is not organized in the United States.

#### Certification of United States Residency

If you are eligible for certification, you will receive Form 6166, Certification of United States Residency. This form is a computer-generated letter on stationary bearing the U.S. Department of the Treasury letterhead, the U.S. Government watermark, and the facsimile signature of the Field Director, Philadelphia Accounts Management Center.

**Note.** A U.S. citizen or resident alien must report and pay tax on their worldwide income, regardless of where they reside and whether or not they pay taxes as a resident of a foreign country. If you are a U.S. citizen or resident alien, you may be entitled to treaty benefits, which may reduce or eliminate foreign taxes paid with respect to income derived from a treaty country. You may not claim a foreign tax credit with respect to foreign taxes that have been reduced or eliminated by reason of a treaty. If you receive a refund of foreign taxes paid with the benefit of Form 6166 certification letter, you may need to file an amended return with the IRS adjusting any foreign tax credit previously claimed for those taxes.



You cannot use Form 6166 to substantiate that U.S. taxes were paid for purposes of claiming a foreign tax credit.

#### When To File

You should file Form 8802 at least 30 days before the date you need the

certification of U.S. residency. If processing your application will take longer, you should be notified of the delay. If you do not receive Form 6166, a letter rejecting your application, or a notice of delay within 30 days from the date you filed Form 8802, call 215-516-2000 (not a toll-free number).

**Early submission for a current year certification.** The IRS cannot accept an early submission for a current year certification that has a postmark date before December 1. Requests received with a postmark date earlier than December 1 will be returned to the sender. For example, if you are requesting current year certification for tax year 2006 and you mail your request with a postmark date on or after December 1, 2005, the IRS will accept your application.

#### Where To File

Form 8802 and required attachments can be either:

- Faxed to the IRS at 215-516-1035 or 215-516-2485 (not toll-free numbers), or
- Mailed to the following address:

Internal Revenue Service  
Philadelphia Service Center  
U.S. Residency Certification  
Request  
P.O. Box 16347  
Philadelphia, PA 19114-0447  
U.S.A.

- Express mailed to the following address:

IRS/U.S. Residency Certification  
Unit  
11601 Roosevelt Blvd.  
Philadelphia, PA 19154  
D.P. N322

**Confirmations.** If you want notice that the IRS has received your Form 8802, you must include a second Form 8802 marked *Copy* with your original request and a self-addressed stamped envelope. The IRS will date stamp your copy and return it.

**Federal Express.** If you would like to receive your certification by Federal Express, you must supply a Federal Express label indicating your account

number with your Form 8802 application.

## Special Rules

### Form 8802 Filed Before Return Posted by the IRS

If your return has not been posted by the IRS by the time you file Form 8802, you will receive a request to provide a signed copy of your most recent return.



*If you recently filed your return, it may take less time to process your application if you include the return with your Form 8802 instead of waiting for the request.*

### Third Party Appointee

If the applicant wants to authorize the third party appointee to use the additional request procedure with respect to countries not identified on the Form 8802 signed by the applicant, the applicant should include in box 11 a written statement authorizing the third party appointee to request Form 6166 covering the same tax period for any country. For more information, see *Additional Request*, on page 3.

### Individuals With Residency Outside the United States

If you are in any of the following categories for the year for which certification is requested, you must submit a statement and documentation, as described below, with Form 8802.

1. You are a resident under local law of both the United States and the treaty country for which you are requesting certification (you are a dual resident).
2. You are a green card holder or U.S. citizen who filed Form 2555, Foreign Earned Income.
3. You are a bona fide resident of a U.S. possession.

If you are a dual resident described in category 1, above, your request may be denied unless you submit evidence to establish that you are a resident of the United States under the tie breaker provision in the residence article of the treaty of the country for which you are requesting certification.

If you are described in category 2 or 3, please attach a statement and documentation to establish why you believe you should be entitled to certification as a resident of the U.S. for purposes of the relevant treaty. Under many U.S. treaties, a U.S. citizen or green card holder who does not have a substantial presence, permanent home, or habitual abode in the United States

during the tax year is not entitled to treaty benefits. A U.S. citizen or green card holder who resides outside the United States must examine the specific treaty to determine if they are eligible for treaty benefits and U.S. residency certification. See *Exceptions*, below.

### Exceptions

You do not need to attach the additional statement or documentation requested if you:

- Are a U.S. citizen or green card holder; and
- Are requesting certification for Cyprus, Hungary, India, Kazakhstan, Russia, South Africa, or Ukraine; and
- The country for which you are requesting certification and your country of residence are not the same.

### Form 1116, Foreign Tax Credit

If you have filed or intend to file a Form 1116, Foreign Tax Credit, claiming either a foreign tax credit amount in excess of \$5,000 U.S. dollars or a foreign tax credit for any amount of foreign earned income for the tax period in which certification is requested, you must submit evidence that you were (or will be if the request relates to a current year) a resident of the United States and that the foreign taxes paid were not imposed because you were a resident of the foreign country.

In addition, individuals who have already filed must submit a copy of their federal income tax return, including any information return relating to income such as a W-2 or 1099 along with the Form 1116. Your request for U.S. residency certification may be denied if you do not submit the additional materials.

### Deceased Taxpayer

If you are filing Form 8802 on behalf of a deceased taxpayer, include proof that you are either the surviving spouse or the executor or administrator of the decedent's estate. A Form 8802 submitted on behalf of a deceased taxpayer can be submitted for the year of death or any prior year.

**Note.** Proof can include a copy of a joint return filed with the decedent, or a court certificate naming you executor or administrator.

### Switzerland

If you are seeking benefits from Switzerland with respect to dividends derived from a Swiss corporation by an

employee benefit plan/trust that is a participant in:

- A group trust arrangement described in Rev. Rul. 81-100, or
- A common trust fund described in section 584, with reference to the special rules under line 4c. For more information regarding the Swiss Pension MAP Agreement, see Announcement 2005-3, 2005-2 I.R.B. 270, or see [http://www.irs.gov/irb/2005-02\\_IRB/ar12.html](http://www.irs.gov/irb/2005-02_IRB/ar12.html)

### United Kingdom

If you are applying for relief at source from United Kingdom (U.K.) income tax or filing a claim for repayment of U.K. income tax, you may need to complete a U.K. certification form (US/Individual 2002 or US/Company 2002) in addition to Form 8802. To obtain a copy, contact HM Revenue and Customs:

- On the Internet at [www.hmrc.gov.uk/cnr/usdownload\\_2002.htm](http://www.hmrc.gov.uk/cnr/usdownload_2002.htm), or
- By phoning 44-151-210-2222 if calling from outside the U.K., or 0845-070-0040 if calling from the U.K.

Pay close attention to the date your income was paid—a new U.S./U.K. income tax treaty and new U.K. forms apply to taxes on income paid on or after May 1, 2003.

After completing the U.K. form, send it to the IRS with your completed Form 8802.

The IRS sends Form 6166 and the U.K. certification form to the U.K. for you. If you want confirmation that your Form 8802 was processed, send the original and two copies of the U.K. form and a self-addressed stamped envelope with Form 8802.

### How To Claim Treaty Benefits

Send Form 6166 to the withholding agent or other appropriate person in the foreign country along with the foreign country's completed certification form, if any. However, if you are applying to the United Kingdom for treaty benefits, you must follow the special procedures discussed earlier on this page.

### Comments and Suggestions

Do **not** send Form 8802 to this address. This address is only for comments or suggestions about Form 8802 and its separate instructions.

Internal Revenue Service  
Office of Tax Treaty  
SE:LM:IN:TT:1  
1111 Constitution Avenue NW, MT

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## Specific Instructions

### Check Box. Additional Request

**Note.** Third party appointees cannot use this box to request certifications that were not originally authorized by the taxpayer.

Check this box if you require an additional Form 6166 for a tax period in which the Service has previously issued to you a Form 6166 certification letter. Complete a new Form 8802 to indicate the additional certifications needed. In the signature line of the additional request form, write "See attached original Form 8802." Attach a copy of the original Form 8802. If additional documentation was necessary for the original application, it does not need to be resubmitted with the request for an additional **Form 6166**. An applicant will only be entitled to use this procedure if there are no changes to the applicant's tax information provided on the original application. An applicant may use this procedure to obtain a Form 6166 for a country that was identified on the previously filed Form 8802. An applicant may also use this procedure to obtain a Form 6166 for a country that was not identified on the previously filed Form 8802, but must sign the new Form 8802. An additional request for Form 6166 using this procedure must be made within 12 months of the most recently issued Form 6166 relating to the same tax period.

**Note.** See the paragraph *Change in taxpayer's name* for more information.

### Check Box. Foreign Claim Form

Check the box if you have included with Form 8802 a foreign claim form sent to you by a foreign country. The submission or omission of a foreign claim form will not affect your residency certification. If the IRS does not have an agreement with the foreign country to date stamp, or otherwise process the form, we will not process it and such foreign claim form will be mailed back to you.

**Note.** For more information about foreign countries with which the IRS has an agreement to process a foreign claim form, call the Philadelphia Service Center at 215-516-2000 (not a toll-free number).

### Applicant's Name and U.S. Taxpayer Identification Number

As part of certifying U.S. residency, the IRS must be able to match the name(s) and taxpayer identification number(s) (TIN(s)) on this application to those previously verified on either the U.S. return filed for the tax period on which certification is to be based or on other documentation you provide.

Enter the applicant's name and TIN **exactly** as they appear on the U.S. return filed for the tax period(s) on which certification will be based. If the applicant was not required to file a U.S. return, enter the applicant's name and TIN as they appear on documentation previously provided to the IRS (for example, Form 8832, Entity Classification Election) or on documentation provided by the IRS (for example, a determination letter).

**Joint return.** If a joint income tax return was filed for a tax period on which certification will be based, enter the spouse's name and TIN **exactly** as they appear on the return filed.

**Change in taxpayer's name.** If the taxpayer's name has changed since the most recent Form 8802 was filed with the Service, the Form 8802 and tax authorization for each individual or entity must be submitted under the taxpayer's new name. In addition, documentation of the name change must be submitted with Form 8802 (trust agreement, corporate charter).

**Note.** Certification will not be issued if the name change has not been updated with the IRS database. For information about how to update the IRS on your new name, contact customer service for businesses at 1-800-829-4933 and for individuals at 1-800-829-1040.

### Line 2. Applicant's Address

Enter your address for the calendar year for which you seek certification. Certification may be denied if the applicant enters a P.O. Box or C/O address. If you are an individual who lived outside the United States during the year for which certification is requested, the special rules under *Individuals With Residency Outside the United States*, on page 2, may apply to you.

### Lines 3a. Mailing Address

Form 6166 may be mailed to you, or to a third party appointee. If you do not indicate a mailing address on line 3a, the Form 6166 will be mailed to your address on line 2.

### Line 3b. Appointee's Information

If the mailing address entered on line 3a is for a third party appointee, you must provide written authorization for the IRS to release the certification to the third party. By filling out the appointee's information in lines 3a and 3b (that is, name and address), written authorization will be deemed to have been provided. You are not required to enter a phone number or a fax number of your third party appointee. However, by providing a phone number or fax number, you are authorizing the IRS to call or fax your third party appointee. This may speed the processing of your application.

The Centralized Authorization File (CAF) contains information on third parties authorized to represent taxpayers before the IRS and/or receive and inspect confidential tax information on active tax accounts or those accounts currently under consideration by the IRS. If your appointee has a CAF number, enter it on line 3b.

In general, you do not need to fill out line 3b if you have attached Form 2848, Power of Attorney and Declaration of Representation, or Form 8821, Taxpayer Information Authorization, authorizing the appointee to receive your certification of residence. In line 3b, write "See attached Authorization."

If you appoint more than one third party, attach a Form 8821 for each additional party.

If the applicant is a partnership, S corporation (including a qualified subchapter S subsidiary (Qsub)), simple trust, grantor trust or common trust fund, each partner/shareholder/owner/beneficiary of the entity must provide to the entity Form 8821, or equivalent, authorizing the entity, or its appointee, to receive tax information related to the residency certification program. Pursuant to section 6103(c) and regulations thereunder, authorization on Form 8821, or an equivalent document, will not be accepted if it covers matters other than federal tax matters. See the specific line instructions for each type of entity.

## Line 4a. Individual

**Green card holder.** If you are a resident alien with lawful permanent resident status who recently arrived in the United States and you have not yet filed a U.S. income tax return, you should provide a copy of your current Form I-551, Alien Registration Receipt Card (green card). Instead of a copy of your green card, you can attach a statement from U.S. Citizenship and Immigration Services (USCIS) that gives your alien registration number, the date and port of entry, date of birth, and classification. For more information in determining your U.S. resident status, see *Chapter 1, Nonresident alien or Resident Alien*, in Pub. 519.

**Substantial presence test.** An individual who is not a lawful permanent resident of the United States but who meets the “substantial presence test” under section 7701(b) is a resident alien for purposes of U.S. taxation. If you are a resident alien under the substantial presence test and you have not yet filed a U.S. income tax return for the year in which certification is requested, you should provide a copy of your current Form I-94, Arrival-Departure Record. Enter the date (YYYYMMDD) your status changed on the line provided. For information on determining your period of residency, see *Substantial Presence Test* in Publication 519.

**Students, teachers, and trainees.** If you filed Form 1040, U.S. Individual Income Tax Return, and you are in the United States under an “A1,” “F1,” “J1,” “M1,” or “Q1” visa, include the following with Form 8802:

1. A statement explaining why Form 1040 was filed.
2. A statement along with documentation that you reported your worldwide income.

**Dual-status alien.** An individual is a dual-status alien for U.S. tax purposes if the individual is a part-year resident alien and a part-year nonresident alien during the calendar year(s) for which certification is requested. Dual-status generally occurs in the year an individual acquires status as a U.S. resident or terminates such status. For example, you are a dual-status alien if you are a U.S. citizen or green card holder and you lost citizenship or green card holder status during the same calendar year. You may also be a dual-status alien if you are a non-resident alien but due to meeting the substantial presence test become a

resident alien during the same calendar year.

The dual-status alien classification does not occur merely due to a temporary absence from the United States, nor will multiple periods of temporary absence and re-entry into the United States create multiple periods of U.S. resident and non-resident status. For information and examples on the dual-status alien and to determine your period of residency, see Pub. 519.

If you checked the dual-status box, enter the dates (YYYYMMDD) that correspond to the period that you were a resident in the United States during the year(s) for which certification is requested.

**First-year election.** If you are an individual who has or intends to make the first-year election under section 7701(b)(4) applicable to the year for which certification is requested, enter the date (YYYYMMDD) your status as a U.S. resident for tax purposes will begin. For more information regarding the first-year election and determining your period of residency, see *First-Year Choice* in Pub. 519.

1. If you have made a first-year residence election under section 7701(b)(4) applicable to the year for which you are requesting certification, attach the election statement you were required to file with your income tax return for the taxable year of election with Form 8802.

2. If, for the calendar year for which certification is requested, you have not yet filed a first-year residence election statement, attach a statement that you intend to file such statement and that you are eligible to make the election with Form 8802.

**Partial-year Form 2555 filer.** Check this box if you filed a Form 2555 that covered only part of a year for which certification is requested. For each year that this applies, enter the eight-digit dates (YYYYMMDD) that correspond to the beginning and ending of the period you were a resident in the United States.

**Sole proprietor.** Include on line 6 the type of tax return, name, TIN, and any other information that would be required if certification was being requested for the individual owner that filed the Schedule C.

## Line 4b. Partnership

Partnerships are not considered U.S. residents within the meaning of the residence article of U.S. income tax

treaties. Treaty benefits are only available to a partner who is a U.S. resident.

**Note.** The Form 6166 requested by partnerships will include an attached list of partners that are U.S. residents. The IRS does not certify the percentage of ownership interest of the listed partners in a particular payment. It is the duty of the partnership to provide such information to the withholding agent.

Include the following with Form 8802:

1. The name and TIN of each partner for which certification is requested and any additional information that would be required if certification were being requested for each of those partners. With respect to a request for certification of a foreign partnership, or foreign entity treated as a partnership, that is not required to file a Form 1065, U.S. Return of Partnership Income, attach a representation (as described in Pub. 686) from each U.S. partner.
2. Authorization (for example, Form 8821) from each partner, including all partners listed within tiered partnerships. Each authorization must explicitly allow the third party requester to receive the partner's tax information and must not address matters other than federal tax matters.
3. An authorization from the partnership, unless the requester is a partner in the partnership during the tax year for which certification is requested.

An LLC that is classified as a partnership follows the above procedures. Members of the LLC are treated as partners.

**Nominee partnership.** If you are a nominee partnership, do not check the partnership box on line 4b. Rather, complete line 4j, Nominee applicant, and attach the information required by the instructions for line 4j.

## Line 4c. Trust

Domestic and foreign grantor trusts and simple trusts can be certified for U.S. residency, to the extent the owner of the grantor trust or beneficiaries of simple trusts are U.S. residents. Domestic complex trusts may be certified without regard to the residence of the settler or beneficiaries.

A trust is domestic if a court within the U.S. is able to exercise primary supervision over the administration of the trust and one or more U.S. persons has authority to control all substantial decisions of the trust.

**Grantor trust.** Include the following with Form 8802.

1. The name and TIN of each owner and any information that would be required if certification were being requested for each owner.
2. Authorization (for example, Form 8821) from each owner. Each authorization must explicitly allow the third party requester to receive the owner's tax information and must not address matters other than federal tax matters.
3. An authorization from a trustee of the trust, unless the requester is a trustee of the trust.

If the grantor trust is a foreign trust, also include a copy of Form 3520-A, Annual Information Return of Foreign Trust with a U.S. Owner, and a copy of the foreign grantor trust ownership statement.

**Domestic nongrantor trust and simple trust.** Include the following with Form 8802.

1. The name and TIN of each beneficiary and any information that would be required if certification were being requested for each beneficiary.
2. Authorizations (for example, Form 8821) from each beneficiary. Each authorization must explicitly allow the third party requester to receive the beneficiary's tax information and must not address matters other than federal tax matters.
3. An authorization from the trustee, unless the requester is a trustee in the trust.

**Group trust arrangement, described in Rev. Rul. 81-100.** A group trust arrangement that has received a determination letter recognizing its exempt status under section 501(a) must attach a copy of that letter to Form 8802.

A group trust arrangement that is seeking benefits from Switzerland with respect to dividends paid by a Swiss corporation must also attach to Form 8802 the name of each participant and a statement that each participant listed is a trust forming part of a plan described in section 401(a), 403(b), or 457(b).

**IRA.** Domestic individual retirement arrangements (individual retirement accounts within the meaning of section 408(a) and Roth IRAs within the meaning of section 408A) (collectively referred to as IRAs) may be certified as residents (without regard to the residence of the IRA holder). Either the IRA holder or the trustee of the IRA

may request certification on behalf of the IRA.

An IRA holder requesting certification on behalf of an IRA must provide the IRA account name (that is, the IRA holder's name) and number, the IRA holder's TIN, and a copy of Form 8606, Nondeductible IRAs, or Form 5498, IRA Contribution Information. Complete the remainder of Form 8802 as if certification is being requested by the IRA.

A bank or financial institution acting as the trustee for IRAs may request certification for multiple IRAs grouped by year and by country for which certification is requested. The bank or financial institution must include the following with Form 8802:

1. A list of IRA account names (that is, the IRA holder's name) and account numbers for which certification is requested.
2. A statement that each IRA account name and number listed is an IRA within the meaning of sections 408(a) or 408A.
3. A statement that the bank or financial institution is a trustee of the IRA.

**Common trust fund as defined in section 584.** Include the following with Form 8802.

1. The name and TIN of each participant and any information that would be required if certification were being requested for each participant.
2. Authorizations (for example, Form 8821) from each participant. Each authorization must explicitly allow the third party requester to receive the participant's tax information and must not address any matters other than federal tax matters. If a pass-through entity is a participant, you must list the partners/shareholders/owners/participants/members/beneficiaries in the pass-through entity and obtain authorization from each such participant.
3. An authorization from a trustee of the trust, unless the requester is a trustee of the trust.

A common trust fund that is seeking benefits from Switzerland with respect to dividends paid by a Swiss corporation must also attach to Form 8802 the name of each participant and a statement that each participant listed is a trust forming part of a plan that is described in section 401(a), 403(b), or 457(b), or is a trust forming part of a plan described in section 401(a), 403(b), or 457(b) that is within a group

trust arrangement described in IRS Revenue Ruling 81-100.

## Line 4e. Corporation

Generally, a corporation that is not incorporated in the United States will not be entitled to U.S. residency certification. However, there are exceptions for certain corporations that are treated as U.S. corporations under sections 269B, 943(e)(1), 953(d), or 1504(d).

**Note.** Only Canadian and Mexican corporations are eligible to be treated as domestic corporations under section 1504(d).

A corporation that is neither incorporated in the United States nor treated as a U.S. corporation under sections 269B, 943(e)(1), 953(d), or 1504(d), but nevertheless believes it is entitled to U.S. residency certification, must attach a detailed explanation, with documentary evidence, explaining why the corporation is entitled to certification. Prior to seeking certification, request competent authority assistance in accordance with *Revenue Procedure 2002-52, 2002-31 I.R.B. 242*.

Corporations requesting U.S. residency certification on behalf of their subsidiaries should attach a list of the subsidiaries and the Form 851, Affiliations Schedule, filed with the corporation's consolidated return.

**Dual-resident corporation.** If you are requesting certification for treaty benefits in the other country of residence named on line 4e, you may be denied certification depending on the terms of the residence article of the relevant treaty. If the treaty provides that benefits are available only if the competent authorities reach a mutual agreement to that effect, request competent authority assistance in accordance with Rev. Proc. 2002-52, 2002-31 I.R.B. 242, prior to seeking certification. See also the instructions to line 10.

## Line 4f. S Corporation

S corporations are not considered U.S. residents within the meaning of the residence article of U.S. income tax treaties. Treaty benefits will only be available to a shareholder who is a U.S. resident for purposes of the applicable treaty. See Pub. 686 for more information.

Include the following with Form 8802.

1. The name and TIN of each shareholder for which certification is

requested and any additional information that would be required if certification were being requested for each of those shareholders.

2. Authorization (for example, Form 8821) from each shareholder. Each authorization must explicitly allow the third party requester to receive the shareholder's tax information and must not address any matters other than federal tax matters.

3. An authorization from an officer with legal authority to bind the corporation unless the requester is a shareholder in the S corporation during the tax year for which certification is requested.

## Line 4g. Employee Benefit Plan/Trust

Trusts that are part of an employee benefit plan that is required to file Form 5500 must include a copy of the following with Form 8802.

1. The signed Form 5500, Annual Return/Report of Employee Benefit Plan.

2. Schedule P, Annual Return of Fiduciary of Employee Benefit Trust, identifying the name and TIN of the entity for which certification is being requested.

An employee plan that is not subject to the Employee Retirement Income Security Act (ERISA) or is not otherwise required to file Form 5500 must include with Form 8802 a copy of the employee benefit plan determination letter.

An employee plan that is not required to file Form 5500 and does not have a determination letter must provide evidence that it is entitled to certification. It must also provide a statement under penalties of perjury explaining why it is not required to file Form 5500 and why it does not have a determination letter.

## Line 4h. Exempt Organization

Generally, an organization that is exempt from U.S. income tax must attach to Form 8802 a copy of either the organization's determination letter from the IRS or the determination letter for the parent organization.

An exempt organization that is not required to file a U.S. income tax return and that has not received a determination letter will not be issued a Form 6166, unless such organization has other means of proving U.S. residency for treaty purposes. For such an entity, include the entity's bylaws,

corporate charter, trust agreement, partnership agreement, etc. Submit attachments with Form 8802.

**Governmental entity.** Federal, state, or local government agencies requesting U.S. residency certification that have not obtained a determination letter, private letter ruling, revenue ruling, etc., can submit in writing, on official government letterhead, a letter under penalties of perjury from a legally authorized government official that the organization is a government agency.

## Line 4i. Disregarded Entity

Disregarded entities (DRE) are not considered U.S. residents within the meaning of the residence article of U.S. income tax treaties. Treaty benefits will only be available to a DRE owner who is a U.S. resident. The DRE type must be specified on line 4i.

**Note.** See line 5 for more information regarding the DRE's owner information that may be required to be included with your Form 8802 application.

## Line 4j. Nominee Applicant

If you act as a nominee for another person or entity, you must provide all certification information required for each individual or entity for which you are acting as a nominee. For example, if you are acting as a nominee for a resident alien, you must attach the information required of applicants that are resident aliens. Similarly, if one of the entities for which you are acting as a nominee is a partnership, then you must submit the certification information for each of the partners requesting certification. In addition, you must include the following with Form 8802:

1. Authorization (for example, Form 8821) from each individual or entity. Each authorization must explicitly allow the nominee applicant to receive the individual's or entity's tax information and must not address any matters other than federal tax matters.

2. A statement under penalties of perjury signed by an individual with legal authority to bind the nominee applicant, explicitly stating the nominee applicant is acting as an agent on behalf of the above-named individual(s) or entity(ies) for whom the Form 6166 is being requested.

**Note.** If you are a nominee partnership, please do not provide information concerning your partners. The

residence of your partners will not be verified.

## Line 5. Required to File a U.S. Tax Form

If the applicant was not required to file a U.S. return for the tax periods on which certification will be based, check the applicable box next to "No." If the applicant does not fit in any of the categories listed, check "Other" and on the dotted line that follows, enter the code section that exempts the applicant from the requirement to file a U.S. return.

If the applicant was not required to file a U.S. return and the applicant is:

- An **individual** — attach proof of income (for example, an income statement) and an explanation of why the individual is not required to file a tax return for the tax period(s) on which certification will be based.
- A **minor child** — under the age of 14 whose parent(s) elected to report the child's income on their return, attach a signed copy of the Form 8814, Parents' Election To Report Child's Interest and Dividends.
- A **QSub (qualified subchapter S subsidiary)**, include the parent S corporation information on line 6. Attach proof of the Form 8869 election (Qualified Subchapter S Subsidiary Election) and all other corporate requirements listed in the instructions for line 4f that apply to the parent S corporation.
- A **trust or estate** — attach an explanation of why the trust or estate is not required to file Form 1041.
- A **common trust fund** — attach a copy of the determination letter or proof that a participant is not required to file.
- A **group trust arrangement** — attach a copy of the determination letter or private letter ruling.
- A **partnership described in section 761(a)** — attach a copy of the section 761(a) election submitted with the filing of Form 1065 or a statement as described in Pub. 686. For each partner requesting certification, include all information indicated in the instructions for line 4b.
- A **FASIT (financial asset securitization investment trust)** — include the parent C corporation information on line 6 of Form 8802. Attach a copy of the statement of election made by the parent C corporation requesting that the entity be treated as a FASIT under section 860L(a)(3), the FASIT penalties of perjury statement (as described in Pub. 686) from the parent corporation, and

all of the other corporate requirements listed in the instructions for line 4e that apply to the corporate parent.

- A **foreign partnership** — include all information indicated in the instructions for line 4b for each partner requesting certification.
- A **domestic DRE (disregarded entity)** — include the entity's single owner information on line 6. Include with Form 8802: the owner's name and entity type (e.g., corporation, partnership), TIN, and all other certification application information required for the owner's type of entity. If the DRE is either newly formed, was established before 2001, or was established by default (no Form 8832 was filed), also include a representation (as described in Pub. 686) from the owner, signed under penalties of perjury.
- A **foreign DRE (foreign disregarded entity)** — For tax years beginning on or after January 1, 2004, if the disregarded entity is organized outside the United States and the owner is a U.S. person or entity, attach a copy of the Form 8858, Information Return of U.S. Persons With Respect to Foreign Disregarded Entities, filed with the U.S. owner's income tax return for the calendar year(s) for which certification is requested. If the owner has not identified the foreign DRE on the Form 8858, the foreign DRE may not be certified. Include the foreign DRE's owner information on line 6. Include with Form 8802, the owner's name and entity type, TIN, and all other certification information required for the owner's type of entity.

**Note.** If certification is being requested for tax years prior to January 1, 2004, the U.S. owner is not required to attach a copy of the Form 8858, but must attach proof that the foreign DRE is owned by a U.S. resident. For example, if the foreign DRE is owned by a U.S. corporation, attach a copy of Schedule N (Form 1120), Foreign Operations of U.S. Corporations, filed with the owner's income tax return for the calendar year for which certification is requested. If the owner has not identified the DRE on an attachment to its Schedule N, the foreign DRE may not be certified.

## Line 6. Parent or Parent Organization

If you answered "Yes" to line 5, do **not** complete line 6.

If you answered "No" to line 5, you must complete line 6.

If you answered "Yes" to line 6, check the appropriate box and enter the parent's, parent organization's or owner's information. If the applicant is a minor child, enter the name, address, and TIN of the parent who reported the child's income.

If you answered "No" to line 6, attach proof of the parent's or parent organization's income and an explanation of why the parent is not required to file a tax return for the tax period(s) on which certification will be based.

## Line 7. Calendar Year of Request



See Publication 686 for the Penalties of Perjury Statements that must be provided with your application.

The certification period is generally 1 year. You can request certification for both the current year and any number of prior years. If certification is requested for the current calendar year or a year for which a return is not yet required to be filed, see Pub. 686 for the penalties of perjury statement that must be provided with your application.

If you entered the most recent prior year on this line, see *Form 8802 Filed Before Return Posted by the IRS* on page 2.

Enter the four-digit (YYYY) calendar year(s) for which you are requesting certification. However, see the *Exception* below.

**Exception.** If you were a dual-status alien during any year for which you are requesting certification, enter instead the eight-digit dates (YYYYMMDD) that correspond to the beginning and ending of the period you were resident in the United States. You must show the specific period of residence for each year for which you are requesting certification. For information on determining your period of residency, see Pub. 519.

## Line 8. Tax Period

Enter the four-digit year and two-digit month (YYYYMM) for the end of the tax period(s) for which you were required to file your return that corresponds to the year(s) for which you are requesting certification (the certification year).

**Example 1.** A Form 1040 filer who is completing Form 8802 for certification year 2005 on January 1, 2005, would enter 200312 on line 8. This is because on January 1, 2005, the 2003 Form 1040 is the latest return

required to have been filed by an individual requesting certification for 2005.

**Example 2.** On May 1, 2005, the same Form 1040 filer would enter 200412 as the tax period for a certification year of 2005 (the 2004 Form 1040 was required to have been filed before May 1, 2005).

**Example 3.** On January 1, 2005, a Form 1040 filer completing Form 8802 for a certification year of 2002 would enter 200212.

**VAT.** Certification for VAT purposes can be issued only for a year for which a return was filed. Therefore, the tax period entered here must be the same as the certification year (for example, 200412 for the 2004 certification year).

## Line 9. Purpose of Certification

The North American Industry Classification System (NAICS) codes can be found in the instructions for your tax return (for example, Form 1120 or Schedule C (Form 1040)). If you do not provide a NAICS code on Form 8802 and one was not provided on the return you filed, one will not be entered automatically. Form 6166 will only be able to certify that you filed a return with a particular NAICS code if it matches the NAICS code on your return. If you provide a code that does not match, Form 6166 will state that you represent that your NAICS code is as stated on Form 8802.

If you fail to indicate the purpose of the certification or you indicate "Income tax" but have requested certification for a non-treaty country, **your application will be returned to you** for correction.

## Line 10. Country for Which Certification Is Requested

Generally, the country or countries for which certification is requested will not be identified on Form 6166. However, there are two exceptions.

- In the case of individuals who file Form 2555, or Form 1116 instead of Form 2555, for the calendar year(s) for which certification is requested, and who are requesting certification for Cyprus, Hungary, India, Kazakhstan, Russia, South Africa, and/or Ukraine, the country or countries will be identified on Form 6166.
- In the case of dual-resident corporations that are residents of Australia, Belgium, Canada (only for dual-incorporated entities), China

(including dual-resident companies that would be resident in a third country under a treaty with China), Denmark, Estonia, Finland, France, Germany, India, Ireland, Israel, Italy, Jamaica, Kazakhstan, Latvia, Lithuania, Luxembourg, Mexico, Morocco, Netherlands, New Zealand, Pakistan, Portugal, Russia, Slovenia (only for dual-incorporated entities), Spain, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Ukraine, United Kingdom, or Venezuela, the country will not be identified on Form 6166, but the form will prohibit its use in the dual-resident corporation's other country of residence.

## Line 11. Attachments and Penalties of Perjury Statement

If additional information is required to be submitted with Form 8802, use the space provided in line 11 or attach the information to the form.

Penalties of perjury statements may be submitted in the space provided under line 11 or as an attachment. Penalties of perjury statements submitted independently of Form 8802 must have a valid signature. For more information regarding penalties of perjury, see Pub. 686.

**Note.** If any attachment is prepared by someone other than the person signing Form 8802, the attachment must contain the penalties of perjury statement and the signature of the individual signing Form 8802.

## Signature

**Note.** An authorized representative must attach documentation (such as Form 2848, Power of Attorney and Declaration of Representative) showing authorization to sign Form 8802.

If the applicant is:

- A minor child who cannot sign, either parent can sign the child's name in the space provided. Then, add "By (your signature), parent for minor child."
- A minor child under the age of 14 whose parent(s) elected to report the child's income on Form 8814, the parent who filed Form 8814 must sign.
- A deceased individual, either the surviving spouse or personal representative can sign. The personal representative must attach documentation showing authorization. A personal representative can be an executor, administrator, or trustee of the decedent's estate.

- A partnership, either a general partner or the partnership's authorized representative can sign.
- A corporation or an S corporation, either an officer with legal authority to bind the corporation or the corporation's authorized representative can sign.
- A trust, either a trustee or the trust's authorized representative can sign.
- An estate, the personal representative must sign. A personal representative can be an executor, administrator, or trustee of the estate.
- An exempt organization, either an officer with legal authority to bind the organization or the organization's authorized representative can sign.
- An employee benefit plan, either an officer with legal authority to bind the plan or the plan's authorized representative can sign.



*To avoid delays in the processing and possible rejection of Form 8802, if Form 8802 is signed by an individual who is not identified in the instructions, attach a statement in line 11 and any appropriate documentation to indicate such individual's authority to sign Form 8802.*

## Daytime Phone Number

Providing your daytime phone number can help speed the processing of Form 8802. We may have questions about items on your application, such as the NAICS code, type of applicant, etc. By answering our questions over the phone, we may be able to continue processing your Form 8802 without mailing you a letter. If you are filing a joint application, you can enter either your or your spouse's daytime phone number.

## Privacy Act and Paperwork Reduction Act Notice.

We ask for the information on this form under sections 6103 and 6109 of the Internal Revenue Code. You are required to provide the information requested on this form only if you wish to have your U.S. residency for tax purposes confirmed in order to claim certain benefits under a tax treaty between the United States and the foreign country (countries) indicated on line 10 of Form 8802. We need this information to determine if the applicant, in order to obtain benefits under a tax treaty, can be certified as a U.S. resident for tax purposes for the period specified on the application.

Failure to provide a properly completed form or required attachments will result in the applicant not being certified as a U.S. resident for the period specified on the application. Providing false or fraudulent information may subject you to penalties. If you designate an appointee to receive Form 6166, but do not provide all of the information requested, we may be unable to honor the designation.

We may disclose the information to the tax authorities of other countries pursuant to a tax treaty. We may disclose this information to the Department of Justice for civil and criminal litigation. We may also disclose this information to cities, states, and the District of Columbia for use in administering their tax laws, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

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:

<b>Recordkeeping</b> . . . . .	52 min.
<b>Learning about the law or the form</b> . . . . .	1hr., 3 min.
<b>Preparing the form</b> . . . . .	56 min.
<b>Copying, assembling, and sending the form to the IRS</b> . . . . .	34 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 write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do **not** send the form to this address. Instead, see *Where To File* on page 1.