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Guide to U.S. Taxation of Foreign Investors

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IN THIS GUIDE

1. Introduction

For the foreign investor, the United States presents a myriad of investment opportunities unavailable anywhere else in the world. This Guide is intended to provide you with some of the fundamental tax considerations of U.S. investments and to serve as a reference tool that enables you to identify investment opportunities that will help you maximize the after-tax earnings of your global portfolio.

Taxes are a real and substantial cost of earning income. By minimizing, or perhaps eliminating, the U.S. tax cost of investing in U.S. stocks and securities, foreign investors will improve the overall after-tax yield of the securities, professionally managed funds and other investments held in their global portfolios. Although many types of investment income from U.S. sources are subject to tax, opportunities are available to reduce or eliminate this tax:

- Certain types of financial instruments, when held by foreign investors, are given preferred tax treatment under U.S. tax rules.
- U.S. tax treaties with many countries reduce or eliminate U.S. tax on dividends, interest and other income for residents of the treaty countries.
- Changing the form of ownership (individual, corporation, personal investment company or trust, etc.) may reduce estate and gift taxes in the U.S. and in the investor's home country.

This Guide provides information regarding the U.S. tax rules as they affect U.S. nonresidents who have U.S. investment portfolios. It describes how the U.S. estate and gift tax rules apply to transfers of U.S. investment property and identifies opportunities to minimize or eliminate these taxes. In addition, the Guide includes separate sections that discuss the significant U.S. tax aspects of particular types of investment products. It is intended to help you understand the theory behind, and the potential impact of, various U.S. tax rules on foreign investors who qualify as nonresidents for U.S. income tax purposes. The Guide also offers practical tax planning ideas and highlights special situations, which require careful consideration or consultation with a tax or other professional adviser. It is not intended, nor should it be relied on, as a technical analysis of this complex area of U.S. taxation. The U.S. tax rules applicable to foreign corporations are similar, but not identical, to the rules applicable to nonresidents. Your professional tax adviser should be consulted regarding the U.S. taxation of foreign corporations.

Note for Married Individuals—This Guide only addresses U.S. federal taxation. It does not address state or local tax issues, non-U.S. tax issues or the possible interaction of U.S. tax law with non-U.S. tax law. Further, this Guide only addresses the taxation of investment activity, including a separate section on legislation that was enacted in 2003 to expand reporting requirements for investors that fit within a regulatory defined concept of a tax shelter.[1] Each investor's unique factual circumstances can have an impact on the application of the rules discussed in this Guide. This Guide is intended to provide readers with a general understanding of U.S. federal tax issues relating to their investments, but does not address all of the intricacies and exceptions that may apply. It is not a substitute for individualized personal tax advice and each investor should consult his or her own professional tax adviser.

[1] For further information on the tax shelter disclosure regulations, please refer to section IX.

2. Are You a U.S. Resident or Nonresident?

United States taxation of foreign persons who invest in the U.S. depends on whether they are residents or nonresidents. A person is defined under the tax law to include an individual, a corporation, a partnership, or a trust. Once it is determined whether such a person is a resident or a nonresident, different rules apply to individuals, corporations, partnerships, and trusts.

Note—U.S. citizens, regardless of their residency, generally are subject to U.S. tax on their worldwide income. All references to nonresidents in this Guide include individuals that are not U.S. citizens.

INDIVIDUALS

A foreign individual who is a U.S. resident is subject to U.S. taxation on worldwide income in the same manner as a U.S. citizen. However, a nonresident generally is taxed only on U.S.-source income and income that is treated as effectively connected with a U.S. trade or business. A nonresident's income from non-U.S. investments (that is not treated as effectively connected with a U.S. trade or business) generally is not subject to U.S. federal income taxation.

A foreign individual is generally considered a U.S. resident for the current year and is subject to U.S. income tax on worldwide income (net of deductions) if he or she: (1) is a lawful permanent resident of the United States at any time during the taxable year (holds a green card); (2) meets the substantial presence test; or (3) makes a first year election. More information on physical presence follows this section.

If at the end of the tax year, one spouse is a U.S. citizen or a resident alien and the other is a nonresident alien, an election may be made to treat the nonresident spouse as a U.S. resident for the entire tax year. A joint federal income tax return must be filed for the tax year the choice was made. However, joint or separate returns may be filed for later years. The election to be treated as a U.S. resident is suspended for any year neither spouse is a U.S. citizen or a resident alien. The election permanently ends if either spouse revokes the election, either spouse dies or there is a legal separation.

Note—Certain former U.S. citizens and former U.S. residents may continue to be taxed as U.S. citizens or residents on certain income for the first ten years following expatriation from the United States. These rules are beyond the scope of this Guide.

CORPORATIONS

A foreign corporation is generally subject to U.S. federal income tax on income that is treated as effectively connected with a U.S. trade or business or attributable to U.S. sources.

PARTNERSHIPS AND TRUSTS

Foreign partnerships or trusts are not subject to U.S. income tax, but the beneficial owners may incur U.S. tax if the partnership or trust is considered to be conducting a U.S. trade or business or is earning U.S.-source income. Income of a foreign trust may be taxed either to the trust or the trust's beneficiaries.

Note—A nonresident whose spouse is a U.S. citizen or resident may elect to be taxed as a U.S. resident.

Note—The U.S. income tax rules applicable to an estate are beyond the scope of this Guide.

Physical Presence

For individuals who do not hold a green card, the rules which determine who is treated as a resident or a nonresident for U.S. tax purposes are based upon the individual's actual physical presence in the United States.

SUBSTANTIAL PRESENCE TEST

In general, an individual is treated as a U.S. resident if he or she is present in the United States for at least 31 days during the current calendar year and the total number of days that he or she is present in the United States, as calculated below, equals or exceeds 183 days:

- the number of days present in the current year, plus
- one third of the days present in the preceding year, plus
- one sixth of the days present in the next preceding year.

Generally, an individual is treated as present in the U.S. on any day the individual is physically present in the U.S. at any time during that day. However, an individual will not be considered present in the U.S. if the individual is in the U.S. for less than 24 hours while in transit between two points outside the U.S.

» **Example —**A British citizen is transferred to the United States for a 15-month period that includes one full calendar year and part of the next year (January 1 through December 31 of the first year and January 1 through March 31 of the next year). This individual will be a U.S. resident for the first year since his or her presence in the United States exceeds 183 days. However, under the residency formula, he or she will also be a resident for part of the second year, although only three months are spent in the United States. The days of physical presence are determined for the second year as follows:

- 90 days in the current year, plus
- 365 days in the first year multiplied by one third, or 122 days,
- for a total of 213 days.

If the individual leaves the U.S. on March 31 of the second year, the individual's U.S. residency will terminate as of that date if certain conditions are met.

DIPLOMATS, STUDENTS, TEACHERS, ATHLETES AND EMPLOYEES OF INTERNATIONAL ORGANIZATIONS

For the purposes of the substantial presence test, an individual is not considered present in the U.S. on any day on which he or she is present in the U.S. as a student, teacher or trainee, a professional athlete temporarily in the U.S. to compete in a charitable sporting event, or is temporarily present in the U.S. as a diplomat with full-time diplomatic or consular status. This exception also applies to full-time employees of an international organization (e.g., the United Nations, the World Bank or the International Monetary Fund), provided that the employee is neither a U.S. citizen nor a permanent resident of the United States (i.e., a holder of a green card). This exception generally also includes the immediate family (i.e., spouse and unmarried children under the age of 21) of employees of international organizations and of diplomats.

Note—There are limitations on the application of these rules. You should consult your professional tax adviser to assure applicability of these rules.

MEDICAL CONDITIONS

An individual will also not be considered present in the U.S. for any day for which the individual is unable to leave the U.S. due to a medical condition which arose while he or she was present in the U.S.

CLOSER CONNECTION

A foreign individual will not be treated as a U.S. resident (even if he or she otherwise qualifies under the substantial presence test) if such person:

- Is present in the U.S. on fewer than 183 days in the current calendar year, and
- Has a tax home (the center of his or her employment or self-employment, or, if no place of employment exists, the place of his or her regular abode) in a foreign country, and has a closer connection to this tax home than to the United States.

(This standard takes into consideration the location of the individual's permanent home, family, personal belongings, bank accounts, driver's license, and social and political ties in determining whether a closer connection is present.)

» **Example —**A citizen and resident of Costa Rica regularly spends five months a year in the U.S. However, she is employed on a full-time basis in Costa Rica so that it qualifies as her tax home. Also, she has a "closer connection" with Costa Rica because her family lives there, her principal place of residence is there, and most of her business, financial and social contacts are there. Because she does not spend at least 183 days in the U.S. in any year, she should not be considered a U.S. resident.

The closer connection exception does not apply if the individual has taken steps or is currently taking steps to obtain an immigrant visa or holds a green card.

Observation—Individuals who claim nonresident status based on a closer connection with a foreign country must file a statement with the IRS which substantiates the closer connection. In general, the failure to file this statement will render the closer connection exception unavailable to the individuals.

MEXICAN AND CANADIAN COMMUTERS

Residents of Canada or Mexico who regularly commute to work in the U.S. generally are not considered present in the U.S. for purposes of the substantial presence test on any day during which they commute. However, wages from U.S. employment and certain income from U.S. sources and income that is effectively connected to a U.S. trade or business will remain subject to U.S. income tax.

First-Year Election

A foreign citizen who is not otherwise a resident of the U.S. for the calendar year (the election year) and who satisfies certain other residency requirements can choose to be treated as a United States resident for the election year. The individual will need to satisfy the substantial presence test for the year following the election year.

Note—If an individual becomes a nonresident after having been a U.S. resident for at least three consecutive years and then again becomes a U.S. resident, but does so before the close of the third full year of non-residence, then the individual may be subject to U.S. tax at regular graduated rates on certain U.S.-source income during the intervening nonresident years.

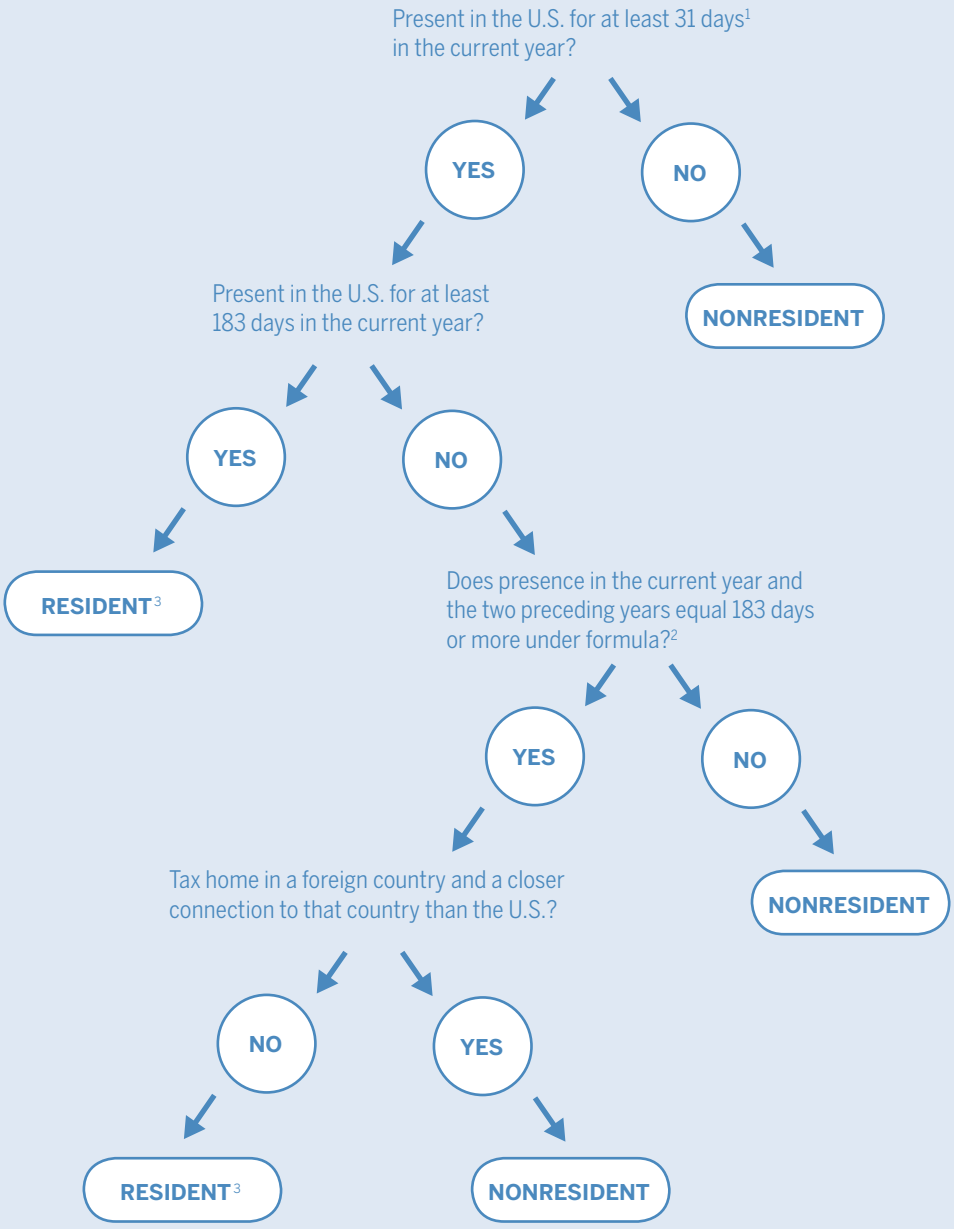
Conclusion

As illustrated by the discussion above, the U.S. rules for determining the tax status of foreign individuals are complex. In addition, tax treaties may provide residence rules, which differ from the rules discussed in this section. If this is the case, the treaty definition may prevail. Please refer to Section VII, "Income Tax Treaty Benefits," for a discussion of some special rules that are applicable to citizens and residents of treaty countries. You should consult with your professional tax adviser for a complete analysis of your own special circumstances.

The flowchart on the following page summarizes the application of the physcial presence test.

DETERMINING RESIDENCE OF FOREIGN NATIONALS UNDER THE SUBSTANTIAL PRESENCE TEST*

(Nonimmigrant Visa Holders)



*See preceding discussion for exceptions.
[1] A day includes any part of a day.
[2] Formula equals: current year days, plus first preceding year days x one-third, plus second preceding year days x one-sixth.
[3] A treaty may apply, under which the individual may nevertheless be treated as a non-resident alien for most purposes. See Section VII, "Income Tax Treaty Benefits."

3. Taxation of U.S. Nonresidents

The material presented in Sections III through VIII of this Guide was prepared especially for international investors who, after application of the rules discussed in the previous section, are considered nonresidents for U.S. income tax purposes.

Nonresidents generally are taxed only on their investment income from U.S. sources and on certain other income that is treated as "effectively connected" with a trade or business conducted in the United States. Different tax rules apply depending on whether income is derived from investments or from business activities in the United States.

Certain former green card holders (lawful permanent residents) and former U.S. citizens may continue to be subject to U.S. taxation as U.S. citizens or residents on certain income under the expatriation regime.

INVESTMENT INCOME

Generally, investment income is taxed at a flat rate of 30 percent of gross income (withholding at the source), unless: (1) the rate is reduced by an income tax treaty between the U.S. and the investor's country of residence; or (2) the income is from an investment product which is given preferred tax treatment under U.S. domestic tax law.

WITHHOLDING AT THE SOURCE

Nonresidents who are not engaged in a trade or business in the U.S. are generally not required to file U.S. income tax returns. Rather, the U.S. tax law provides for the withholding of tax at the source on certain types of income paid or credited to the account of the nonresident.

The person (e.g., a financial institution) who pays items of U.S. source income to a nonresident must withhold the appropriate rate of tax (30 percent or lower treaty rate) on the total amount of each item of U.S.-source income paid, without deduction for any expenses (e.g., margin interest) paid or incurred by the nonresident in the production of the income. The tax is withheld at the time the income is paid or credited to the nonresident's account. Payments made to foreign corporations, partnerships and trusts are generally subject to the same U.S. tax withholding rules that apply to nonresident individuals.

» **Example —**A nonresident investor owns 100 shares of stock in a U.S. company. The shares are held in an account with a U.S. financial institution. The U.S. company pays a cash dividend of one dollar per share. Under the tax rules applicable to U.S. nonresidents, the financial institution must withhold 30 percent of the cash dividend and deposit such amount on a timely basis with the U.S. government. Absent a treaty between the U.S. and the foreign investor's country of residence providing for a lower withholding rate, the foreign investor is entitled to receive, or have credited to his account, $70 of the $100 dividend.

EFFECTIVELY CONNECTED INCOME

Income that is *effectively connected* with a U.S. trade or business is taxed on a *net* basis (income minus allowable deductions) at the same federal income tax rates that apply to U.S. citizens or residents (generally 15 percent for capital gains (assuming the assets are held for at least one year) or up to 35 percent (beginning in 2003) for individuals and 35 percent for corporations). State and local taxes may increase the effective tax rate on income from a U.S. trade or business.

Nonresident individuals engaged in a trade or business within the U.S. during the taxable year are required to file a return and pay tax at regular U.S. progressive tax rates on income deemed to be effectively connected with such trade or business (generally 15 percent for capital gain income and up to 35 percent for ordinary business income (beginning in 2003)). Although the performance of personal services within the U.S. during the taxable year will generally be treated as a U.S. trade or business, the determination as to whether a nonresident is engaged in a U.S. trade or business is otherwise a subjective test based on the person's activities.

Income effectively connected with a U.S. trade or business may not be subject to U.S. tax if there is an income tax treaty in effect with the nonresident's country of residence. Pursuant to most treaties entered into by the U.S., business profits of a nonresident are not subject to U.S. tax unless attributable to a permanent establishment in this country. Generally, a permanent establishment is a fixed place of business (such as an office, factory, mine or place of management) through which a nonresident wholly or partly carries on its activities.

Note—A nonresident will generally not be treated as engaged in a U.S. trade or business merely by trading in U.S. stocks, other securities or commodities.

4. Taxation of Investment Income

This section discusses the U.S. tax treatment of particular U.S. investment products when owned by U.S. nonresidents.

Unless otherwise noted, it is assumed that any investment income is not treated as effectively connected to a U.S. trade or business. Please refer to Section VII, "Income Tax Treaty Benefits," for an appropriate discussion of possible treaty benefits. **Any discussion herein of gain from disposition of a security assumes that the security does not constitute a U.S. real property interest.** Please refer to the discussion of real property interest below.

Stocks

DIVIDENDS

For U.S. nonresidents, dividend income received with respect to stock issued by a U.S. corporation is subject to a 30 percent (or lower, if a lower rate is available under a treaty) U.S. withholding tax.

Note—Most tax treaties with the U.S. provide for reduced rates of tax on dividend income.

To be subject to withholding as a dividend, the payment must be a distribution of property or money out of the earnings and profits of a corporation. In addition, it must be made by a corporation to a shareholder with respect to its stock. However, distributions arising from a complete liquidation of a corporation are generally not subject to U.S. withholding tax.

Note—Where a corporation retains earnings and profits and the investor realizes his or her pro rata share of earnings indirectly by selling the stock, any gain on the sale of the stock is treated as a capital gain not subject to withholding.

Note—Whether a capital market instrument represents debt, which pays interest, or equity, which pays dividends, is largely a question of fact. No universal criteria exist to distinguish a debt instrument from an equity instrument for federal income tax purposes. Investors should consult the prospectus for the issuer's characterization of the instrument for federal income tax purposes and their professional tax advisers. It is important to note that the characterization of the instrument for non-tax purposes is not controlling for U.S. federal income tax purposes. For example, certain hybrid instruments (such as Monthly Income Preferred Securities (MIPS) and Trust Originated Preferred Securities (TOPRS)) are generally characterized as debt instruments for federal income tax purposes but preferred stock for accounting and regulatory purposes.

Note—An American Depository Receipt (an "ADR") usually evidences the deposit of ordinary shares in a foreign corporation with a U.S. depository bank. ADRs are denominated in U.S. dollars. Since the underlying issuer is a foreign corporation, dividends on ADRs are treated as foreign source income exempt from U.S.

withholding tax. Nevertheless, the source country may require the withholding of a foreign tax on dividend income paid to persons who are not resident in the source country. The rate of foreign tax varies from country to country and may depend on whether the nonresident is entitled to benefits under a tax treaty with the source country.

CAPITAL GAINS AND LOSSES

When an asset, such as a share of stock (or any other security), is held for investment, any gain or loss on its sale or other disposition is usually considered a capital gain or loss. When a nonresident sells investment stocks or securities at a gain, that gain is exempt from U.S. tax unless the foreign investor is an individual present in the U.S. at least 183 days during the year. The exemption applies equally to long-term (assets held for more than one year) capital gains and short-term capital gains. Losses from the sale of investment securities cannot be used by a nonresident to offset other types of income that are subject to U.S. tax.

As an exception to this general tax exemption, gains from the disposition of stock in companies with substantial U.S. real property holdings may be subject to U.S. tax (see discussion below under the heading "Real Property Interests").

Note—Long-term capital gain distributions from regulated investment companies (i.e., mutual funds) would also be exempt from U.S. tax. On the other hand, short-term capital gains distributed by the fund would be considered ordinary dividends subject to the dividend U.S. withholding tax described above. Exempt interest dividends (i.e., dividends attributable to tax-exempt state and local debt obligations from a fund that invests more than 50 percent of its assets in such obligations) are not subject to U.S. tax.

SHORT SALES

If a foreign investor sells stock or securities short (i.e., stock or securities are borrowed by the financial institution for the investor to deliver to the buyer), then any gain recognized when the short position is closed should be a nontaxable capital gain, provided the investor is present in the U.S. for less than 183 days during the year. On the other hand, if a nonresident investor is the lender of the security (i.e., the investor has a long position) involved in a short sale and receives a dividend equivalent or substitute payment with respect to such stock, that payment may be subject to U.S. withholding tax.

Observation—Such in lieu of payment to a foreign person generally is considered a dividend out of corporate earnings and profits under the U.S. tax rules. Accordingly, the reduced treaty withholding rates that may apply to regular dividend payments may be available. Tax rules in this area are complex and we recommend that you consult your professional tax adviser in structuring these trades.

Bank Deposits

Interest earned by nonresidents on savings and checking accounts, money market deposit accounts, certificates of deposit from U.S. banks or savings and loan associations and Eurodollar certificates is exempt from U.S. tax. On the other hand, dividends from U.S.-registered money market funds (i.e., stock companies) are usually subject to U.S. tax withholding.

Debt Instruments

Generally, the 30 percent (or lower treaty rate) U.S. withholding tax applies to interest paid or accrued to a nonresident on a debt obligation issued by a U.S. borrower. However, several exceptions to this rule may apply.

PORTFOLIO INTEREST

Certain U.S.-source interest income (portfolio interest) is exempt from the 30 percent U.S. withholding tax. Portfolio interest includes interest which is payable on the following types of U.S. instruments:

Obligations issued after July 18, 1984, in registered form, if the foreign investor provides the paying agent with a signed statement certifying nonresident status (Form W-8BEN).

Obligations issued in "bearer" form (not registered) provided there are arrangements designed to reasonably ensure that: (1) the obligations are sold or resold only to non-U.S. persons; (2) the interest on the obligations is payable only outside the U.S. and its possessions; and (3) there is a legend on the face of the obligation stating that any U.S. person holding the bond will be subject to certain limitations.

Registered obligations that are targeted to foreign markets with interest payable outside the U.S. and its possessions.

Exceptions—The portfolio interest exemption does not apply if the foreign investor owns ten percent or more of the corporation or partnership that issued the obligation or if the obligation arises in the course of a bank's extension of credit. The exemption also generally does not apply to interest paid on a debt instrument where the amount payable varies by reference to the issuer's (or a related party's) receipts, sales, cash flow, income, change in property value, dividends, partnership distributions or similar payments received. Further, the exemption generally does not apply to registered debt that is convertible to bearer form.

SHORT-TERM OBLIGATIONS

Interest on obligations with a stated maturity of 183 days or less (from date of original issue) is exempt from the 30 percent U.S. withholding tax.

The chart on the following page details the potential tax impact of different types of U.S. debt obligations on nonresident investors.

	INTEREST EARNINGS	CAPITAL GAINS	COMMENTS
CORPORATE BONDS	Generally, interest (including OID) payable on U.S. corporate bonds held by nonresidents is subject to the 30 percent U.S. withholding tax. However, amounts received by nonresidents with respect to most publicly (registered) debt obligations of U.S. corporations issued after July 18, 1984, qualify as portfolio interest and are, therefore, exempt from U.S. tax as long as the investor has provided the payer with a Form W-8BEN.	Since corporate debt instruments are usually treated as capital assets (property held for investment), any gain on their sale or other disposition is generally free from U.S. tax. Interest or OID accrued on the bond prior to sale is taxed as interest income and not capital gain, but it is not subject to withholding.	*Observation*—Interest earned on certain unregistered (or bearer) bonds that are sold only to nonresidents, with the interest payable only outside the United States and its possessions, may also qualify for the portfolio interest exemption. Unlike owners of registered obligations, owners of bearer bonds acquired outside the U.S. need not provide a Form W-8BEN to obtain this benefit.
U.S. GOVERNMENT SECURITIES	Interest (including OID) received by U.S. nonresidents on obligations of the U.S. government (e.g., Treasury bills, notes and bonds) which were issued after July 18, 1984 ("portfolio interest" obligations) is generally exempt from U.S. withholding tax, as long as a Form W-8BEN has been provided to the payer.	Capital gains on the sale of U.S. government securities held for investment are generally exempt from U.S. tax.	
MUNICIPAL BONDS	Interest (including original issue discount) earned by nonresident investors on certain state and municipal obligations, which is exempt from U.S. tax when earned by a U.S. citizen or resident, is also exempt from the 30 percent U.S. withholding tax.	Gains on the sale or retirement of municipal bonds generally are nontaxable capital gains.	Observation—Yields on state and local municipal bonds are generally lower than those of similar taxable issues. *Note*—Although municipal bond income may be exempt from U.S. tax, such income may not be exempt from tax in the foreign investor's country of residence.

Mortgage-Backed Securities

Amounts paid to a nonresident on a regular interest (debt) in a Real Estate Mortgage Investment Conduit (REMIC) generally is treated as interest or OID income and is exempt from U.S. withholding tax under the portfolio interest exemption, provided a Form W-8BEN is received by the payer.

No official guidance has been released with respect to U.S. withholding tax on interest paid to a nonresident holder of a Financial Asset Securitization Investment Trust (FASIT) interest. However, since a FASIT is an evidence of indebtedness similar to a REMIC, such interest may also be exempt from U.S. withholding tax.

However, interest earned in a mortgage pool represented by pass-through certificates, such as Ginnie Maes and Fannie Maes, is exempt from U.S. tax only if all of the mortgages in the pool are otherwise eligible for the portfolio interest exception (as discussed above) and were originated after July 18, 1984, thereby qualifying them as portfolio interest obligations.

Mutual Funds

The purchase of shares in a mutual fund is generally similar to the purchase of shares of stock in a U.S. corporation. Distributions received from the fund are treated as regular dividends, capital gain dividends, distributions of tax-exempt interest, or as a return of capital, depending upon the source from which the distributions are made.

Distributions treated as regular dividends are subject to the 30 percent U.S. withholding tax, unless the rate is reduced by a treaty between the U.S. and the foreign investor's country of residence. Capital gain distributions (from the fund's net long-term capital gains) and exempt interest dividends are generally not subject to withholding. On the other hand, dividend distributions from the funds constituting short-term capital gains and other ordinary income would be subject to 30 percent (or lower treaty rate) withholding as regular dividends.

Note—Certain money market funds also distribute dividends and not interest income and, therefore, withholding would be required at the 30 percent (or lower treaty) rate on such distributions from such funds.

OFFSHORE MUTUAL FUNDS

A number of financial institutions offer mutual funds, which are incorporated, managed and sold outside of the U.S. Consequently, the dividend distributions made by these offshore mutual funds generally are exempt from U.S. withholding tax.

Unit Investment Trusts

A unit investment trust (UIT) generally holds a fixed portfolio of specified assets (e.g., U.S. stocks, U.S. Treasuries, Ginnie Maes, corporate bonds or certificates of deposit). The UIT issues redeemable securities, each of which represents an undivided pro rata interest in the assets held by the trust. The UIT pays interest or dividend income (depending on its underlying investments) on a periodic basis.

CAPITAL GAINS

A unitholder recognizes capital gain (or loss) to the extent that all or part of his pro rata portion of a security in the trust is disposed of (i.e., the security is sold by the UIT or the unitholder sells his interest in the UIT for an amount greater (or lesser) than his tax cost). This capital gain is generally exempt from U.S. tax.

INTEREST INCOME

Most interest income from UITs invested in U.S. government and corporate debt instruments (issued after July 18, 1984) qualifies as portfolio interest and as such would be exempt from U.S. withholding tax.

DIVIDEND INCOME

Dividend income from UITs with equity investments is subject to the 30 percent (or lower treaty rate) U.S. withholding tax.

OFFSHORE UITS

A number of financial institutions offer UITs, which are incorporated, managed and sold outside of the U.S. Consequently, the dividend distributions made by these UITs generally are exempt from U.S. withholding tax.

Options, Forward and Future Contracts

LISTED STOCK OPTIONS

Listed stock options are either options to buy stock (calls) or options to sell stock (puts) traded on a U.S. securities exchange, such as the New York or American Stock Exchanges. Gain from trading in stock options generally is treated as a capital gain upon expiration, sale or exercise and, accordingly, generally is exempt from U.S. tax.

NONEQUITY OPTIONS

Gain from trading in other types of options—nonequity options—should similarly not be subject to U.S. tax. Listed nonequity options include:

- Options on futures contracts;
- The S&P 500 stock index;
- The S&P 100 stock index;
- Interest rate options (e.g., options on Treasury notes and Treasury bills); and
- Foreign currency options.

Gains from trading in foreign currency options would be considered ordinary income sourced according to the residence of the taxpayer. Thus, such gains would be exempt from U.S. tax.

COMMODITY POOLS

A commodity pool is a pool of funds structured as a limited partnership which engages in the speculative trading of commodity interests (e.g., futures contracts, options, physical commodities and foreign currency forward contracts) and interests in other commodity pools.

Since a commodity pool is organized in the form of a limited partnership, it will not be considered a separate taxable entity for U.S. tax purposes and its income will generally be taxed directly to the partners. Please refer to the section on partnership income for a more detailed discussion of the taxation of partnership interests.

Note—In certain situations, a partnership, which trades in commodities for its own account, may not always be considered to be engaged in a U.S. trade or business.

Recommendation—Due to the complex nature of commodity pools and the varied taxation of options and futures contracts, it is suggested that you contact your professional tax adviser before investing in such instruments.

FUTURES AND FORWARD CONTRACTS

Futures and forward contracts are generally considered capital assets that generate capital gain or loss. Foreign currency futures and forwards will generate ordinary income sourced according to the residence of the taxpayer. Therefore, any trading gains usually are exempt from U.S. tax.

Notional Principal Contracts

Under current U.S. tax law, financial instruments which constitute "notional principal contracts" (NPCs) are generally not subject to U.S. withholding tax. An NPC generally is defined as a financial investment that provides for the payment of amounts by one party to another at agreed intervals (e.g., quarterly), with reference to a specified index and notional amount in exchange for specified consideration or a promise to pay similar amounts. In general, futures contracts, option contracts, forward contracts, foreign currency contracts and debt instruments cannot qualify as NPCs.

Payments received by a nonresident on an NPC are not subject to U.S. tax, unless they are effectively connected with the conduct of a U.S. trade or business. Thus, the use of NPCs is currently an effective way for nonresidents to generate tax-efficient investment income.

Note—In the case of a notional principal contract involving non-periodic payments, a portion of the consideration received in exchange for the non-periodic payments will be considered interest potentially subject to withholding.

» **Example —**Nonresident A enters into a two-year notional principal contract with Dealer B, a U.S. broker-dealer, at a time when Company XYZ's stock is trading at $100 per share. Company XYZ is a U.S. corporation whose shares trade on the New York Stock Exchange. Pursuant to the contract, A will pay B LIBOR plus ten basis points on a notional amount of $5 million on a quarterly basis and, at the end of the contract, if Company XYZ's share price is below $100, A will pay B the depreciation in the share price times 50,000 shares. B agrees to pay A an amount equal to the dividends on 50,000 XYZ shares on a quarterly basis and, at the end of the contract, if Company XYZ's share price is above $100, B will pay A the appreciation in the share price times 50,000 shares. The contract is not effectively connected with a U.S. trade or business conducted by A. XYZ pays quarterly dividends of $0.50 per share throughout the two-year period and is trading at $120 per share at the end of the contract. LIBOR plus ten basis points remains constant at 6.5% throughout the two-year period. Pursuant to the contract, quarterly cash flow would be as follows:

From A to B: $81,250

From B to A: $25,000

At the end of the contract, B would make a payment to A of $1,000,000.

Because the payments from B to A qualify as payments under a notional principal contract, no U.S. tax should be imposed on these amounts.

Note—The use of NPCs and their qualification for tax purposes is a complex area. Investors should consult their professional tax advisers before entering into these transactions. It is possible that by entering into an NPC, an investor may be treated as having made a constructive sale of an appreciated financial position if the NPC is with respect to the same or substantially identical property.

Annuities

Annuity payments received by nonresidents are subject to the 30 percent (or lower treaty rate) U.S. withholding tax to the extent the payments are made by a U.S. person. A portion of each annuity payment is treated as a return of the investor's cost and a portion is treated as income from the investment. Tax is withheld only from the income portion of the payment.

Observation—The income portion of an annuity payment generally is not interest income under U.S. tax rules. Thus, the portfolio interest exemption may not be available for such payments.

Note—Annuities paid to a nonresident in a treaty country may be eligible for an exemption under the treaty.

Rental Income

A nonresident is subject to tax on rents for the use of real or tangible personal property located in the U.S. These rents are generally taxable at the 30 percent flat rate. Most U.S. treaties permit no reduction in this rate where the income is derived from real property.

If a nonresident invests directly in rental-producing real estate, the individual may elect to have rental income from the property taxed at regular U.S. tax rates, after deducting expenses relating to the property (rather than at 30 percent of gross rent received), without subjecting their worldwide income to U.S. taxation. As a result of the deductions allowed for depreciation, interest and other allowable expenses, the effective U.S. tax on such income may be reduced below 30 percent.

Observation—This election is not available for rentals of personal property. In addition, if rent from leasing either personal or real property is considered income effectively connected to the conduct of a trade or

business in the U.S. by the taxpayer, such income will be taxed on a "net" basis at regular U.S. tax rates (and would require the filing of a U.S. income tax return) even in the absence of an election.

Note—An individual that is subject to net income taxation in the United States is required to file an annual income tax return (Form 1040NR). If the return is not filed within 16 months of the due date of the return (normally June 16th of the year following the tax year) deductions and credits may be denied.

Real Property Interests

The provisions of the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) should be considered by every nonresident who invests in U.S. real property. FIRPTA applies to every disposition of U.S. real property interests by nonresidents, including interest of the stock of certain U.S. corporations holding primarily U.S. real property and stock in a Real Estate Investment Trust (REIT).

CAPITAL GAINS

Under FIRPTA, gain recognized by a nonresident on the sale or other disposition of an interest in U.S. real property is treated as income effectively connected to the conduct of a trade or business in the U.S. Thus, the net gain from the sale of a U.S. real property interest is subject to tax at regular, graduated U.S. tax rates (generally, 15 percent maximum rate for long-term capital gains and up to 35 percent for individuals (beginning in 2003) and 35 percent for corporations), as opposed to the 30 percent U.S. withholding tax rate. In addition to taxation at regular U.S. income tax rates, nonresidents may be subject to an alternative minimum tax (AMT) at graduated rates between 26 and 28 percent, based on the lesser of their alternative minimum taxable income or their net gain from the disposition of their U.S. real property interest (with, generally, a 15 percent rate on long-term capital gains).

A U.S. real property interest includes stock of a company that, at any time within the preceding five years qualifies as a U.S. Real Property Holding Corporation ("U.S. RPHC"). A U.S. RPHC is a company whose assets consist primarily of U.S. real property interests. However, stocks of companies that are regularly traded on an established exchange are not real property interests in the hands of shareholders who do not own more than a five-percent interest in the company.

FIRPTA WITHHOLDING

The FIRPTA rules generally require the buyer of a U.S. real property interest to withhold ten percent of the consideration given if the seller is a foreign person. Thus, the purchaser of stock in a U.S. RPHC that does not meet the publicly-traded exception must generally withhold tax equal to ten percent of the amount realized by the foreign person on the disposition of the stock. The withheld tax is applied as a credit against the foreign seller's ultimate U.S. tax liability.

In addition, any distribution by a U.S. corporation, the shares of which constitute a U.S. real property interest, that is not treated as a dividend may be subject to a ten percent U.S. withholding tax. The foreign person must still file a regular U.S. income tax return to report the transaction and to compute the actual U.S. tax imposed on the gain, if any. The amount withheld can be claimed as a credit against the actual tax due, and any over-withheld amounts can be claimed as a refund by the foreign seller on his or her tax return.

The foreign seller, or shareholder in the case of a corporate distribution, can apply for a withholding exemption certificate from the IRS on or before closing of the transaction to reduce or eliminate the withholding if certain conditions are met. For example, the IRS will permit reduced withholding if the maximum tax expected on the seller's gain is less than the ten percent amount otherwise required.

Special Situation—Special rules apply when a nonresident has an interest in a U.S. partnership that owns U.S. real estate. Please review the next section on partnership income for additional information.

SPECIAL RULES FOR REAL ESTATE INVESTMENT TRUSTS (REITS)

The sale of stock in a REIT is subject to FIRPTA withholding, unless the REIT shares are publicly traded and the shareholder meets the five-percent threshold or the REIT is a U.S.-controlled REIT. A distribution from a REIT that is designated as a capital gain dividend is

generally subject to a 35 percent U.S. withholding tax when paid to a nonresident. If the REIT designates a distribution as a capital gain dividend after it is paid, then the withholding is imposed on future distributions. Capital gain dividends are not eligible for the same reduced rates of withholding as ordinary dividends under a tax treaty.

Partnership Income

INVESTMENT INCOME

A partnership is not considered a separate taxable entity for U.S. tax purposes and, therefore, its income is generally taxed directly to its partners. Thus, if a nonresident invests in a U.S. partnership that receives U.S. investment income (interest, dividends, royalties, etc.) and the partnership itself is not engaged in a U.S. trade or business, the U.S. withholding tax rules are applied as if the foreign partner had earned such U.S.-source investment income directly. In these instances the partnership must withhold the appropriate amount of tax on each foreign partner's distributive share of partnership gross income (not just on cash distributions) that is subject to U.S. tax. The partnership will withhold this tax on any distributions made during the year. Any excess owed at the end of the year must be withheld and paid over prior to April 15 of the subsequent year.

The rate of withholding is generally 30 percent unless a treaty between the U.S. and the investor's country of residence provides for a lower rate and the partner has provided appropriate documentation (generally Form W-8BEN) to the partnership prior to the time when withholding otherwise would be required.

EFFECTIVELY CONNECTED INCOME

If the partnership is engaged in a U.S. trade or business, a nonresident partner is treated as if he or she is so engaged. This is true whether the nonresident is a general or limited partner. Nonresident partners are subject to regular U.S. income tax on their share of partnership income derived from a U.S. trade or business, but are generally not subject to 30 percent U.S. withholding tax on this income. The tax may be eliminated if, under a treaty between the U.S. and the foreign partner's country of residence, the partner does not have a "permanent establishment" in the U.S. by virtue of the activities of the partnership. Income effectively connected with a U.S. trade or business is reported by the individual nonresident partner on a U.S. Individual Nonresident Income Tax Return (Form 1040-NR). A corporate nonresident partner would report income effectively connected with a U.S. trade or business on a U.S. Income Tax Return of a Foreign Corporation (Form 1120-F). The partnership generally is required to file a Form 1065, U.S. Return of Partnership Income, and provide Form K-1, Partner's Share of Income, Credits, Deductions, Etc., to each partner.

A partner's tax basis in a partnership interest is increased by the partner's pro rata share of U.S. effectively connected income and reduced by the partner's pro rata share of effectively connected loss. Distributions from the partnership reduce the tax basis in the partnership interest.

When a partner disposes of his or her interest in a partnership that is engaged in a U.S. trade or business, the U.S. tax authorities take the position that the partner's gain will be considered effectively connected income based upon the extent to which partnership assets were used in that business.

Special Situation—A partnership which trades U.S. stock and securities for its own account may not be considered to be engaged in a U.S. trade or business if certain conditions are met and if the partnership is not a dealer in securities. A similar situation applies if the partnership is engaged in commodities trading, but only if the commodities are customarily traded on an organized exchange and the transaction is customary to the exchange.

U.S. WITHHOLDING TAX

A partnership must pay a U.S. withholding tax on each foreign partner's distributive share of U.S. effectively connected taxable income. The withholding rate is the highest rate applicable to the class of taxpayer—that is, for individuals, 35 percent (beginning in 2003) and, for corporations, 35 percent. No withholding is required if the partner's distributive share of income would be exempt under a treaty. Payments are made on a

quarterly basis during the partnership's taxable year. The foreign partner must then file a U.S. tax return and either pay any additional tax due or obtain a refund for any overpayment. Capital gains, which are generally exempt from 30 percent withholding, are subject to this U.S. withholding tax at 35 percent for individuals (beginning in 2003) or 35 percent for corporations. The withholding on a partner's distributive share of partnership income is coordinated with the withholding required on the partnership's investment income or FIRPTA income so that no payment should be subject to more than one of the three withholding tax regimes.

Observation—This U.S. withholding tax paid by the partnership is allocated to each foreign partner and serves as a credit against the partner's U.S. tax liability for the year. This credit is treated as a distribution to the foreign partner and reduces the partner's basis in his or her partnership interest.

MASTER LIMITED PARTNERSHIPS

Income from certain widely-held U.S. limited partnerships, known as master limited partnerships (MLPs) or publicly traded limited partnerships (PTPs), is generally considered to be U.S. effectively connected income and, therefore, is subject to the special withholding rules on effectively connected income. However, in general, the partnership is required to withhold on distributions to each foreign partner. The partnership may instead elect to withhold on each foreign partner's allocable share of taxable income for the year, whether or not such amount has been distributed. Moreover, special withholding rules may apply to distributions made to those acting as nominees (e.g., financial institutions) for U.S. nonresidents holding partnership interests.

Note—In general, a PTP is treated as a corporation for U.S. federal income tax purposes. However, certain PTPs, which derive more than 90 percent of their gross income from interest, dividends, real property rents and gains from the sale of capital assets, will be taxed as partnerships. The rules described immediately above apply to PTPs that are not treated as corporations.

Recommendation—If you have or are considering any partnership investments, you should consult your professional tax adviser for an analysis of the particular partnership's activities. It is not uncommon for a single partnership to be engaged in both investment and trade or business activities in the U.S.

REAL PROPERTY INVESTMENTS

Foreign partners of a partnership holding U.S. real property will be subject to the special rules under FIRPTA. Thus, if a foreign partner sells his or her interest in a partnership holding U.S. real property, the gain or loss on the disposition attributable to that property will be subject to taxation under FIRPTA. In addition, if the partnership sells a U.S. real property interest, the gain from the sale allocated to a foreign partner will be subject to these rules as if the partner had sold his share of the asset directly.

In certain cases, a publicly traded interest in a partnership is considered an interest in a publicly traded corporation. If so, the partners will be subject to the FIRPTA rules applicable to holders of interests in publicly traded corporations rather than the rules relating to partnerships.

WITHHOLDING

A partnership must withhold tax at a rate of 35 percent with respect to any gain realized by the partnership on the disposition of a U.S. real property interest to the extent the gain is allocable to a foreign partner. U.S. partnerships that are subject to the withholding requirements for effectively connected income are not also subject to the FIRPTA withholding requirements.

In addition, a transferee acquiring a partnership interest is required to withhold at a rate of ten percent with respect to the disposition, but only if: (1) 50 percent or more of the value of the partnership's gross assets consists of U.S. real property interests, and (2) 90 percent or more of the value of the partnership's gross assets consists of U.S. real property plus cash or assets readily convertible into cash. If these requirements are met, the entire partnership interest is treated as U.S. real property for FIRPTA withholding purposes. The taxpayer, however, may apply for a withholding certificate in cases where reduced withholding is appropriate.

Note—The above rule applies for withholding purposes only. The selling partner is subject to tax on the partner's gain to the extent the gain is attributable to

U.S. real property interests held by the partnership. The tax withheld, if any, is credited against the partner's actual tax liability.

ELECTIVE CHARACTERIZATION OF CERTAIN ENTITIES

A U.S. entity that is not in classical corporate form, including a U.S. partnership or a U.S. limited liability company (LLC), may choose to be taxed as a corporation or as a fiscally transparent entity. If an investment partnership includes in its portfolio an entity such as an LLC that has chosen fiscally transparent treatment and that entity is an operating business, the partnership and each of its partners may be considered engaged in a U.S. trade or business and, therefore, subject to tax on a net income basis at net graduated rates.

Note—The U.S. tax characterization of an entity as fiscally transparent or non-transparent may differ from the characterization of the entity for purposes of foreign tax law. This may impact the availability of tax treaty benefits. See Section VII.

5. U.S. Estate and Gift Tax Planning

The U.S. imposes an estate tax on the worldwide estates of U.S. citizens and domiciliaries—individuals who are not U.S. citizens but who have a U.S. domicile. Additionally, a gift tax is imposed by the U.S. on lifetime gifts made by these individuals. However, for U.S. nondomiciliaries—individuals who are not U.S. citizens and who do not have a U.S. domicile—not all property transfers are subject to U.S. estate and gift taxes.

This section discusses some of the U.S. estate and gift tax rules and offers some planning suggestions to help you minimize the cost of transferring your U.S. property. Because of the complex nature of the estate and gift tax area, we urge you to consult your professional tax adviser before making any contemplated transfers. Also, special U.S. estate and gift tax rules may apply to former citizens and former long-term permanent residents (green card holders) that change the rules discussed below.

U.S. Estate Tax

Generally, the U.S. estate tax applies to nondomiciliaries with respect to their property situated or deemed situated in the U.S. at the time of death. The rules discussed in Section II regarding who is a U.S. resident versus a nonresident for U.S. income tax purposes do not apply to determine domicile for U.S. estate taxation. Individuals are considered domiciled in the U.S. and are taxed on their worldwide estates if their domicile at death is in the U.S. Individuals are generally considered nondomiciliaries if their domicile is not in the U.S. An individual will acquire a U.S. domicile if that person is physically present in the U.S. and intends to remain permanently in the U.S.

Note—The fact that a particular foreign country considers an individual to be domiciled in that country does not necessarily mean that the U.S. tax authorities will agree.

Note—Some tax treaties with the United States reduce or eliminate the application of the U.S. estate tax.

Observation—Generally an individual who is present in the U.S. on a nonimmigrant visa will not be considered a U.S. domiciliary unless the individual intends to remain permanently in the U.S. In contrast, most immigrants and foreign individuals (e.g., green card holders) are considered domiciliaries for U.S. estate tax purposes. Individuals who are contemplating living in the U.S. should consult their professional tax advisers before moving to the U.S.

TAXABLE INVESTMENTS

The following assets, if owned by a nondomiciliary at death, will be subject to U.S. estate tax:

- Real property located in the U.S.;
- Tangible personal property, such as jewelry and artwork, located in the U.S. (this would not include artwork on loan for exhibition in the U.S.);
- Shares of stock issued by a U.S. corporation (even if the actual stock certificate is not held in the U.S.) as well as shares of U.S. mutual funds;

- Debt obligations of U.S. citizens or residents, U.S. corporations, U.S. partnerships, the U.S. government and individual States, the interest on which is not exempt portfolio interest (regardless of where the obligation is located). In general, portfolio interest obligations are those obligations issued after July 18, 1984 which meet certain criteria (see Section IV of this pamphlet for a discussion of the portfolio interest rules); and
- Deposits in U.S. banks or in U.S. branches of foreign banks, but generally only if the deposit is effectively connected with the nondomiciliary's U.S. trade or business.

Note—Certain items are not treated as U.S. property even if located in the U.S. This includes life insurance contracts on the life of the nondomiciliary.

Observation—Shares of offshore mutual funds and offshore UITs are generally not subject to U.S. estate taxes assuming that the fund or UIT is considered a non-U.S. corporation under U.S. tax principles.

A general or limited interest in a U.S. partnership may be included in the nondomiciliary's estate for U.S. estate tax purposes, depending upon the nature of the partnership and whether it is engaged in a U.S. trade or business.

U.S. ESTATE TAX RATES

A nondomiciliary decedent's U.S. taxable estate in excess of $60,000 is taxed at rates ranging from 26 percent to a maximum of 49 percent (in 2003) for U.S. taxable estates in excess of $2 million. The U.S. does not tax the first $60,000 of a nondomiciliary decedent's U.S. estate. The amount not taxed by the U.S. may be higher under certain estate tax treaties.

Planning Strategy—Nondomiciliaries should consider holding their U.S. investments through non-U.S. corporations to minimize the potential application of the U.S. estate tax. More information is detailed in Section VI of this Guide, "Ownership of Investments." Also, if there are U.S. heirs, consideration should be given to the tax situation of these heirs after the death of the individual.

U.S. Gift Tax

The U.S. gift tax is coordinated with the U.S. estate tax and, therefore, provides for the same distinctions between domiciliaries and nondomiciliaries, and for nondomiciliaries is imposed at the same rates, except as mentioned above in 2010.

TANGIBLE PROPERTY

A nondomiciliary is subject to U.S. gift tax only on transfers of real estate and tangible property situated in the United States. Tangible property includes personal property, such as artwork and jewelry.

INTANGIBLE PROPERTY

In general, gifts of intangible property, such as corporate stock, mutual fund shares, bonds and other obligations, are not subject to U.S. gift tax. This is true even though the same property would be subject to U.S. estate tax if the transfer occurred by reason of the death of the nondomiciliary owner. Although not entirely certain, it is likely that a partnership interest is also intangible property that is exempt from U.S. gift tax, even if the partnership is engaged in a U.S. business and even if all of its property is located in the U.S.

CASH AND CHECKS

Cash is generally considered tangible property. Accordingly, any gift of cash or other currency, while in the U.S., may subject the transferor to U.S. gift tax. Even a wire transfer from abroad to a U.S. bank account could be construed to be a gift subject to U.S. gift tax. The safer course may be to make the transfer to the donee's offshore bank account.

Observation—While cash is considered tangible property, a U.S. bank account is treated as intangible property; therefore, an account transfer will not be taxed.

Planning Strategy—A nondomiciliary can transfer money tax-free by opening a U.S. bank account and assigning it to a donee (e.g., a spouse or child) or by adding the donee to the account.

Note—Tangible personal property which is located in the U.S. can be gifted free of U.S. gift tax if the property is removed from the U.S. prior to making the gift.

GENERAL TAX GUIDELINES

Generally, a nondomiciliary donor is not entitled to the unified credit against gift tax or a marital deduction for gifts to a spouse who is not a United States citizen. However, $112,000 (in 2003, as indexed for inflation) in gifts of U.S. situs property transferred to a non-citizen spouse may be excluded annually from U.S. gift tax. In addition, in calculating the gift tax, the first $11,000 (in 2003, as indexed for inflation) that is gifted annually to each donee, other than a spouse, is exempt from U.S. gift tax. Deductions for charitable contributions are limited to gifts to certain United States charities, U.S. government bodies or certain other charitable organizations that will use the gift within the U.S.

ESTATE AND GIFT TAX TREATIES

There are a number of estate and gift tax treaties that reduce or eliminate the otherwise applicable U.S. estate or gift tax.

Note—Any of the special U.S. estate and gift tax rules may be modified by a treaty between the U.S. and a nondomiciliary's country of domicile.

U.S. STATE REGULATIONS

Individual U.S. states may also impose estate or inheritance taxes at death and gift taxes on lifetime transfers. Foreign individuals who own property that is potentially subject to the U.S. estate or gift tax or state tax should consult their professional tax advisers regarding their potential tax liabilities and whether or not they should execute a U.S. will.

UNITED STATES ESTATE TAXATION FOR NONDOMICILIARIES (AS OF 2003)

Unitifed Rate Schedule

	COLUMN A	COLUMN B	COLUMN C	COLUMN D
	TAXABLE AMOUNT OVER	TAXABLE AMOUNT NOT OVER	TAX ON AMOUNT IN COLUMN A	RATE OF TAX ON EXCESS OVER AMOUNT IN COLUMN A
Exempted from estate taxation	$ 0	$ 10,000	$ 0	18%
	10,000	10,000	1,800	20%
	20,000	20,000	3,800	22%
	40,000	60,000	8,200	24%
Nondomiciliaries begin to pay estate taxes from US$60,001	$ 60,000	$ 80,000	$ 13,000	26%
	80,000	100,000	18,200	28%
	100,000	150,000	23,800	30%
	150,000	250,000	38,800	32%
	250,000	500,000	70,800	34%
	500,000	750,000	155,800	37%
	750,000	1,000,000	248,300	39%
	1,000,000	1,250,000	345,800	39%
	1,250,000	1,500,000	448,300	41%
	1,500,000	2,000,000	555,800	43%
	2,000,000	—	780,800	49%*

*The maximum estate and gift tax rate is scheduled to decline, as follows:

YEAR	MAXIMUM TAX RATE
2003	49%
2004	48%
2005	47%
2006	46%
2007	45%
2008	45%
2009	45%
2010	0% (Estate Tax), 35% (Gift Tax)
2011	55%

As indicated in the preceding table, the maximum estate and gift tax rate is scheduled to decline gradually from 49% to 45% in 2009. Under current law, the estate tax will be repealed for one year, for those individuals dying in 2010. The gift tax will remain in force in 2010, at a maximum rate of 35%. In 2011 and onwards, the estate tax is reinstated, and the maximum estate and gift tax rate will climb to 55% for gifts or bequests in excess of $3,000,000. It is possible that future legislation will either do away with or make permanent the one-year repeal of the estate tax in 2010.

Due to the unlimited marital deduction, the value of property located in the U.S. that passes from a nondomiciliary decedent to a surviving U.S. citizen spouse is not subject to U.S estate tax. However, if the surviving spouse is not a United States citizen, certain requirements must be met in order to claim a marital deduction.

6. Ownership of Investments

Choosing the right ownership vehicle is a crucial step in the management of an investment portfolio. The decision to hold investments individually, through a corporation and/or through a trust offers some significant tax and non-tax advantages. However, the use of a corporation or trust to reduce or eliminate U.S. tax is not without risk and should only be undertaken after careful planning and with the assistance of legal and tax professionals.

Corporate Ownership

TAX TREATMENT

Generally, a foreign corporation and nonresident individual are taxed similarly with respect to U.S. investment income. A foreign corporation is subject to the same 30 percent U.S. withholding tax on U.S.-source income that is not effectively connected with a U.S. trade or business and is also eligible for the same exemptions from withholding for portfolio interest, capital gains (other than gains from the sale of real property) and interest on bank deposits as a nonresident individual.

Observation—The 30 percent U.S. withholding tax rate for both nonresident individuals and foreign corporations may be reduced by a tax treaty. Consult your professional tax adviser for the rate applicable to the investor's or the foreign corporation's country of residence.

A foreign corporation's income that is effectively connected with a U.S. trade or business (such as income from a partnership engaged in a U.S. business), less allowable deductions for expenses related to the production of such income, is taxed currently at regular U.S. corporate tax rates up to a maximum of 35 percent plus a possible branch profits tax, discussed below.

Similarly, if earned by a nonresident individual, such income is taxed at regular U.S. individual tax rates, up to a maximum of 35 percent (beginning in 2003). However, effectively connected income may be exempt from U.S. tax altogether under a tax treaty. Consult your professional tax adviser.

Observation—Since nonresident individuals and foreign corporations are subject to the same tax on U.S. source investment income, reduction of income taxes generally is not a persuasive reason for corporate ownership of investments.

Planning Strategy—By holding U.S. investment assets through a foreign corporation, a nondomiciliary may be able to minimize exposure to the U.S. estate tax.

» **Example —**A U.S. nonresident transfers shares of stock in a U.S. corporation to a foreign corporation that he owns. Although the foreign corporation is subject to 30 percent (or lower treaty rate) withholding on any dividend income, the shares of stock in the foreign corporation, as tangible property, are not part of the investor's U.S. estate and at death will not be subject to U.S. estate tax.

Note—If the foreign corporation is not administered so that it complies with specific IRS guidelines on preserving the integrity of the corporate entity, it is possible that the IRS will consider it a "sham corporation." In this case, the U.S. estate tax could be levied on many of the assets owned by the corporation. If you are considering a corporate structure, you should consult with a trust professional and/or other professional tax adviser to determine if it would meet these IRS guidelines.

Note—The transfer of an investment to a foreign corporation may, in limited circumstances, be a taxable event. You should consult with your professional tax adviser before undertaking such a transfer.

BRANCH PROFITS TAX

A foreign corporation engaged in trade or business in the U.S. may also be subject to the branch profits tax equal to as much as 30 percent of the after-tax earnings of the foreign corporation. Please consult your professional tax adviser with respect to this matter.

OTHER TAX BENEFITS

Other tax benefits may be available depending on where the foreign corporation is formed. For example, a company organized in a jurisdiction that does not impose a corporate tax would not be taxed in that jurisdiction. You should consult your professional tax adviser before deciding whether or not to incorporate.

Beneficial Ownership Through a Trust

In general, the creation of a trust requires the separation of legal and beneficial ownership of all property transferred to the trust. The settlor of the trust transfers property to a trustee, who maintains legal title to the property and manages it for the benefit of others (the beneficiaries), who have beneficial ownership of the trust property.

GRANTOR TRUST

If a nonresident forms a revocable trust or retains exclusive enjoyment of the income, then, for U.S. income tax purposes, the IRS "looks through" the trust and considers the settlor to own the assets held by the trust. The trust's income is taxed as if the settlor earned the income directly. This arrangement is known as a "grantor trust." A trust can be, in part, a grantor trust and, in part, a nongrantor trust.

Note—The above paragraph is a general description of a grantor trust and does not cover all aspects of the definition. You should consult your professional tax adviser for further details.

The following property held by a nonresident's grantor trust is not subject to U.S. income tax because the nonresident is considered to own the property directly:

- Capital gains on investment property other than real estate;
- U.S. bank deposit interest and interest from U.S. bank money market accounts; and
- Treasury bills, notes and bonds, and many corporate obligations issued after July 18, 1984 (portfolio interest obligations as discussed in Section IV).

On the other hand, a nonresident is subject to U.S. tax on income from these items of property held by the nonresident's grantor trust:

- Dividends paid by U.S. corporations;
- Any income effectively connected with the conduct of a U.S. trade or business; and
- Gain from the sale of U.S. real estate.

Observation—U.S. securities (unless the securities qualify as portfolio interest obligations, as described in earlier sections of this Guide), real property or any tangible property located in the U.S. which is owned by the nonresident individual's grantor trust may also be subject to the U.S. estate tax.

NONGRANTOR TRUST

If a nonresident creates an irrevocable trust and does not retain the exclusive enjoyment of the income or principal (i.e., the trust is not a grantor trust), then the trust is treated as a separate taxpayer for U.S. tax purposes. Generally, the trust is subject to tax

on its undistributed income. The maximum effective tax rate on trust income is 35 percent (beginning in 2003). Amounts that are distributed currently by the trust to its beneficiaries are generally taxable to the beneficiary (at the beneficiary's effective U.S. tax rate) and not the trust.

Observation—While there is no tax disadvantage to a U.S. grantor trust while a nonresident grantor is alive, the U.S. trustee is required to file certain trust information with the IRS, including information regarding income earned by the trust and the identification of beneficiaries. In addition, a non-U.S. trustee, like the nonresident individual, may be required to file certain information with the IRS, the financial institution where an account may be held or other withholding agent. A trust also exposes its settlor to U.S. estate tax, whereas a foreign corporation reduces the possibility of such exposure.

Planning Strategy—A structure that combines an offshore trust with an offshore corporation (also known as a private investment company or PIC) may help a nonresident to minimize the potential application of the U.S. estate tax while providing for estate planning and other benefits. Your Smith Barney Financial Consultant, along with your professional tax adviser, can guide you with appropriate recommendations concerning this type of structure.

Recommendation—If you have set up or are considering a trust arrangement as a vehicle for holding your U.S. investments, we strongly recommend that you consult your professional tax adviser. Many of the tax and legal aspects of establishing a trust (i.e., deciding whether to organize a foreign or U.S. trust, or a grantor or nongrantor trust) require a careful evaluation of your financial affairs and are beyond the scope of this Guide.

Note—A trust that includes U.S. citizens or residents as beneficiaries is subject to special rules. You should consult your professional tax adviser if the trust includes such beneficiaries.

7. Income Tax Treaty Benefits

As discussed throughout this Guide, foreign investors may be entitled to reduced tax rates on U.S.-source income if the U.S. has a tax treaty in force with their country of residence to prevent the double taxation of income.

All U.S. treaties use the same basic approach in determining eligibility for benefits, and in determining what kinds of income and taxes the treaty will cover. However, the details of a particular treaty can differ from others in very important respects (e.g., specific rates of withholding, limitations on eligibility for treaty benefits, etc.). Therefore, nonresidents and foreign corporations should make sure they consult with professional tax advisers concerning the applicability of a U.S. treaty provision. If the nonresident does not meet the requirements for benefits under the particular treaty, or if no treaty exists with the investor's home country, then the investor cannot claim treaty benefits and the withholding agent must withhold on the income at the full 30 percent rate, unless another rate reduction rule applies.

Foreign persons must submit a certificate to the U.S. withholding agent to claim a reduction in withholding pursuant to a tax treaty. A withholding agent may no longer rely on merely an address in a foreign country to determine entitlement to a treaty rate for dividend income. A claim for treaty benefits on U.S.-source income is made by completing Part II of Form W-8BEN (see Section VIII, "Documentation and Reporting").

Observation—The interaction of the U.S. tax rates, home country tax rules and applicable U.S. treaty provisions can be very complex. Investors should consult with their professional tax advisers to devise a structure that best accomplishes their business and tax objectives from a global perspective.

Note—When a non-U.S. person takes a position that a U.S. income tax treaty reduces or eliminates the U.S. tax, this position must be disclosed in the person's U.S. tax return for the taxable year, or, if no return is otherwise required, on an information return filed solely for this purpose. This provision does not apply to interest and dividends received by a nonresident where the withholding agent has properly reported the payments to the IRS on a Form 1042-S. Other exceptions also apply to this reporting.

The table on the following pages serves to provide current U.S. income tax withholding rates for residents of countries that have tax treaties with the United States.

U.S. Income Tax Withholding Rates on Investment Income for Residents of Treaty Countries

The chart below shows the treaty U.S. withholding tax rates applicable to U.S.-source income paid to residents of the treaty country. Note that these rates apply to the nonresident's investment income and not to income effectively connected with a U.S. trade or business. The tax rates below are available provided all conditions of the particular treaty are satisfied and reflect the rates in effect on September 1, 2004.

	INTEREST (%)[1]	DIVIDEND (%)[2]	ANNUITIES
Australia	10	15	0
Austria	0	15	0
Barbados	5	15	0
Belgium	15	15	0
Canada	10	15	15
China, People's Republic of[3]	10	10	30
Cyprus	10	15	0
Czech Republic	0	15	0
Denmark	0	15	0
Egypt	15	15	0
Estonia	10	15	0
Finland	0	15	0
France	0	15	0
Germany, Federal Republic of	0	15	0
Greece	0	30	0
Hungary	0	15	0
Iceland	0	15	0
India	15	25	0
Indonesia	10	15	0
Ireland	0	15	0
Israel	17.5	25	0
Italy	15	15	0
Jamaica	12.5	15	0
Japan	10	10	0
Kazakhstan	10	15	0
Korea, Republic of South	12	15	0
Latvia	10	15	0
Lithuania	10	15	0
Luxembourg	0	15	0
Mexico	4.9	10	0
Morocco	15	15	0
Netherlands	0	15	0
New Zealand	10	15	0

U.S. Income Tax Withholding Rates (cont'd)

The reduced rates or exemptions apply under tax treaties currently in effect with the United States; withholding rates are subject to change. For countries not listed, no tax treaty currently exists and the standard 30 percent withholding rate generally applies. The above rates are those of most general applicability for the specified category of income. Exceptions and limitations may apply under specific treaties. Please consult your professional tax adviser.

	INTEREST (%)[1]	DIVIDEND (%)[2]	ANNUITIES
Norway	0	15	0
Pakistan	30	30	0
Philippines	15	25	0
Poland	0	15	30
Portugal	10	15	0
Romania	10	10	0
Russia	0	10	0
Slovak Republic	0	15	0
Slovenia	5	15	0
South Africa	0	15	0
Spain	10	15	0
Sri Lanka	10	15	0
Sweden	0	15	0
Switzerland	0	15	0
Thailand	15	15	0
Trinidad and Tobago	30	30	0
Tunisia	15	20	0
Turkey	15	20	0
Ukraine	0	15	0
United Kingdom[4]	0	15	0
Venezuela	10	15	30

[1] Interest paid by U.S. borrowers, unless the interest qualifies as portfolio interest.

[2] Paid by U.S. corporations (other rates may apply to corporations with substantial ownership in the U.S. corporation). A higher rate of withholding may apply to dividends paid by Real Estate Investment Trusts ("REITs").

[3] Residents of Hong Kong and Taiwan are not covered by the U.S.-China tax treaty.

[4] Applies to the countries of England, Northern Ireland, Scotland and Wales.

8. Documentation and Reporting

A U.S. financial institution, such as Smith Barney, a division of Citigroup Global Markets, is required to solicit, collect and maintain in its files various tax documents to both ensure the nonresident status of its foreign account base and to avail its clients of a lower rate of tax withholding on certain payments made by the institution.

In January 2001, the Internal Revenue Service ("IRS") implemented comprehensive revisions to the documentation rules. The primary objective of these new rules is to improve the integrity and fairness of the process of claiming reduced rates and exemptions from U.S. withholding tax by foreign persons. Toward this end, the rules impose new U.S. tax documentation requirements. They are designed to identify the ultimate beneficial owner of income and to prevent improper claims for benefits under U.S. tax treaties. To implement these policy objectives, the IRS has replaced the old style Forms W-8, 1001, 4224 and 8709 with a new series of Forms W-8. The following translation table may be used to identify the corresponding new form among the new series of Forms W-8.

After December 31, 2000, a U.S. withholding agent, such as Smith Barney, a division of Citigroup Global Markets, may not accept any new claim for a reduced rate or exemption from withholding made on an old style form. The foreign person must instead complete the latest version of the new series of Forms W-8. Below are brief discussions of the new tax rules and the uses of the new series of Forms W-8. See also Table A at the end of this section for a table of uses of the new series of Forms W-8 based on the type of claimant.

Form W-8BEN—This form is used by a beneficial owner in order to (i) certify foreign status; (ii) certify beneficial owner status; and (iii) certify eligibility for benefits under a tax treaty (in which case Part II of the form must be completed).

Form W-8EXP—This form is used by a beneficial owner who claims a tax exemption as a foreign government, an international organization, a foreign central bank of issue, or a tax-exempt organization.

Form W-8ECI—This form is used by a beneficial owner to claim exemption from U.S. withholding tax on income that is effectively connected with the conduct of a U.S. trade or business. If you provide this form, you will be expected to file an income tax return with the IRS reporting the effectively connected income.

Form W-8IMY—This form is used by a person that is not a beneficial owner and is either an intermediary or a "flow-through" entity such as a partnership, a grantor trust, or a simple trust. The intermediary or flow-through entity must obtain similar documentation from the beneficial owners.

Form W-9—This form is used by U.S. citizens, residents, individuals, U.S. corporations and other U.S. entities, whether or not beneficial owners, in order to certify U.S. status and to provide the withholding agent with a U.S. TIN.

OLD FORM NUMBER	OLD FORM TITLE	NEW FORM NUMBER	NEW FORM TITLE
W8	Certificate of Foreign Status	W-8BEN	Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding
1001	Ownership, Exemption or Reduced Rate Certificate	W-8BEN (PART II)	Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding
8709	Exemption from Withholding on Investment Income of Foreign Governments and International Organizations	W-8EXP	Certificate of Foreign Government of Other Foreign Organization for United States Tax Withholding
4224	Exemption from Withholding of Tax on Income Effectively Connected with the Conduct of a Trade or Business in the United States	W-8ECI	Certificate of Foreign Person's Claim for Exemption from Withholding on Income Effectively Connected with the Conduct of a Trade or Business in the United States
N/A	N/A	W-8IMY	Certificate of Foreign Intermediary, Foreign Flow-through Entity or Certain U.S. Branches for United States Tax Withholding

DEFINITION OF A BENEFICIAL OWNER

As a general rule, the beneficial owner is the person who is the owner of the income for tax purposes and who beneficially owns that income. For purposes of backup withholding and the portfolio interest exemption from withholding, the beneficial owner is the person who is required under U.S. tax principles to include the amount in gross income. For treaty purposes, the beneficial owner is generally the person who is attributed the income under foreign tax principles, but anti-avoidance U.S. tax principles apply as well. In any case, a nominee, a custodian or an agent for another person is not considered a beneficial owner.

USE OF FORM W-8BEN

A U.S. financial institution must report on Form 1099 annually the amount of dividends, interest, gross proceeds from sales and miscellaneous income earned by U.S. resident individuals, trusts, estates and partnerships. To establish an exemption from this reporting, a nonresident must certify, under penalties of perjury, his or her foreign status, generally on a Form W-8BEN. In the absence of tax documentation, a U.S. financial institution generally must presume that an individual is a U.S. resident and impose backup withholding on all reportable payments. If there are indicia of foreign status (e.g., a non-U.S. mailing address), an undocumented trust or estate is presumed foreign and is exempt from backup withholding on all reportable payments. An undocumented foreign partnership with foreign indicia is subject to backup withholding only on interest on short-term (183 days or less) debt obligations and bank deposits in the United States.

Note—Form W-8BEN generally does not exempt a nonresident from the 30 percent U.S. withholding tax on U.S.- source income paid to nonresidents, other than interest income that constitutes portfolio interest. (See Section III, Taxation of Nonresidents, for a more detailed discussion of tax withholding.) Portfolio interest generally is interest on a debt obligation issued by the U.S. government, a U.S. corporation or other U.S. person after July 18, 1984. Alternatively, a nonresident may be able to claim treaty benefits that reduce or eliminate the U.S. withholding tax by completing Part II of Form W-8BEN.

Note—For joint accounts, each nonresident individual must provide a separate W-8 Form (BEN, EXP, or ECI) to establish an exemption from backup withholding. If only one individual provides a W-8 Form, the other individual must be presumed a U.S. resident individual, and the entire account is subject to backup withholding and information reporting on Form 1099.

Note—The regulations exempt corporations (whether domestic or foreign) from backup withholding and Form 1099 reporting provided the reporting institution has documentation on file that clearly indicates the entity's corporate status. An entity that is identifiable as a "per se corporation," whether domestic or foreign, is an exempt recipient and is not subject to backup withholding, even if no Form W-9 or Form W-8 is provided. However, a Form W-8BEN ordinarily will be required to exempt a foreign corporation from the 30 percent U.S. withholding tax on U.S. source income under the portfolio interest exemption discussed above.

CORPORATIONS

If an entity is classified as a corporation for U.S. tax purposes, the entity is a beneficial owner that may make a claim of foreign status on Form W-8BEN unless the entity is fiscally transparent under foreign tax law and is claiming the benefit of a U.S. income tax treaty based on the status of its owners. An officer or an authorized representative must sign Form W-8BEN on behalf of the corporation.

ESTATES AND TRUSTS

If an entity is classified as a grantor trust or a simple trust, the beneficial owner is, respectively, the grantor or the beneficiary and the certification must be based on the tax status of the grantor or beneficiary. For all other trusts and estates, the fiduciary should complete Form W-8BEN for a foreign trust or estate or Form W-9 for a U.S. trust or estate. You should consult your professional tax adviser for details.

Planning Strategy—If financial privacy is a concern, a nonresident may consider forming a trust structure that combines an offshore trust with an offshore private investment company in which the company is the beneficial owner of the investment income.

Note—The above strategy will not help provide financial privacy if the nonresident is an authorized representative or officer of the offshore company, and must therefore sign Form W-8BEN.

PARTNERSHIPS

Under U.S. tax principles, the partners in a partnership, and not the partnership itself, are taxpayers. Accordingly, each partner in a foreign partnership must provide a separate W-8 Form (if the partner is a nonresident) or Form W-9 (if the partner is a U.S. person) to the partnership. The partnership provides those forms to the U.S. withholding agent along with the partnership's Form W-8IMY. The partnership must also provide partners' allocation information so that the withholding agent may withhold on each partner's share of income appropriately. Tiered partnerships present more complex situations; nonresidents should consult with their professional tax advisers regarding such partnerships.

Note—An entity may be characterized as a partnership for U.S. tax purposes but as a separately taxable entity in its country of tax residence. If the country of tax residence has an income tax treaty with the United States and the entity is entitled to the benefits of the treaty, the entity may be treated as the beneficial owner of the treaty-benefited income. In this case, the entity would provide Form W-8BEN to claim treaty benefits. See discussion of Claim for Treaty Benefits, below.

Note—A partnership or other entity that is not automatically treated as a corporation for U.S. tax purposes may elect to be treated as a corporation. Such an electing entity generally would be treated as the beneficial owner of the income it receives and, accordingly, would provide Form W-8BEN.

DISREGARDED ENTITIES

In general, a business entity, whether formed under U.S. or foreign law, that has a single owner and is not a corporation or a trust for U.S. tax purposes is disregarded as an entity separate from its owner. You should consult your professional tax adviser if you own a business entity that is potentially a disregarded entity. If the business entity is a disregarded entity, then, in general, the single owner should complete Form W-8BEN or other applicable tax form in his or her own name and based on his or her own tax status. However, if the disregarded entity is treated as a resident taxpayer in a country that has an income tax treaty with the United States and the entity is entitled to the benefits of the treaty, the entity may be treated as the beneficial owner of the treaty-benefited income. In this case, the entity would provide Form W-8BEN to claim treaty benefits on its own behalf.

CLAIM FOR TREATY BENEFITS

Part II of Form W-8BEN, Claim of Tax Treaty Benefits, applies to individuals or entities that reside in a country that has an income tax treaty with the United States. By completing this section of the form, the beneficial owner claims that he or she is entitled to treaty benefits. These benefits usually include an exemption from or reduction in the rate of tax withholding that is applied to certain U.S.-source investment income.

A claim for treaty benefits may be made on Form W-8BEN only if the claimant (i) is the beneficial owner of the income, (ii) derives the income as a resident of a country that has a tax treaty with the United States and (iii) meets all other requirements for obtaining benefits under the tax treaty.

EXPIRATION OF FORM W-8BEN

Form W-8BEN generally is effective starting on the date the form is signed and ending on the last day of the third succeeding calendar year. For example, a form signed on September 30, 2003 would remain valid through December 31, 2006. However, if Form W-8BEN lists a Taxpayer Identification Number (TIN) for the beneficial owner, then the form remains in effect indefinitely provided the withholding agent reports on Form 1042-S at least one payment annually to the beneficial owner (unless a change of circumstances renders the form incorrect).

FORM W-8EXP

The new Form W-8EXP replaces and expands upon the functions performed by the old Form 8709. Form W-8EXP may be used by qualifying foreign government organizations, foreign central banks, international organizations and tax-exempt organizations to claim an exemption from withholding.

FOREIGN GOVERNMENTS

A qualifying foreign government or a government-controlled entity may claim an exemption from U.S. taxation under section 892 of the Internal Revenue Code by completing line nine of Form W-8EXP. This exemption applies to income from all types of U.S. securities, financial instruments held in the execution of governmental financial or monetary policy and interest on bank deposits in the United States. However, it does not apply to gain from the disposition of certain U.S. real estate interests, including long-term capital gains distributed from a Real Estate Investment Trust (a "REIT").

INTERNATIONAL ORGANIZATIONS

An international organization may claim an exemption from withholding by completing line ten of Form W-8EXP, provided that the organization is designated as an international organization in an executive order issued by a U.S. president.

FOREIGN CENTRAL BANKS

A foreign central bank that is not wholly owned by a foreign government may claim an exemption from withholding under section 895 of the Internal Revenue Code by completing line 11 of Form W-8EXP. A section 895 exemption applies to portfolio interest, interest on other debt obligations issued by the U.S. government, its agencies or instrumentalities, interest on bankers' acceptances and interest on bank deposits in the United States. However, this exemption does not apply to dividend income on stock in U.S. corporations, mutual funds or REITs.

TAX-EXEMPT ORGANIZATIONS

An organization that qualifies as an organization exempt from U.S. taxation under section 501(c) of the Internal Revenue Code may claim an exemption from withholding by completing line 12 of Form W-8EXP. Qualifying organizations include primarily those organized exclusively for religious, charitable, scientific, literary or educational purposes. If the tax-exempt organization is also a private foundation under section 509 of the Internal Revenue Code, its gross investment income may be subject to a 4 percent excise tax (unless reduced or eliminated by an applicable U.S. income tax treaty). An entity that was created as an investment vehicle but is not taxed in its home jurisdiction is not considered a tax-exempt organization for U.S. tax purposes.

DURATION OF FORM W-8EXP

A Form W-8EXP is generally effective until circumstances change that cause the certificate to become incorrect. However, if the claimant is a

controlled government entity or a private foundation, the Form W-8EXP is effective beginning on the date it is signed and ending on December 31 of the third succeeding calendar year, unless a TIN is provided on line six of Part I.

FORM W-8ECI

The new Form W-8ECI replaces and performs the same function as the old Form 4224. As its name implies, it is used to claim an exemption from U.S. withholding on income effectively connected with the conduct of a trade or business in the United States. Such income is exempt from withholding because it is subject to U.S. taxation at the regular federal income tax rates and the beneficial owner is required to file a federal income tax return respecting such income. A Form W-8ECI is effective beginning on the date it is signed and ending on December 31 of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect.

FORM W-8IMY

Form W-8IMY is a new form that must be completed by financial institutions that act as intermediaries for other persons acting as intermediaries and by foreign flow-through entities. A financial intermediary is a bank, a brokerage firm or an investment advisor that acts as a custodian, an agent or a nominee in holding securities in the ordinary course of its trade or business. A foreign flow-through entity is an entity that is classified as a foreign partnership, a foreign grantor trust or a foreign simple trust.

QUALIFIED INTERMEDIARIES

A qualified intermediary (a "QI") is a financial institution that is acting as an intermediary on behalf of the actual beneficial owners and has entered into an agreement with the IRS. Under this agreement, the QI agrees to meet certain responsibilities for collecting U.S. tax documentation, filing information returns and withholding U.S. tax when required. A QI may elect to assume primary responsibility for withholding nonresident tax, backup withholding or both. The IRS will not enter into a QI agreement unless the financial institution is subject to regulatory authority in a jurisdiction which has "know your customer" ("KYC") rules that have been approved by the IRS. The QI agreement includes a standardized attachment that specifies the type of documentation that the QI may collect from beneficial owners, in lieu of a Form W-8, under the KYC rules in effect in a particular country. A list of countries whose KYC rules and country attachments that have been approved by the IRS is contained in table B at the end of this section:

In exchange for the assumption of responsibilities, a QI is not required to disclose the identity of the beneficial owners of the income or to furnish U.S. tax documentation for each beneficial owner to the U.S. withholding agent, unless the beneficial owner is a U.S. non-exempt recipient. A QI may claim a reduced rate of or an exemption from withholding on behalf of a beneficial owner by submitting a withholding statement to the U.S. withholding agent that allocates the income among various tax rate pools. A tax rate pool is income subject to withholding at a single rate. For example, a QI that is acting on behalf of beneficial owners that are entitled to a 15 percent treaty rate for dividend income may allocate their shares of the dividend income to a 15 percent tax rate pool. If the beneficial owner is a U.S. non-exempt recipient, a QI must disclose the identity of the beneficial owner and furnish a Form W-9 to the U.S. withholding agent to avoid backup withholding on payments allocable to the U.S. non-exempt recipient. However, if the QI has assumed responsibility for backup withholding and information reporting on Form 1099, the QI does not need to disclose the beneficial owner or submit a Form W-9 to the U.S. withholding agent.

NON-QUALIFIED INTERMEDIARIES

A non-qualified intermediary (a Non-QI) is an entity that is acting as an intermediary for the actual beneficial owners, but has not entered into an agreement with the IRS. To claim a reduced rate or an exemption on behalf of beneficial owners, a Non-QI must submit to the U.S. withholding agent (i) a withholding statement that allocates the income among each beneficial owner, (ii) the requisite U.S. tax documentation for each beneficial owner, and (iii) the information necessary for the U.S. withholding agent to prepare Forms 1042-S for each beneficial owner.

FOREIGN FLOW-THROUGH ENTITIES

A foreign flow-through entity is not considered a beneficial owner for U.S. tax purposes. The partners in a foreign partnership are the beneficial owners. The grantor(s) is/are the beneficial owner(s) of a grantor trust, and the beneficiaries of a grantor trust are the beneficial owners of a simple trust, respectively. A foreign flow-through entity has essentially the same obligations as a Non-QI to submit a withholding statement, tax documentation and identifying information to a U.S. withholding agent. A foreign partnership or trust may become a withholding partnership or withholding trust ("WP/WT") by entering into an agreement with the IRS. The procedures applicable to a WP/WT are similar to those applicable to a QI, except that a partnership or trust generally cannot act as a WP/WT for indirect partners or beneficiaries.

TABLE A: USES OF NEW SERIES OF FORMS W-8

Revised January 2004

U.S. TAX CLASSIFICATION	TYPE OF OWNER	TYPE OF CLAIM	U.S. TIN[1]	TYPE OF FORM	PARTS TO COMPLETE[2]
INDIVIDUAL	Beneficial Owner	Foreign Status	Optional	W-8BEN	I & IV
INDIVIDUAL	Beneficial Owner	Treaty Benefits	Required, except for actively traded securities, mutual funds and UITs	W-8BEN	I, II (9a) & IV
INDIVIDUAL	U.S. Business	Effectively connected income exemption[3]	Mandatory	W-8ECI	I & II
ESTATE	Beneficial Owner	Foreign Status	Optional	W-8BEN	I & IV
ESTATE	Beneficial Owner	Treaty Status	Required, except for actively traded securities, mutual funds and UITs	W-8BEN	I, II (9a & 9c) & IV
COMPLEX TRUST	Beneficial Owner	Foreign Status	Optional	W-8BEN	I & IV
COMPLEX TRUST	Beneficial Owner	Treaty Status	Required, except for actively traded securities, mutual funds and UITs	W-8BEN	I, II (9a & 9c) & IV
COMPLEX TRUST	Reverse Hybrid[4]	Non-qualified Intermediary	Optional	W-8IMY	I, III & VII, plus withholding statement and documentation of each owner(s) treaty claim(s)
CORPORATION	Beneficial Owner	Foreign Status	Optional	W-8BEN	I & IV
CORPORATION	Beneficial Owner	Treaty Benefits	Required, except for actively traded securities, mutual funds and UITs	W-8BEN	I, II (9a & 9c) & IV
CORPORATION	U.S. Business	Effectively connected income exemption[3]	Mandatory	W-8ECI	I & II
CORPORATION	Reverse Hybrid[4]	Qualified Intermediary	Mandatory	W-8IMY	I, II & VII, plus withholding statement on shareholder(s) treaty claim(s)
CORPORATION	Reverse Hybrid[4]	Non-qualified Intermediary	Optional	W-8IMY	I, II & VII, plus withholding statement on shareholder(s) treaty claim(s)
DISREGARDED ENTITY	Hybrid	Only Treaty Benefits	Required, except for actively traded securities, mutual funds and UITs	W-8BEN	I, II (9a & 9c) & IV
PARTNERSHIP	Hybrid	Only Treaty Benefits	Required, except for actively traded securities, mutual funds and UITs	W-8BEN	I, II (9a & 9c) & IV
PARTNERSHIP	U.S. Business	Effectively connected income exemption[3]	Mandatory	W-8ECI	I & II
PARTNERSHIP	Flow-Through Entity	Non-withholding Partnership	Optional	W-8IMY	I, II & VII, plus withholding statement and documentation from each partner
PARTNERSHIP	Flow-Through Entity	Non-withholding Partnership	Mandatory	W-8IMY	I, V & VII

TABLE A: USES OF NEW SERIES OF FORMS W-8

Revised January 2004 (Continued)

U.S. TAX CLASSIFICATION	TYPE OF OWNER	TYPE OF CLAIM	U.S. TIN[1]	TYPE OF FORM	PARTS TO COMPLETE[2]
GRANTOR TRUST	Hybrid	Only Treaty Benefits	Required, if 5 or fewer grantors	W-8BEN	I, II (9a & 9c) & IV
GRANTOR TRUST	Flow-Through Entity	Non-withholding Trust	Required, if 5 or fewer grantors	W-8IMY	I, VI, & VII, plus withholding statement and documentation from each grantor
GRANTOR TRUST	Flow-Through Entity	Withholding Trust	Mandatory	W-8IMY	I, V & VII, plus withholding statement
SIMPLE TRUST	Hybrid	Only Treaty Benefits	Required, except for actively traded securities, mutual funds and UITs	W-8BEN	I, II (9a & 9c) & IV
SIMPLE TRUST	Flow-Through Entity	Non-withholding Trust	Optional	W-8IMY	I, VI, & VII, plus withholding statement and documentation from each grantor
SIMPLE TRUST	Flow-Through Entity	Withholding Trust	Mandatory	W-8IMY	I, V & VII, plus withholding statement
GOVERNMENT	Beneficial Owner	Foreign Status	Optional	W-8BEN	I & IV
GOVERNMENT	Beneficial Owner	Treaty Benefits	Optional	W-8BEN	I, II (9a & 9c) & IV
GOVERNMENT–INTEGRAL PART	Beneficial Owner	Exempt Under Section 892	Optional	W-8EXP	I, II (9a & 9b) & IV
GOVERNMENT–INTEGRAL PART	Beneficial Owner	Exempt Under Section 892	Optional	W-8EXP	I, II (9a & 9c) & IV
GOVERNMENT–INTEGRAL PART	U.S. Business	Effectively connected income exemption[3]	Mandatory	W-8ECI	I & II
FOREIGN CENTRAL BANK	Beneficial Owner	Foreign Status	Optional	W-8BEN	I & IV
FOREIGN CENTRAL BANK	Beneficial Owner	Treaty Benefits	Optional	W-8BEN	I, II (9a & 9c) & IV
FOREIGN CENTRAL BANK	U.S. Branch	Effectively connected income exemption[3]	Mandatory	W-8ECI	I & II
FOREIGN CENTRAL BANK	Beneficial Owner	Exempt Under Section 892	Optional	W-8EXP	I, II (9a & 9c) & III
FOREIGN CENTRAL BANK	Beneficial Owner	Exempt Under Section 895	Optional	W-8EXP	I, II (11) & III
INTERNATIONAL ORGANIZATION	Beneficial Owner	Foreign Status	Optional	W-8BEN	I & IV
INTERNATIONAL ORGANIZATION	Beneficial Owner	Exempt Under Section 892	Optional	W-8EXP	I, II (10) & III

TABLE A: USES OF NEW SERIES OF FORMS W-8

Revised January 2004 (Continued)

U.S. TAX CLASSIFICATION	TYPE OF OWNER	TYPE OF CLAIM	U.S. TIN[1]	TYPE OF FORM	PARTS TO COMPLETE[2]
TAX-EXEMPT ORGANIZATON	Beneficial Owner	Foreign Status	Optional	W-8BEN	I & IV
TAX-EXEMPT ORGANIZATON	Beneficial Owner	Treaty Benefits	Required, except for actively traded securities, mutual funds and UITs	W-8BEN	I, II (9a, 9c and 10) & IV
TAX-EXEMPT ORGANIZATON	Beneficial Owner	Exempt Under Section 501(c) (but not 501(c)(3))	Mandatory	W-8EXP	I, II (12a or 12b) & III
TAX-EXEMPT ORGANIZATON	Beneficial Owner	Exempt Under Section 501(c) (but not 501(c)(3))	Mandatory	W-8EXP	I, II (12a or 12b, and 12c) & III
TAX-EXEMPT ORGANIZATON	Beneficial Owner	Private Foundation	Optional	W-8EXP	I, II (12a or 12b, and 12d) & III
GOVERNMENT OF U.S. POSSESSION	Beneficial Owner	Exempt Under Section 115(2)	Optional	W-8EXP	I, II (13) & III
BANK	U.S. Branch	Effectively connected income exemption[3]	Mandatory	W-8ECI	I & II
BANK	U.S. Branch	Withholding Agent	Mandatory	W-8IMY	I, IV (11 and 12) & VII
INSURANCE COMPANY	U.S. Branch	Effectively connected income exemption[3]	Mandatory	W-8ECI	I & II
INSURANCE COMPANY	U.S. Branch	Withholding Agent	Mandatory	W-8IMY	I, IV (11 and 12) & VII
INSURANCE COMPANY	U.S. Branch	Non-withholding Intermediary	Mandatory	W-8IMY	I, IV (11 and 13) & VII, plus withholding statement and documentation from each beneficial owner
FOREIGN FINANCIAL INSTITUTION OR CLEARING ORGANIZATION (Other than U.S. Branch)	Intermediary	Qualified Intermediary	Mandatory	W-8IMY	I, II &VII, plus withholding statement
FOREIGN FINANCIAL INSTITUTION OR CLEARING ORGANIZATION (Other than U.S. Branch	Intermediary	Qualified Intermediary	Mandatory	W-8IMY	I, II &VII, plus withholding statement
FOREIGN FINANCIAL INSTITUTION OR CLEARING ORGANIZATION (Other than U.S. Branch	Intermediary	Qualified Intermediary	Optional	W-8IMY	I, III &VII, plus withholding statement and documentation from each beneficial owner

[1]See further details after Table B on circumstance where a U.S. taxpayer identification number is required.
[2]Under certain circumstances, it may be necessary to complete additional lines on a Form W-8 (e.g., line10 of Form W-8BEN is required when claiming non-standard treaty benefits).
[3]However, a foreign partner's allocable share of income effectively connected with a U.S. trade or business conducted by a entity classified as a partnership is generally subject to a 35 percent U.S. withholding tax.
[4]A reverse hybrid is an entity that is treated as a beneficial owner for U.S. withholding tax purposes, but it is treated as a transparent entity under foreign tax law and therefore it is not itself entitled to treaty benefits. However, the reverse hybrid entity may submit a Form W-8IMY (and any required attachments) to claim treaty benefits on behalf of its owners.
[5]For all purposes other than a treaty claim made by a hybrid disregarded entity, its single owner must submit the appropriate Form W-8 or W-9 in its own name.

TABLE B: IRS APPROVALS OF Q1 COUNTRIES

As of September 1, 2004

Countries	With KYC Rules	With Approved Attachments	Awaiting Approval of KYC Rules
Andorra	■	■	
Anguilla	■	■	
Antigua	■	■	
Argentina	■	■	
Aruba	■	■	
Australia	■	■	
Austria	■	■	
Bahamas	■	■	
Bahrain	■	■	
Barbados	■	■	
Belgium	■	■	
Bermuda	■	■	
British Virgin Islands	■	■	
Brunei			■
Canada	■	■	
Cayman Islands	■	■	
Chile	■	■	
Columbia	■	■	
Cyprus	■	■	
Czech Republic	■	■	
Denmark	■	■	
Estonia	■	■	
Finland	■	■	
France	■	■	
Germany	■	■	
Gibraltar	■	■	
Greece	■	■	
Guernsey	■	■	
Hong Kong	■	■	
Hungary			■

Countries	With KYC Rules	With Approved Attachments	Awaiting Approval of KYC Rules
Iceland	■	■	
Ireland	■	■	
Isle of Man	■	■	
Israel	■	■	
Italy	■	■	
Japan	■	■	
Jersey	■	■	
Korea	■	■	
Lebanon			■
Liechtenstein	■	■	
Luxembourg	■	■	
Malta	■	■	
Monaco	■	■	
Netherlands	■	■	
Netherlands Antilles	■	■	
Norway	■		
Panama	■		
Portugal	■		
Saint Lucia	■		
Saudi Arabia			
Singapore	■	■	
Slovenia	■	■	
Spain	■	■	
Sweden	■	■	
Switzerland	■	■	
Turks and Caicos Islands	■	■	
United Arab Emirates	■		
United Kingdom	■	■	
Uruguay	■	■	

Requirements for a U.S. Taxpayer Identification Number (TIN)

Under certain circumstances, a foreign person is required to have a U.S. taxpayer identification number (a "TIN"). A beneficial owner must have a TIN to claim a treaty benefit for income from a related party, privately placed loans, non-publicly offered syndicates and annuities. However, a beneficial owner is not required to have a TIN to obtain a reduced rate or exemption for any of the following types of income:

- Dividends from actively traded U.S. stocks
- Interest from actively traded U.S. debt obligations
- Dividends from mutual funds and REITs
- Income from publicly offered Unit Investment Trusts
- Dividend or interest equivalent amounts (i.e., substitute payments) on loans of actively traded securities

Certain types of claimants must have a TIN, even if the income is from actively traded securities. The table below shows the types of claimants that are required to have a TIN.

To obtain a TIN, a nonresident individual must submit a Form W-7 (Application for IRS Individual Taxpayer Identification Number) to the IRS. To support the application, an individual is required to present documentation to substantiate his or her identity and foreign status. All others must submit a Form SS-4 (Application for Employer Identification Number).

INFORMATION REPORTING

U.S. financial institutions, such as Smith Barney, a division of Citigroup Global Markets, have an obligation to prepare annual tax reports to customers and the IRS detailing the type of U.S. source income paid and the U.S. taxes withheld (if any) on Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*.

A Form 1042-S must be prepared and furnished to the IRS and each customer when their account earns income from U.S. investments even if no U.S. taxes are withheld. For example, portfolio interest is exempt from withholding (provided the foreign beneficial owner submits Form W-8BEN), but is still required to be shown on Form 1042-S. Ordinarily, a separate Form 1042-S is required with respect to each specific type of income paid to a customer. Form 1042-S must be sent to each customer and the IRS on or before March 15th following the end of the tax year.

Observation—The United States has a multitude of information exchange treaties with other countries. Generally, each party to these treaties is obliged to exchange certain tax information, including Form 1042-S, with the other party.

TYPE OF CLAIMANT	TYPE OF CLAIM	FORM NUMBER
A grantor trust with five or fewer grantors	Flow-through Entity	W-8IMY
A grantor trust with five or fewer grantors	Treaty Benefits	W-8BEN
A foreign tax-exempt organization	Section 501(c) Exemption	W-8EXP
A qualified intermediary	Intermediary	W-8IMY
A withholding foreign partnership	Flow-through Entity	W-8IMY
A withholding foreign trust	Flow-through Entity	W-8IMY
A beneficial owner or flow-through entity conducting business in the U.S.	Effectively Connected Income Exemption	W-8ECI
A U.S. branch of foreign bank not acting for its own account	Intermediary	W-8IMY
A U.S. branch of a foreign insurance company not acting for its own account	Intermediary	W-8IMY

9. Reportable Transaction Regulations

On February 28, 2003, the U.S. Treasury Department promulgated final reportable transaction regulations (the "regulations"), which require disclosure of six broad categories of transactions. These regulations apply not only to corporate taxpayers, but also to individuals, trusts, partnerships, and subchapter S corporations.

The final disclosure regulations are applicable to transactions entered into on or after February 28, 2003, and may, at the taxpayer's option, be applied to transactions entered into on or after January 1, 2003, and prior to February 28, 2003.

REPORTABLE TRANSACTIONS

Pursuant to the final regulations, taxpayers are required to disclose the following six categories of transactions:

1. **Listed transactions**—A transaction that is the same as or "substantially similar" to one of the transactions that the IRS has determined to be a tax avoidance transaction and identified by notice, regulation, or other form of published guidance as a listed transaction. As of August 30, 2004, the IRS has identified 31 listed transactions.
2. **Confidential transactions**—A transaction in which an adviser requires a taxpayer to maintain confidentiality and is paid a minimum fee (generally, $50,000 for individual taxpayers and $250,000 for corporate taxpayers).
3. **Transactions providing contractual protection to the participant**—A transaction in which fees paid to a tax adviser are contingent upon the intended tax consequences being sustained or the taxpayer has the right to a full or partial refund of fees if the intended tax consequences of the transaction are not sustained if challenged by the IRS.
4. **Certain losses that exceed certain dollar thresholds**—In the case of individuals, any transaction producing a covered loss of at least $2 million in a single year or $4million in any combination of taxable years and up to $10 million in a single year or $20 million in any combination of taxable years for corporations and certain partnerships (only losses claimed in the taxable year that the transaction is entered into and the five succeeding taxable years are taken into account). Given the number of transactions affected by this general rule, the IRS has broad authority to exclude common types of loss transactions, which are described in published guidance.
5. **Transactions generating a significant book-tax difference**—A transaction where the amount for tax purposes of any item or items of income, gain, expense, or loss from the transaction differs by more than $10 million on a gross basis from the amount of the item or items for book purposes in any taxable year. The significant book-tax difference category only applies to taxpayers that are (i) reporting companies under the Securities Exchange Act of 1934 and certain related entities or (ii) business entities that have $250 million or more in gross assets. The IRS has provided exceptions to this category of transactions in published guidance.

6. Certain tax credit transactions—A transaction where the taxpayer claims a tax credit exceeding $250,000 (including a foreign tax credit) and the credit arises from holding an asset for 45 days or less.

Observation—Because the above categories of reportable transactions are not defined in terms of specific tax abuses, the final regulations require the disclosure of many non-abusive transactions entered into by taxpayers in the ordinary course of business. You should consult with your professional tax adviser for a complete analysis of your own transactions.

COMPLIANCE

A taxpayer that has participated in a reportable transaction under the final regulations must attach Form 8886 to its return for each taxable year in which the taxpayer participates in the transaction. In addition, a copy of Form 8886 must be sent to the IRS Office of Tax Shelter Analysis for the first year a taxpayer participates in the transaction. The taxpayer is also required to retain copies of all documents and other records that are relevant to an understanding of the tax treatment of a reportable transaction until the statute of limitations has run.

FAILURE TO COMPLY

It is important to understand the consequences of failure to disclose reportable transactions, including both current law consequences stemming from a series of recent IRS enforcement initiatives and the penalties under proposed legislation. There are no specific statutory penalties for failure to disclose a reportable transaction under current law. In order to encourage compliance, the Treasury has proposed regulations that would limit the defenses to imposition of the accuracy-related penalty (20 percent of the underpayment amount) when taxpayers fail to disclose reportable transactions. Failure to disclose a listed or other reportable transaction prohibits reliance on a tax opinion or advice to satisfy the reasonable cause and good faith exceptions to accuracy-related penalties.

The IRS has also adopted administrative policies that sanction taxpayers that fail to disclose a listed transaction. In addition, Congress is considering legislation to impose severe statutory sanctions on taxpayers that fail to disclose reportable transactions.

Recommendation—Each investor's unique factual circumstances can have an impact on the application of the rules discussed in this section. Accordingly, each investor should consult his or her own professional tax adviser.

About the Guide

The information provided in this document is general in nature and should not be construed as legal, accounting or tax advice or opinions provided to the reader. Laws and regulations may change over time and can be interpreted only in light of a reader's particular circumstances. The reader should contact his or her tax professional prior to taking any action based upon this information.

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