

# Notice of Expatriation and Waiver of Treaty Benefits

▶ Section references are to the Internal Revenue Code.  
 ▶ Give this form to the payer. Do not send to the IRS.

OMB No. 1545-2138

Please print or type	Name of owner	U.S. taxpayer identification number
	Permanent address	Expatriation date
	City, province or state, postal code, and country	
	Current mailing address, if different from permanent address. Include apt. or suite no., or P.O. box if mail is not delivered to street address.	
City, town or post office, state, and ZIP code. If you have a foreign address, enter city, province or state, postal code, and country.		

Under penalties of perjury, I certify that I am a covered expatriate (as defined in the instructions below). Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner.

Name of payer _____	Account Number (or other identifying information)
For the payer above, check the box below if you had any of the following items on the day before your expatriation date (see instructions).	
<input type="checkbox"/> 1. Eligible Deferred Compensation Item. Checking this box notifies the payer that you are irrevocably waiving any right to claim any reduction in withholding for such eligible deferred compensation item under any treaty with the United States (see instructions) . . . . .	
<input type="checkbox"/> 2. Ineligible Deferred Compensation Item . . . . .	
<input type="checkbox"/> 3. Specified Tax Deferred Account . . . . .	
<input type="checkbox"/> 4. Nongrantor Trust. Checking this box notifies the payer that you will be treated as having waived any right to claim any reduction in withholding on any distribution from this trust under any treaty with the United States (see instructions) . . . . .	
<input type="checkbox"/> Checking this box notifies the payer that you are electing to be treated as having received the value of your interest in the trust on the day before your expatriation date and that you will be subject to withholding under section 877A until the payer receives (a) a copy of the letter ruling issued by the IRS stating the value of your interest in the trust and (b) your certification that you have paid any tax due on the receipt of the value of your interest in the trust (see instructions).	
Signature _____	Date _____

## General Instructions

### Purpose

Use Form W-8CE to notify the payer that you are a covered expatriate individual subject to special tax rules.

### Covered Expatriate

You are a covered expatriate if you are an expatriate to whom any of the following applied on your expatriation date.

- 1) Your average annual net income tax for the 5-year period ending the year before your expatriation date is more than \$145,000 (for 2009 and 2010). This amount is indexed for inflation. For years after 2010, see the Instructions for Form 8854 for the adjusted amount.
- 2) Your net worth is \$2 million or more.
- 3) You have not certified under penalties of perjury that you met all federal tax

obligations for the preceding 5 years or have not submitted evidence of such compliance.

**Exceptions.** Statements (1) and (2) above do not apply if:

- You became a U.S. citizen and a citizen of another country at birth and, as of your expatriation date, continue to be a citizen of, and taxed as a resident of, such other country, and you were a U.S. resident for not more than 10 tax years during the 15-year period ending with the tax year in which you expatriated, or
- You relinquished U.S. citizenship before the age of 18½ and were a U.S. resident for not more than 10 tax years before your expatriation date.

**Expatriate.** An expatriate is a U.S. citizen who relinquished citizenship or a long-term resident who ceased to be a lawful permanent resident.

**Long-Term Resident.** For expatriation purposes, a long-term resident is any individual who was a lawful permanent resident of the United States in at least 8 out of the last 15 tax years ending with the tax year of expatriation.

**Expatriation date.** Your expatriation date is the date you relinquished U.S. citizenship or the date on which you ceased to be a lawful permanent U.S. resident.

### Who Must File

Covered expatriates are required to give Form W-8CE to the payer if they had any of the items identified in Boxes 1 through 4 on the day before their expatriation date. In addition, all expatriates must file Form 8854 with the Internal Revenue Service.

**Deferred compensation items.** Deferred compensation items include any interest in a plan or arrangement described in section 219(g)(5), any interest in a foreign pension plan or similar retirement arrangement

or program, any item of deferred compensation, and any property, or right to property, that the individual is entitled to receive in connection with the performance of services to the extent not previously taken into account under section 83 or in accordance with section 83.

**Eligible deferred compensation item (Box 1).** A deferred compensation item is an eligible deferred compensation item if the following three conditions are met.

1. The payer is either a U.S. person or a foreign person electing to be treated as a U.S. person under an agreement with the IRS. (Separate guidance will be issued providing procedures to make this election.)
2. You notify the payer of your status as a covered expatriate.
3. You make an irrevocable waiver on Form 8854 of any right to claim any reduction of withholding on this item under any treaty with the United States.

Check Box 1 if you have an eligible deferred compensation item. Checking this box provides notice to the payer that you are a covered expatriate who is waiving benefits under any treaty with the United States for the eligible deferred compensation item.

**Ineligible deferred compensation item (Box 2).** A deferred compensation item is an ineligible deferred compensation item if the three conditions listed above are not met.

Check Box 2 if you have an ineligible deferred compensation item. Checking this box provides notice to the payer that you are a covered expatriate who is to be treated as receiving an amount equal to the present value of your accrued benefit on the day before your expatriation date.

**Specified tax deferred account (Box 3).** Specified tax deferred accounts include individual retirement plans (as defined in section 7701(a)(37)) other than arrangements described in subsection (k) or (p) of section 408, qualified tuition programs (as defined in section 529), Coverdell education savings accounts (as defined in section 530), health savings accounts (as defined in section 223), and Archer MSAs (as defined in section 220).

Check Box 3 if you have a specified tax deferred account. Checking this box provides notice to the payer that you are a covered expatriate who is to be treated as receiving a distribution of your entire interest in the account on the day before your expatriation date.

**Nongrantor trust (Box 4).** A nongrantor trust is the portion of any trust (U.S. or foreign) that you are not considered (immediately before your expatriation date) to own under the grantor trust rules (see sections 671 through 679). The withholding rules of section 877A apply to a nongrantor trust only if you were a beneficiary on the day before your expatriation date.

Check Box 4 if you were the beneficiary of a nongrantor trust on the day before your expatriation date. Checking this box provides notice to the trustee that you are a covered expatriate who, unless the box below this line is checked, is deemed to have waived any right to claim any reduction in withholding on any distribution from this trust under any treaty with the United States.

**Election to be treated as receiving value of interest in the trust.** You can elect to pay tax currently on the value of your interest in the trust if you first obtain a letter ruling from the IRS stating the value of your interest in the trust as of the day before your expatriation date. Make the election on Form 8854. Attach the valuation letter ruling to Form 8854 and file Form 8854 with your Form 1040 or Form 1040NR. An election is not valid unless your income tax return is filed by the due date plus extensions.

## When To File

File Form W-8CE on the earlier of (a) the day before the first distribution on or after the expatriation date or (b) thirty (30) days after the expatriation date for each specified tax deferred account, item of deferred compensation, or interest in a nongrantor trust.

## Where To File

Give Form W-8CE to each payer of the income described above. Keep a copy for your own records.

## Instructions for Payer

As a result of receiving notification of expatriation on Form W-8CE, you may have a requirement to withhold tax under section 877A or to report information to the IRS.

**Eligible deferred compensation.** You must withhold 30% on any taxable payment to the covered expatriate.

**Ineligible deferred compensation.** You must advise the covered expatriate within 60 days of receipt of this form of the present value of the individual's accrued benefit in the deferred compensation item on the day before the expatriation date.

**Specified tax deferred account.** You must advise the covered expatriate within 60 days of receipt of this form of the individual's entire interest in the account on the day before the expatriation date.

**Nongrantor trust.** If the covered expatriate elects to be treated as receiving the value of his interest in the nongrantor trust on the day before his expatriation date, you must provide the covered expatriate within

60 days of receipt of this form with the information needed to calculate the value of his interest in the trust as of the day before the expatriation date. This information includes the following.

- A copy of the trust deed document.
- A list of assets held by the trust on the day before the expatriation date and the values of such assets.
- Relevant information about the interests of the other beneficiaries.
- Dates of birth of all persons who constitute measuring lives for any distributions.
- Policies used by trustees in making discretionary distributions (if any) that may constitute an ascertainable standard.
- Any other relevant information.

If you do not provide such documents and information to the covered expatriate, then the election is not valid and you must withhold 30% on any taxable distributions from the trust.

If the covered expatriate makes the election, you must withhold 30% on any taxable distribution from the trust until you receive (a) a copy of the valuation letter ruling issued by the IRS and (b) the covered expatriate's certification under penalties of perjury that he has paid any tax due on the value of the trust that he is treated as receiving.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to provide the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 3 hr., 35 min.; **Learning about the law or the form**, 1 hr., 00 min.; **Preparing and sending the form**, 1 hr., 6 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can email us at [taxforms@irs.gov](mailto:taxforms@irs.gov). (The asterisk must be included in the address.) Enter "Forms Comment" on the subject line. Or you can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send Form W-8CE to this address. Instead, give it to the payer.