

**Withholding Exemption Certificate / Certificate of Citizenship**

▶ To exempt the employer from withholding tax from payments to an individual not subject. (Substitute form in lieu of IRS Form W-4)

<b>Worker</b>	<b>Please Print or Type</b>	Full Name (Last, First, Middle.)	Social Security Number (optional) American Citizen, not required by law 42 USC §405(c)(2)(B)(i) "Protected Individual": 8 USC §1342b(a)(3)(A) Unlawful to require: 42 USC §§408(a)(8), 1983; 18 USC §242
		Postal Location (number and street, P.O. Box, etc.)	
		City, State and Zip code	

**ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. By signing this form, the worker is exempting the employer from U.S. income tax withholding liabilities. The employer is not required to deduct and withhold any tax upon a payment of wages to this individual if this form or substitute is filed in lieu of Form W-4.**

<b>Please Sign Here</b>	<p><b>Worker's Certification</b> – I certify under the penalties of perjury that I am not subject to or liable for the U.S. income tax; and</p> <ol style="list-style-type: none"> <li>I am a natural born American inhabitant of the soil, domiciled in one of the states of the Republic of the 50 United States of America; consequently a Citizen of the United States of America.</li> <li>I am not a citizen or resident of the corporate municipal legislative democracy of Washington D.C., or any federal territory or federal enclave within any of the states of this union.</li> <li>I do not have income from any source within the District of Columbia, Puerto Rico, Virgin Islands, Guam, or American Samoa (the "United States" as that term is defined in the Internal Revenue Code), or any other U.S. territory or enclave.</li> <li>This statement establishes my earnings are "excluded" with respect to Federal income taxes imposed under Subtitle A of the Internal Revenue Code, pursuant to 26 CFR §31.3402(n)-1 certifying that:             <ol style="list-style-type: none"> <li>I incurred no liability for income tax imposed under subtitle A of the Code for the preceding year.</li> <li>I anticipate I will incur no liability for income tax imposed under subtitle A of the IRC for the current year; and</li> <li>I have a right to a full refund of all amounts taken without my voluntary consent.</li> <li>Pursuant to 26 CFR §31.3402(p)-1, I DO NOT CONSENT to have amounts taken from my pay for federal and/or state tax-related deductions.</li> </ol> </li> <li>With respect to IRC §3101, Federal Insurance Contributions Act (known as Social Security), this also establishes my "non-covered worker" status certifying that:             <ol style="list-style-type: none"> <li>I do not derive income which is taxable under 26 USC §3101, and I am therefore classified as a "non-covered" worker.</li> <li>I have never been made liable for any such tax pursuant to 26 USC §6201.</li> <li>Pursuant to 26 USC §6203, I have never been issued any procedurally lawful manual assessment Form 23C or assessment Form 3552 for any tax liability.</li> <li>Pursuant to 26 USC §3402(p)(3), I DO NOT CONSENT for amounts to be taken from my pay for any federal and/or state social insurance (trust) or other government social welfare programs.</li> </ol> </li> <li>I am NOT a recipient of government benefits, nor am I a "taxpayer" as that term is defined in the Internal Revenue Code.</li> </ol> <p>I declare to the best of my knowledge, understanding and belief the above facts are true and correct. All rights reserved. UCC 1-207</p>	
	▶ Signature _____	Date _____

**Worker**—File this certificate with the employer if you are an individual not subject to the U.S. income tax. If you are subject to the tax, you can file a Form W-4 *withholding allowance certificate* and income tax may be withheld from your wages.

**Employer**—Do not deduct and withhold tax from this individual. Forward a copy of this form along with a letter of transmittal to: Internal Revenue Center, Philadelphia, PA 19255. Report earnings on the Form 1099. Leave the box for the employees TIN or SSN blank when making all necessary reports.

<b>Employer</b>	<b>Please Print or Type</b>	Employer's Name	Office Code (optional)
		Employer's Address	
		Employer ID #	

**General Information:** (Section references are to the Internal Revenue Code unless otherwise noted.)

**Purpose**  
This certificate may be used instead of Form W-4 by those individuals who are not subject to, or liable for U.S. income tax withholding.

**Individuals Not Subject to Income Tax**  
There are only three situations in which there can be income subject to the U.S. income tax:

- Nonresident aliens and foreign corporations receiving income from within the United States,
- United States citizens receiving foreign income, and
- United States citizens or domestic corporations receiving a large percentage of income from within federal possessions.

Section 1 imposes the income tax on "taxable income".

Section 63 defines "taxable income" generally as "gross income" minus deductions. Section 61 defines "gross income" generally as income "from whatever source derived". Sections 861-865, and related regulations, determine the taxable "sources of income". 26 CFR §1.861-8 shows that the taxable "sources of income" apply only to those engaged in international or foreign commerce. Individuals who are not liable for, or subject to the U. S. income tax should not provide a

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completed IRS Form W-4 withholding allowance certificate.

Those United States citizens and individuals whose income does not originate under any of the three situations listed may provide the employer with a withholding exemption certificate in lieu of Form W-4.

American Citizens may certify that they are not subject to the U.S. income tax by providing a statement of citizenship in lieu of Form W-4.

Neither the U.S. Department of the Treasury nor the Internal Revenue Service provides "officially printed" withholding exemption certificates or statements of citizenship. It is entirely up to the individual who is not subject to or liable for the U.S. income tax to provide such documents.

## Definitions:

### American Citizen

For purposes of this form, "American Citizen" and "Citizen of the United States of America" means an individual who was born or naturalized in any of the 50 States of America.

**Note:** You are an individual not subject to income tax if you are an American Citizen residing within the United States of America (the 50 states).

American Citizens cannot be compelled to register in and subsequently participate in government entitlement programs, as the authority to require such is a power which "obviously lie(s) outside the orbit of congressional power". Railroad Retirement Board v. Alton Railroad Co. 295 U.S. 330, 55 Ct. 758 (1935).

### United States

For income tax purposes, "United States" means District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. (See §3121(e), §7701(a)(9), and 42 USC §410(i))

### U.S. citizen

For income tax purposes, "U.S. citizen" and "United States citizen" means an individual who is a citizen of District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

### Withholding Agent

The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 1441, 1442, 1443, or 1461.

Generally, the person responsible for payment to a nonresident alien individual or foreign entity is the withholding agent (see §7701(a)(16) and IRS Pub. 515).

### Nonresident Alien Individual

For income tax purposes, "nonresident alien individual" means an individual who is neither a U.S. citizen nor resident. (See IRS **Pub. 519**, *U.S. Tax Guide for Aliens*)

### Taxpayer

The term "taxpayer" means any person subject

to any internal revenue tax. (See §7701(a)(14))

### Withholding Allowance Certificate

A "withholding allowance certificate" [IRS Form W-4] is a form individuals may voluntarily use to certify to the employer that the individual is a U.S. citizen liable for U.S. income tax and allows the employer to act as the individual's withholding agent.

**Note:** It is illegal for an employer to withhold tax from a payment to an employee if the employee does not voluntarily furnish the employer with a signed withholding allowance certificate.

### Withholding Exemption Certificate

A "withholding exemption certificate" is a form individuals may voluntarily use to certify to an employer that the individual is not liable for U.S. income tax and exempts the employer from any U.S. income tax withholding rules. (See §3402(f)(2))

**The employer is not required to deduct and withhold any tax** upon a payment of wages to an employee if this form or substitute is filed in lieu of Form W-4.

**Note:** A withholding exemption certificate should state that (a) the employee incurred no liability for income tax imposed under subtitle A of the Code for his preceding taxable year; and (b) the employee anticipates that he will incur no liability for income tax imposed by subtitle A for his current taxable year.

### Statement of Citizenship

An individual's written statement that he or she is an American Citizen may also be relied upon by the payer of the income as proof that such individual is a citizen or resident of the United States of America and therefore not subject to the U.S. income tax. (See CFR §1.1441-5 *Claiming to be a person not subject to withholding*)

## Specific Instructions:

### Worker

**Full Name:** Enter your last name followed by your first name and then your middle name or initial.

**Postal Location:** Enter your address where you receive mail. This can be your street address where you live or Post Office Box.

**Signature/Date:** Affix your signature if the statements in the Worker's Certification are true and date it.

### Employer

**Employer's Name:** Enter the name of the business here.

**Employer's Address:** Enter the full address of the principal office in the country where the business is located. Also show the current mailing address if it differs from that of the principal office.

**Employer ID #:** Enter your employer ID number here.

**Office Code:** If you have an office code and wish to include it on this form you may do so here.

## Request for TIN/ Reporting to the I.R.S.

26 CFR §301.6109-1(c) requires you, the payer, only to **request** disclosure of one's Tax Identification Number. When the person refuses, the law requires you to ask a second time while stating only the **request** for disclosure is required by law. When the person refuses a second time, you are required to prepare an affidavit (signed by you and individual) stating you have complied with the request, keeping the affidavit as a permanent record in the file you maintain on the person.

Leave the box for the individual's SSN or TIN blank when making all necessary reports.

**Note:** This is the correct procedure when the individual does not have or refuses to disclose a Social Security Number regardless of which form is being used.

Employers are required by law to be in accordance with the ruling of EQUAL EMPLOYMENT OPPORTUNITY COMMISSION v. INFORMATION SYSTEMS CONSULTING, United States District Court for the Northern District of Texas Dallas Division CA3-92-0169-T, which states, "the defendant shall be permanently enjoined from terminating an employee or refusing to hire an individual for failure to provide a social security number."

## Disposition of Statement and Form

Upon receiving this form send a copy along with a letter of transmittal to: Internal Revenue Center, Philadelphia, PA 19255. (See CFR §1.1441-5 *Claiming to be a person not subject to withholding*)

## Transmittal Letter

Your transmittal letter should state that you requested the individual's SSN as instructed by §6109(a)(3) and/or 26 CFR §301.6109-1(c) and that you are asserting §6724(a) or 26 CFR §301.6676-1(a) for your waiver of any penalties that may be associated with your justifiable failure that is due to reasonable cause:

- 1) To withhold tax from payments to the individual, and
- 2) To use a Social Security Number in making reports to the I.R.S. regarding the individual.

**Note:** It is reasonable cause if the employee does not have, or refuses to disclose a SSN or TIN. (See §6724(a))

## Warning

This is a legal form required by the Internal Revenue Service by 26 CFR Sections 1.1441-5 concerning individuals *claiming to be a person not subject to withholding* and 31.3402(n)-1 concerning *employees incurring no income tax liability*. Failure to comply with the law may lead to criminal prosecution.

This document was written after extensive research into the Internal Revenue Code and other related laws by a Sovereign American Citizen for use by those individuals not subject to the U.S. income tax.

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