



# Interactive Brokers

*presents*

## U.S. Taxes and Reporting for Non-U.S. Customers

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# US Tax reporting for non – US investors

## Section 1441 of the Internal Revenue Code

What's covered

What's reportable

What is subject to withholding tax

When do treaties apply

Forms we issue



## IRS Circular 230 Notice

The information in this presentation is provided for informational purposes only, and does not constitute tax advice and cannot be used by the recipient or any other taxpayer to avoid penalties under any federal, state, local or other tax statutes or regulations, or to resolve any tax issue.



# Why U.S. Tax reporting

Two primary compliance concerns covered  
in Section 1441:

- Collection of tax when US Source income is paid to a non-US person (withholding)
- Enforcement – reporting/taxation of all income by US persons



## Who is a U.S. Person?

All U. S. Citizens **regardless** of residence

Dual Citizens – U.S. Citizenship outweighs other  
country's

All U.S. Green Card holders regardless of  
residence

Green card trumps any other citizenship



# Who is a U.S. Person?

U.S. legal residents

A few exceptions

Employees of other Governments

Employees of the U.N. and World Bank

Students, teachers and researchers with  
an F-1 Visa (5 years max)



## Who is a Non – U.S. Person?

A Non – U.S. Person is:

Not a U.S. Citizen

Not a U.S. Green Card holder

Not a legal resident of the U.S.



# What is U.S. Source Income?

Any payment received from revenue generated  
In the U.S.

Interest

Dividends

Payments in lieu (PIL)

Rents

Stock loan fees

Capital gain distributions from mutual funds

Business operating income – including distributions from  
MLPS and PTPS distributions





# Why is there U.S. Withholding Tax?

Important distinction between withholding tax and income tax.

Basic premise is that people earning U.S. income should pay tax on this income.



# Why is there U.S. Withholding Tax?

The U.S. is not the only country with withholding tax:

Canada

Most EU Countries

US and EU countries have tax treaties that limit the amount withheld to 15%

Switzerland

Also has a tax treaty with the US – 15%



## **Do I need to file a tax return in the U.S.?**

If you just have investment income, generally you do not have to file taxes in the U.S.

If you have rental income or business operating income you may have a filing obligation

If you own a MLP or PTP you may wish to file for a partial refund of tax withheld



## What types of income are subject to withholding tax?

Business operating income

Rental income

Partnership income generated in the U.S.

Any other type of “flow through” income

For example trust income



# What types of income are subject to withholding tax?

## From Investments:

Dividends

PIL

Royalties

Stock loan payments

Distributions from MLPs and PTPs



# What happens to the tax withheld?

IB remits any amounts withheld to the U.S. Government (IRS) weekly.

Once reporting forms are issued (March 15) IB can not obtain refunds of any tax for the prior year that has been remitted. Tax can be refunded to you by filing a US return



## **What types of income are NOT subject to withholding tax?**

Investment interest is reportable but not subject to withholding.

Long – term and short term capital gain distributions from mutual funds – also reportable but not subject to withholding

Gains (losses) on securities trading – not reportable



# Withholding Rates

Investment income:

Statutory rate: 30%

Treaty rates: generally 15%, however  
this can vary

Rents and operating income: 39.6%

MLP and PTP distributions: 39.6%





## How do I Qualify for a Treaty Rate

Primary residence in a country that has a tax treaty with the U.S.

Complete Form W-8BEN when account is opened and replace expired W-8Ben every 3 years to remain eligible.



Form **1042-S**

Department of the Treasury  
Internal Revenue Service

**Foreign Person's U.S. Source Income Subject to Withholding**

Information about Form 1042-S and its separate instructions is at [www.irs.gov/form1042s](http://www.irs.gov/form1042s).

**2016**

OMB No. 1545-0096

**Copy A** for  
Internal Revenue Service

**AMENDED**

**PRO-RATA BASIS REPORTING**

<b>1</b> Income code		<b>2</b> Gross income		<b>3</b> Chapter indicator. Enter "3" or "4"		<b>13e</b> Recipient's U.S. TIN, if any									
						<b>3a</b> Exemption code		<b>4a</b> Exemption code							
						<b>3b</b> Tax rate		<b>4b</b> Tax rate		<b>13f</b> Ch. 3 status code		<b>13g</b> Ch. 4 status code			
<b>5</b> Withholding allowance				<b>6</b> Net income				<b>7b</b> Check if tax not deposited with IRS pursuant to escrow procedure <input type="checkbox"/>		<b>13h</b> Recipient's GIIN		<b>13i</b> Recipient's foreign tax identification number, if any		<b>13j</b> LOB code	
<b>7a</b> Federal tax withheld				<b>8</b> Tax withheld by other agents				<b>9</b> Tax paid by withholding agent				<b>10</b> Total withholding credit			
<b>11</b> Amount repaid to recipient				<b>12a</b> Withholding agent's EIN				<b>12b</b> Ch. 3 status code		<b>12c</b> Ch. 4 status code					
<b>12d</b> Withholding agent's name				<b>12e</b> Withholding agent's Global Intermediary Identification Number (GIIN)				<b>12f</b> Country code				<b>12g</b> Foreign taxpayer identification number, if any			
<b>12h</b> Address (number and street)				<b>12i</b> City or town, state or province, country, ZIP or foreign postal code				<b>13a</b> Recipient's name				<b>13b</b> Recipient's country code			
<b>13c</b> Address (number and street)				<b>13d</b> City or town, state or province, country, ZIP or foreign postal code				<b>15a</b> Intermediary or flow-through entity's EIN, if any				<b>15b</b> Ch. 3 status code		<b>15c</b> Ch. 4 status code	
<b>15d</b> Intermediary or flow-through entity's name				<b>15e</b> Intermediary or flow-through entity's GIIN				<b>15f</b> Country code		<b>15g</b> Foreign tax identification number, if any					
<b>15h</b> Address (number and street)				<b>15i</b> City or town, state or province, country, ZIP or foreign postal code				<b>16a</b> Payer's name				<b>16b</b> Payer's TIN			
<b>16c</b> Payer's GIIN				<b>16d</b> Ch. 3 status code		<b>16e</b> Ch. 4 status code		<b>17a</b> State income tax withheld				<b>17b</b> Payer's state tax no.		<b>17c</b> Name of state	

For Privacy Act and Paperwork Reduction Act Notice, see instructions.

Cat. No. 11386R

Form **1042-S** (2016)



# Changes for 2016 Reporting

Layout changes – a few boxes have been combined and moved

Box 13J: Treaty limitation on benefits codes -

Box 13K: Unique form identifier – to identify to issuer and IRS forms specifically.



# Reporting

## Income codes – Box 1

01	Interest paid by U.S. obligors – General
29	Deposit Interest (credit balance)
30	Original issue discount
33	Substitute payment – Interest (PIL interest)
06	Dividends paid by U.S. Corporations – General
34	Substitute payments – dividends (PIL dividends)
13/14	Royalties
24	Real estate investment trust (REIT) distribution of capital gain
25	Trust distributions subject to IRC Sec. 1445
27	Publicly traded Partnership distribution subject to IRC section 1446
35	Substitute payment – other
36	Capital Gain distributions
54	Other Income



# Reporting

## New codes:

If an account does not have either a home country identification number or US Taxpayer ID (ITIN) there are now different codes for reporting the same items if you reside in a treaty country:

Interest with tax ID	code 01
Interest without tax ID	code 51
Dividends with tax ID	code 06
Dividends without Tax ID	code 52
Dividend PIL with tax ID	code 34
Dividend PIL without tax ID	code 53

This is confusing



# Reporting

Each type of income is a separate form

Box 1	Income Type code
Box 2	Gross Income
Box 3a/3b	Exemption code
Box 3b/4b	Withholding Rate
Box 7,8	U.S. Tax withheld



## Reporting

Box 10 – total tax withheld

Box 11 – Tax repaid to recipient

NOTE that the actual tax withheld that should be reported is box 10 less box 11.



## Reporting

Focus on Box 8 – tax withheld by other agents

US tax withholding at the source of the dividend  
withholding is not done by IB but by the clearing  
agent for the security

Usually for a security that pays a “blended” dividend  
part US source income, part another country  
source





## **Why did I get a refund for last year's tax in my account?**

### **Focus on Box 11:**

Often companies re-categorize payments after the fact. When we learn of these re-categorizations before the issuance of reporting forms we refund any tax withheld to your account.

This often occurs early in the following year.

Once forms are issued in March we can no longer refund tax withheld to you.



# Reporting

Exemption codes are for income, such as investment interest that are reportable, but exempt from withholding

Common codes:

- 04 Exempt under tax treaty
- 05 Portfolio interest exempt under IRS code section.



# What do I do if wrong amount withheld?

If you feel that the wrong rate has been withheld or there has been some other type of over withholding you can file with the U.S. for a refund.

File form 1040 NR for individuals

Remember we can not refund over withholding after forms are issued



## When should I file a US return?

If you have any US source business income or rental Income (or Loss)

If you own a PTP or MLP and have 39.6% withheld from distributions you may be entitled to a refund of part of this withholding when a US return is filed.

Remember to weigh the cost of preparing and filing a US return vs. the amount to be gained.



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