



# 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

Focus on Chapter 3 not on Chapter 4 (FATCA)

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

U.S. source income subject to withholding tax  
When paid to a non-U.S. person





# 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.



## Who is a U.S. Person

All U. S. Citizens regardless of residence

Dual Citizens – U.S. Citizenship trumps 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)



# 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

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

Netherlands



## **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 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 cannot obtain refunds of any tax for the prior year that has been remitted.





## **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 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 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/form1042](http://www.irs.gov/form1042) **AMENDED** **PRO-RATA BASIS REPORTING****2015**

OMB No. 1545-0096

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|   |                                      |  |  |   |   |                                     |
|---|--------------------------------------|--|--|---|---|-------------------------------------|
| <b>1</b> Income code<br><b>29</b>   | <b>2</b> Gross income<br><b>4.00</b> | <b>3</b> Chap. 3:<br><b>3a</b> Exemption code <b>05</b><br><b>3b</b> Tax rate <b>0.0</b> | <b>4</b> Chap. 4:<br><b>4a</b> Exemption code <b>15</b><br><b>4b</b> Tax rate <b>0.0</b> | <b>5</b> Withholding allowance<br><b>6</b> Net income                           | <b>7</b> Federal tax withheld                             | <input type="checkbox"/>            |
| <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<br><b>13-3863700</b>   |                                      | <b>12b</b> Ch. 3 status code<br><b>01</b>  | <b>12c</b> Ch. 4 status code<br><b>01</b>  | <b>14a</b> Primary Withholding Agent's Name (if applicable)                     |   |                                     |
| <b>12d</b> Withholding agent's name<br><b>Interactive Brokers LLC</b>   |                                      |  |  | <b>14b</b> Primary Withholding Agent's EIN                                      |   |                                     |
| <b>12e</b> Withholding agent's Global Intermediary Identification Number (GIIN)   |                                      |  |  | <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>12f</b> Country code<br><b>US</b>  |                                      |  |  | <b>15d</b> Intermediary or flow-through entity's name                           |   |                                     |
| <b>12g</b> Foreign taxpayer identification number, if any   |                                      |  |  | <b>15e</b> Intermediary or flow-through entity's GIIN                           |   |                                     |
| <b>12h</b> Address<br><b>8 Greenwich Office Park</b>  |                                      |  |  | <b>15f</b> Country code   | <b>15g</b> Foreign taxpayer identification number, if any |                                     |
| <b>12i</b> City or town, state or province, country, ZIP or foreign postal code<br><b>Greenwich, CT USA 06831</b>         |                                      |  |  | <b>15h</b> Address  |   |                                     |
| <b>13a</b> Recipient's U.S. TIN, if any   |                                      |  |  | <b>15i</b> City or town, state or province, country, ZIP or foreign postal code |   |                                     |
| <b>13b</b> Ch. 3 status code <b>16</b>  |                                      | <b>13c</b> Ch. 4 status code <b>32</b>   |  | <b>13h</b> Recipient's GIIN   |   |                                     |
| <b>13d</b> Recipient's name<br><b>John Doe</b>  |                                      |  | <b>13e</b> Country code<br><b>AS</b>   | <b>13i</b> Recipient's foreign tax identification number, if any                |   |                                     |
| <b>13f</b> Address<br><b>100 Main St.</b>   |                                      |  |  | <b>16</b> Recipient's account number<br><b>UXXXXX</b>                           |   | <b>17</b> Recipient's date of birth |
| <b>13g</b> City or town, state or province, country, ZIP or foreign postal code<br><b>Sassafras, Vic, Australia, 3787</b> |                                      |  |  | <b>18</b> Payer's name  |   | <b>19</b> Payer's TIN               |
|   |                                      |  |  | <b>20</b> Payer's GIIN  |   |                                     |
|   |                                      |  |  | <b>21</b> State income tax withheld   |   | <b>22</b> Payer's state tax no.     |
|   |                                      |  |  | <b>23</b> Name of state   |   |                                     |

Form 1042-S (2015)

IMPORTANT TAX INFORMATION: This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanctions may be imposed on you if this income is taxable and the IRS determines that it has not been reported.



# 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)
- 40 Other U.S. Source dividend equivalents
- 24 Real estate investment trust (REIT) distribution of capital gain
- 35 Substitute payment – other
- 36 Capital Gain distributions
- 50 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:

|                             |         |
|-----------------------------|---------|
| 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 |





# 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 cannot 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 return is filed.

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



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