



**NEW VENDOR  
FORMS AND REQUIREMENTS**





**ACCOUNTS PAYABLE MAINTENANCE**  
Sign and hand deliver or fax to the Purchasing Department

<input type="checkbox"/>	<u>RVB</u>	<input type="checkbox"/>	<u>OCL</u>	<input type="checkbox"/>	ADD	<input type="checkbox"/>	CHANGE	<input type="checkbox"/>	DELETE
<input type="checkbox"/>	<u>PG</u>	<input type="checkbox"/>	<u>GLD</u>						
<input type="checkbox"/>	<u>STV</u>	<input type="checkbox"/>	<u>TIF</u>						

**VENDOR NAME:** \_\_\_\_\_

**REMIT TO ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIPCODE:** \_\_\_\_\_

**TELEPHONE:** \_\_\_\_\_ **FAX #:** \_\_\_\_\_

**ORDER CONTACT:** \_\_\_\_\_ **EMAIL ADDRESS:** \_\_\_\_\_

**UNIPRO VENDOR:**  YES IF YES #: \_\_\_\_\_  NO

**CATEGORY MANAGER #** \_\_\_\_\_ **PROGRAM MANAGER #** \_\_\_\_\_

**TERMS:** \_\_\_\_\_

**PRIMARY BUYER #** \_\_\_\_\_

**SEAFOOD**  YES  NO

**VENDOR PICKUP INFORMATION MAINTENANCE**

**PICKUP ADDRESS:** \_\_\_\_\_

**PICKUP CITY/STATE:** \_\_\_\_\_

**PICKUP PHONE:** \_\_\_\_\_

**PICKUP CONTACT:** \_\_\_\_\_

**INSURANCE CARRIER:** **PROVIDE CURRENT COPY OF LIABILITY INSURANCE**

**FOOD MANUFACTURER**  YES  NO

**IF YES BIOTERRORISM ACT REGISTRATION NUMBER:** \_\_\_\_\_

**TYPE OF PRODUCT TO PURCHASE:** \_\_\_\_\_

IN ORDER TO MAINTAIN THE VENDOR LISTING ACCURATELY, DO NOT MAKE ANY CHANGES YOURSELF.

\_\_\_\_\_  
**BUYER'S NAME**

**A/P DEPT. USE ONLY**

**DATE** \_\_\_\_\_ **VENDOR #** \_\_\_\_\_ **INITIALS** \_\_\_\_\_

**Revised January 2020**

**Attn: Dave Rawicz or Michael Francois**  
**Dept. of Safety & Risk**  
[daver@cheneybrothers.com](mailto:daver@cheneybrothers.com)  
[michaelf@cheneybrothers.com](mailto:michaelf@cheneybrothers.com)

## Cheney Brothers, Inc. Vendor Requirements Check list.

**Purpose:** We manufacture none of the products we sell. Therefore, our vendor requirements are a proactive step aimed at ensuring we receive safe quality products. We expect our vendors to comply with all applicable federal, state and local requirements for making and holding food, including 21 CFR § 117, 21 CFR § 120 and § 123.

*\*Prior to purchasing any product from a vendor the Safety & Risk Department must be provided with the following:*

### **ALL Vendors/Suppliers:**

1. A copy of vendor business license/permit.
2. Completed Food Safety Questionnaire:
  - A copy of recent food safety inspection report from a federal, state, local or other inspection agency.
3. Completed Food Security Questionnaire:
4. A signed Certificate of Liability Insurance (COI);
  - Cheney Brothers, Inc., Its Subsidiaries, Affiliates, and/or Divisions must be added as additional insured (*See Certificate of Liability Insurance Letter for requirements*)
5. A signed Continuing Letter of Guarantee Agreement.
6. A signed Purchase Order Terms and Conditions

### **Vendors Supplying Products with Nutrition Facts Labels**

- A signed Nutrition Facts Label and Service Size Verification Form

### **Seafood Vendors:**

A Certificate of Origin. (Must be provided for each order,)

- Certificate of Origin must list U.S. firm as consignee.
- A shipment date of product should be listed on Certificate of Origin.
- Safety and Risk Department must receive a new Certificate of Origin and Seafood Vendor Declaration/Correlation Letter with each product shipment.
- Commodities should be separated by; item: quantity and weight.
- Species and Market name must be applicable to the species in each container.
- Verifiable purchase order number must be listed on Certificate of Origin.

### **Importers:**

1. A signed Food Safety Modernization Act/Foreign Supplier Verification Program Letter

### **Bottled Water Vendors:**

2. A signed Bottled Water Verification Form

### **Kombucha Vendors:**

3. A signed Continuing Letter of Indemnity and Guarantee Agreement (Kombucha)

### **Alcohol Infused Frozen Dessert Products Vendors**

4. A signed Continuing Letter of Indemnity and Guarantee Agreement (Alcohol Infused Frozen Dessert Products)





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## **Cheney Brothers, Inc. New Vendor Pallet Criteria**

TO: All Cheney Brothers, Inc. Suppliers

We have formalized our pallet specifications throughout our operation for food and personal safety as well as economic reasons. As a supplier of palletized product, this letter is to inform you of our standards. At a minimum, we require that all loads be received on Grade #2 or B Grade pallets (Typically, these grade of pallets meet the Grocery Manufacturers Association (GMA) standards that include pallets that have been repaired by a companion stringer, block stringer and double stringer. and all damaged deck boards have been replaced resulting in a fairly clean pallet that is structurally sound).\*

Pallets should conform to the following conditions to facilitate load acceptance:

- Cracks or unsound knots may not exceed  $\frac{1}{4}$  of stringer thickness and unsound knots should not be present in notch area.
- No broken deck boards.
- All stringers or companion stringers must be in good repair.
- Pallets should be in fresh clean condition

**Pallets with shoddy or unprofessional looking repairs will not be accepted.**

In addition, several studies have reported a potential contamination link between pallets and the products they carry.\*\* Pallets that are observed to be stained, soiled or otherwise contaminated will not be accepted.

Please keep in mind that any product received on pallets not meeting these specifications may either be returned or restacked at your expense. Thank you in advance for your cooperation in this matter.

\* Reference.....\* Uniform Standard for Wood Pallets, © 2005 by the National Wooden Pallet and Container Association.

\*\* Reference..... \*\*Hidden Dangers of Wooden Pallets Escalate, ©2010 PR Newswire Association LLC.



Corporate Headquarters

One Cheney Way, Riviera Beach, FL 33404-7000 • 561.845.4700 office • 800.432.1341 toll-free • 561.845.4701 fax

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## **Cheney Brothers, Inc. Vendor Food Safety Questionnaire**

*Please provide answers to any of the following questions that apply to your business or provide your standard documentation to such security inquiries. Attach any letters or documentation.*

1. Has your facility received GFSI (e.g., SQF, BRC, ISO, etc.) Certification? If so, please provide all certificates.
2. Provide a copy or brief outline of your HACCP plan. What are identified hazards, critical control points and critical limits? How are limits monitored?
3. Do you have someone certified to new FSMA standards? Attach copy
4. Describe program you have in place for allergens.
5. Describe program you have in place for prevention of cross contamination.
6. Do you have an environmental monitoring program? If Yes, Describe.
7. Describe program you have in place for glass and brittle plastics.
8. How are your employees monitored for hygiene and disease?
9. Describe ingredient/product receiving inspections and procedures.
10. Recall program: Describe methods you use to track ingredients and products into, through and from your facility.
11. Provide copy of a recent pest control service report.
12. Provide a copy of most recent USDA, FDA or 3<sup>rd</sup> party audit.



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## Cheney Brothers, Inc. Vendor Food Security Questionnaire

*Please provide answers to all of the following questions or provide documentation for these security inquires. Attach any documents or letters and return with packet.*

**1. Facility:**

- Do you have a **Food Defense Plan**?
- Have you ever had a food defense audit?
- Is your Facility registered under the Bio-terrorism Act?
- If yes, facility registration #:\_\_\_\_\_.

**2. Personnel Screening:**

- What is your method of pre-employment screening?
- What is the average length of employment?

**3. Access:**

- How do you limit or restrict access to your building/ facility?
- How do you limit or restrict access to sensitive areas of your operation?
- How is this access monitored?

**4. Raw Materials and Packaging:**

- Do you have vendor qualification procedures in place?
- Elaborate on vendor qualification requirements.
- How are incoming raw materials and packaging secured and monitored?

**5. Distribution:**

- How do you protect your products during distribution?
- Do you distribute your own product?
- What screening is done for outside haulers?

Company: \_\_\_\_\_ Print name: \_\_\_\_\_

Address: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Signature: \_\_\_\_\_

Fax: \_\_\_\_\_ E Mail: \_\_\_\_\_

Date: \_\_\_\_\_



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## Certificate of Liability Insurance Letter

To whom it may concern,

All vendors selling products or services to Cheney Brothers, Inc. are required to provide a **signed Certificate of Liability Insurance (COI); meeting the following requirements:**

COI naming **Cheney Brothers, Inc., Its Subsidiaries, Affiliates, and/or Divisions, 1 Cheney Way, Riviera Beach, FL 33404** as an “Additional Insured” with respect to any negligent act or omission caused in whole or in part by you or anyone acting on your behalf. Additional Insured Coverage should extend to both ongoing and completed operations. Insurance should be underwritten by an insurance company with at least an “A-VII” rating as defined by A.M. Best. If applicable to your operations, General Liability and Workers Compensation policies must contain a “Waiver of Subrogation” naming Cheney Brothers, Inc., Its Subsidiaries, Affiliates, and/or Divisions and be shown on the COI. Insurance coverage is to be “Primary and Non-contributory” to any other insurance available to the certificate holder. Further, the COI shall specify that Cheney Brothers, Inc. shall be given at least thirty (30) days prior written notice by the insurer of any change, modification, cancellation, or termination of coverage. Limits of Insurance shall be no less than:

GENERAL LIABILITY	Each Occurrence	\$2,000,000
	Damage to Rented Premises	\$2,000,000
	Med Exp (any one person)	\$5,000
	Personal & Adv. Injury	\$2,000,000
	General Aggregate	\$5,000,000
	Products – Comp/OP AGG	\$2,000,000
AUTO LIABILITY	Combined & Single Limit	\$2,000,000
WORKERS COMPENSATION	Each Accident	\$1,000,000
	Pertinent State Statutory Req.	Statutory
UMBRELLA/EXCESS	Each Occurrence/Aggregate	\$1,000,000

If you have any questions please contact me via e-mail at [michaelf@cheneybrothers.com](mailto:michaelf@cheneybrothers.com) or Dave Rawicz at [DaveR@cheneybrothers.com](mailto:DaveR@cheneybrothers.com) or at (561) 845-4700 Ext. 1185

*Michael Francois*

Michael Francois  
 Sanitation Manager/HACCP coordinator





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### Continuing Letter of Guarantee Agreement

Hereafter, each article contained in a shipment or other delivery made by the supplier to or on behalf of Cheney brothers, Inc., Its Subsidiaries, Affiliates, and/or Divisions is guaranteed by supplier, to be:

- Not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act (21 USC § 301, et seq.)
- In compliance with all applicable federal, state and local laws.
- Not an article which may not, under provisions of the Federal Act (21 USC § 344 or § 355) be introduced into interstate commerce.
- Compliant with current good manufacturing practice, hazard analysis, and risk-based preventative controls for human food (21 C.F.R. § 117) and HACCP regulations (21 CFR §§ 120 & 123).

Supplier also agrees to provide Cheney Brothers, Inc., Its Subsidiaries, Affiliates, and/or Divisions with the necessary information to comply with the record keeping provisions of any federal, state or local laws.

Vendors selling products to Cheney Brothers, Inc., Its Subsidiaries, Affiliates, and/or Divisions are required to provide a new Letter of Guarantee; guarantee letter renewal will be required every three years.

**(This form must have original signature; copies or faxes will not be accepted.)**

Company: \_\_\_\_\_ Print name: \_\_\_\_\_

Address: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_ E-mail: \_\_\_\_\_

*The person signing this letter on behalf of supplier certifies that he or she has been duly authorized to do so by supplier.*



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## Nutrition Facts Label and Service Size Verification Form

Dear Valued Vendor:

As you are aware, on May 27, 2016, the Food and Drug Administration (“FDA”) published final rules on the new Nutrition Facts label for packaged foods to reflect new scientific information. In 2018, the FDA issued a final rule to extend the compliance dates for the Nutrition Facts label final rules from July 26, 2018 to **January 1, 2020**.<sup>1</sup> For information and questions regarding these rules, including specific labeling requirements that may pertain to you or your products, please contact the FDA or visit their website at [www.FDA.gov](http://www.FDA.gov).

Cheney Bros., Inc. d/b/a/ Cheney Brothers, Inc. (“Cheney Brothers”) relies entirely upon its vendors to ensure that all products labeled for and/or sold to Cheney Brothers and its customers are in compliance with all applicable federal, state, and local laws, rules, and regulations and are not adulterated, misbranded, or mislabeled in any way.

By signing this notice, you acknowledge that you are aware of and fully understand your responsibilities and have not relied upon Cheney Brothers for legal or regulatory advice, guidance, or otherwise. You further warrant, represent, and guarantee that all products contained in any shipment or other delivery made by you to or on behalf of Cheney Brothers, including but not limited to private labeled items, are in compliance with the Federal Food, Drug and Cosmetic Act, Fair Packaging and Labeling Act, and Nutrition Labeling and Education Act, including all amendments and updates thereto.

You further agree to indemnify, defend, and hold Cheney Brothers harmless for any damages, claims, suits, fines, costs, or liabilities including reasonable attorneys’ fees that Cheney Brothers, its affiliates, and customers may incur arising out of or relating to your failure to comply with your obligations referenced herein as well as the representations set forth herein.

\_\_\_\_\_  
(Print Vendor’s Name)

\_\_\_\_\_  
(Signature)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

<sup>1</sup> Compliance dates may vary based upon the particular manufacturer’s annual sales and/or products.





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## Country of Origin/Method of Production Labeling Requirements

To: All Vendors and Manufactures,

In order to comply with USDA Country of Origin requirements verification of country of origin and method of production (farm or wild caught) will be required. Seafood, fresh or frozen, subject to some exemptions is a covered commodity. The following measures must be taken in order for us to purchase your product(s).

- Label all products clearly with country of origin and method of production: either farm or wild caught. The smallest identifiable unit must be labeled accordingly.
- All invoices, packing lists and bills of lading will describe the country of origin and method of production by line item.
- Maintain records and a verifiable audit trail to establish the accuracy of the country of origin and method of production information. This may include: invoices, receiving records, purchase records, sales receipts and other pertinent records.
- Products must be segregated by country of origin and method of production throughout your process and until they are delivered to Cheney Brothers, Inc. Your company must maintain documentation verifying your segregation plan.
- Indemnify Cheney Brothers, Inc., Its Subsidiaries, Affiliates, and/or Divisions for any cost or losses that we may incur as a result of the country of origin and method of production information that is insufficient or not provided.

Your company agrees to comply with these requirements as a condition of business with Cheney Brothers, Inc., Its Subsidiaries, Affiliates, and/or Divisions.

*Michael Francois*

Michael Francois/HACCP Administrator



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### Seafood Vendor Declaration/Correlation Letter

*This is to certify that the following seafood sold to Cheney Brothers, Inc., Its Subsidiaries, Affiliates, and/or Divisions will correlate to the specific Certificate of Origin. (Please write legibly, as illegible documents may be returned.)*

1. **Description of Product** (As written on certificate of Origin): \_\_\_\_\_  
\_\_\_\_\_

2. **Species name(s):**  
○ \_\_\_\_\_  
○ \_\_\_\_\_  
○ \_\_\_\_\_  
○ \_\_\_\_\_

3. **Number of packages** (As written on certificate of origin):  
\_\_\_\_\_

4. **Certificate number** (As written on certificate of origin):  
\_\_\_\_\_

5. **Cheney Brothers, Inc. Purchase Order Number:**  
\_\_\_\_\_

Company: \_\_\_\_\_

Print name: \_\_\_\_\_

Address: \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

Signature: \_\_\_\_\_

Fax: \_\_\_\_\_

Date: \_\_\_\_\_

E-mail: \_\_\_\_\_



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## Foreign Supplier Verification Program Letter to Importers

Dear Valued Importer:

As you may be aware, in accordance with the Food Safety Modernization Act (FSMA), the FDA implemented Foreign Supplier Verification Programs (FSVP) for importers of food for humans and animals. The FSVP requires that importers perform certain risk-based activities to verify that food imported into the United States has been produced in a manner that meets applicable U.S. safety standards. Specifically, an FSVP is a program that importers must have in place to verify that their foreign suppliers are producing food in a manner that provides the same level of public health protection as the preventative controls or produce safety regulations, as appropriate, and to ensure that the supplier's food is not adulterated and is not misbranded with respect to allergen labeling. Accordingly, importers are responsible for actions that include:

- Determining known or reasonably foreseeable hazards with each food;
- Evaluating the risk posed by a food, based on the hazard analysis, and the foreign supplier's performance;
- Using that evaluation of the risk posed by an imported food and supplier's performance to approve suppliers and determine appropriate supplier verification activities;
- Conducting supplier verification activities;
- Conducting corrective actions; and
- Identifying the FSVP importer when filing for entry with U.S. Customs and Border Protection using the FSVP importer's name, electronic mailing address, and unique facility identifier recognized as acceptable to the FDA (i.e. DUNS number).

FSMA requires that importers develop, maintain, and follow these FSVPs for each food brought into the United States and the foreign supplier of that food. The evaluation of the risk posed by the imported food and the supplier's performance must be reevaluated at least every three years, or when new information comes to light about a potential hazard or the foreign supplier's performance.

**Hazard Analysis:** With respect to the importer's hazard identification and evaluation requirements, importers are required to identify and evaluate (based on experience, illness data, scientific reports and other information) the known or reasonably foreseeable hazard for each type of food it imports to determine if there are any hazards requiring control. These hazards include biological hazards (i.e. parasites and disease causing bacteria), chemical hazards (i.e. radiological hazards, pesticide and drug residues, natural toxins, food decomposition, unapproved food or color additives and food allergens), and physical hazards (i.e. glass). Other hazards include those likely to cause illness or injury that occur naturally, are unintentionally introduced, or are intentionally introduced for purposes of economic gain such as substituting less costly ingredients. The importer's analysis must assess the probability that these hazards will occur in the absence of controls and the severity of the illness or injury that could occur. Factors to be considered in the analysis include: (a) formulation of the food; (b) condition, function, and design of the establishment and equipment of a typical entity that produces the food; (c) raw materials and other ingredients; (d) transportation practices; (e) harvesting, raising, manufacturing, processing and packaging procedures; (f) packaging and labeling activities; (g) storage and distribution; (h) intended or reasonably foreseeable use; and (i) sanitation, including employee hygiene. While the FDA has noted that an importer may rely on another entity to conduct the hazard analysis, the importer must still review and assess the relevant documentation.



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Evaluation of Food Risk and Supplier Performance: In addition to the hazard analysis, the importer must evaluate: (a) the entity that will be significantly minimizing or preventing the hazards, such as the foreign supplier or the supplier’s raw material or ingredient supplier; (b) the foreign supplier’s procedures, processes, and practices related to the safety of food; (c) applicable FDA food safety regulations, and information regarding the foreign supplier’s compliance; (d) the foreign supplier’s food safety history, including the responsiveness of the foreign supplier in correcting past problems; and (e) other necessary factors, including storage and transportation practices. Although the FDA permits an importer to rely on another entity (other than the foreign supplier) to perform the evaluation of risk, the importer must review and assess the relevant documentation.

Supplier Verification: Based upon the evaluation of risk conducted, the importer must establish and follow written procedures to ensure that it only imports from approved foreign suppliers and must conduct appropriate supplier verification activities. While importers have flexibility to tailor supplier verification activities to the unique food risks and supplier characteristics, the FDA explains that the importer’s options include: (a) annual on-site audits of the supplier’s facility; (b) sampling and testing; and/or (c) a review of the supplier’s relevant food safety records. Although the FDA permits an importer to rely on another entity (other than the foreign supplier) to determine and perform appropriate supplier verification activities, the importer must review and assess the relevant documentation.

Corrective Actions: FSMA provides that if the importer determines that a foreign supplier has not used processes and procedures that provide the same level of public health and protection as required under the produce safety and preventative controls regulations or that the supplier produces food that is adulterated or misbranded with respect to allergen labeling, the importer must promptly take appropriate corrective actions. The specific corrective measures will depend on the circumstances but could include discontinuing use of the foreign supplier until the cause of noncompliance, adulteration or misbranding has been adequately addressed.

Exemptions and Modified Standards: There are a number of exemptions and modified FSVP requirements applicable to certain small importers and importers of certain specific products. Information regarding these exemptions as well as all other information relevant to importers’ duties can be found on the FDA’s website at [www.fda.gov](http://www.fda.gov).

Please be advised that neither Cheney Bros., Inc. d/b/a Cheney Brothers, Inc. (“Cheney Brothers”) nor any of its affiliates are FSVP importers. Accordingly, you acknowledge and agree that you have not and will not (a) identify Cheney Brothers or any of its affiliates as an FSVP importer, owner, or consignee of any products imported into the United States; or (b) an agent or representative of any foreign owner or consignee of products imported into the United States.

Cheney Brothers relies upon its importers to ensure that they are in compliance with all local, state, and federal rules, regulations, and laws including, without limitation, the FSMA. By signing this notice, you acknowledge you understand your responsibilities under the FSMA, have not relied upon Cheney Brothers for legal advice, guidance, or otherwise, and warrant and represent to Cheney Brothers that you are in compliance with your obligations with respect to all products imported into the United States and supplied to Cheney Brothers. You further agree to indemnify and hold Cheney Brothers and its affiliates harmless for any damages, claims, suits, fines, costs, or liabilities (including in-house and outside attorneys’ fees) that Cheney Brothers or its affiliates may incur arising out of or relating to your compliance or failure to comply with your obligations referenced herein as well as the representations set forth herein.

\_\_\_\_\_  
(Print Vendor’s Name)

\_\_\_\_\_  
(Signature)

Signatory’s Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



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**Bottled Water Verification Form**

Dear Valued Bottled Water Vendor:

As you are aware, the Food and Drug Administration (“FDA”) has implemented specific regulations relating to the labeling of bottled water for human consumption including, without limitation, 21 C.F.R. § 165.110. Section 165.110, amongst other things, specifies when certain nomenclature such as “spring water” may be used on the labels for bottled water. Cheney Bros., Inc. d/b/a Cheney Brothers, Inc. (“Cheney Brothers”) relies upon its vendors to ensure that all products labeled for and/or sold to Cheney Brothers and its customers are in compliance with all applicable federal, state, and local laws, rules, and regulations and are not adulterated, misbranded, or mislabeled in any way.

By signing this notice, you acknowledge that you understand your responsibilities, have not relied upon Cheney Brothers for legal advice, guidance, or otherwise, as well as warrant, represent, and guarantee that all bottled water contained in any shipment or other delivery made by you to or on behalf of Cheney Brothers, including but not limited to private labeled items are:

- Not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act (21 U.S.C § 301, et seq.) (the “FDAC”) and otherwise fully in compliance 21 C.F.R. § 165.110;
- Compliant with all applicable federal, state and local laws;
- Not an article which may not, under provisions of the FDAC be introduced into interstate commerce; and
- Compliant with current good manufacturing practice, hazard analysis, and risk-based preventative controls for human food (21 C.F.R. §117) and processing and bottling of bottled drinking water (21 C.F.R. § 129).

You further agree to indemnify and hold Cheney Brothers harmless for any damages, claims, suits, fines, costs, or liabilities (including in-house and outside attorneys’ fees) that Cheney Brothers, its affiliates, and customers may incur arising out of or relating to your failure to comply with your obligations referenced herein as well as the representations set forth herein.

\_\_\_\_\_  
(Print Vendor’s Name)

\_\_\_\_\_  
(Signature)

Signatory’s Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



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**Attn: Dave Rawicz or Michael Francois**  
**Dept. of Safety & Risk**  
[daver@cheneybrothers.com](mailto:daver@cheneybrothers.com)  
[michaelf@cheneybrothers.com](mailto:michaelf@cheneybrothers.com)

**Revised January 2020**

**Continuing Letter of Indemnity and Guarantee Agreement**  
**(KOMBUCHA)**

Vendor desires to supply Cheney Bros., Inc. d/b/a Cheney Brothers, Inc. ("CBI") with Kombucha, a fermented beverage made from brewed tea and sugar. Kombucha tea is a fermented product that can be produced with an end result of alcohol that varies from a trace level to over 2.5% alcohol concentration. Vendor acknowledges that if the end product contains a level greater than 0.5% alcohol by volume, the Kombucha tea is considered an alcoholic beverage and subject to state regulation by the Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco (ABT) and, potentially, other state regulators who regulates the sale, labeling and distribution of alcoholic beverages. Additionally, alcoholic beverages are subject to federal regulation by the U.S. Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB).

Vendor acknowledges that CBI does not intend to and will not knowingly purchase, sell, or distribute any alcoholic beverages. Vendor therefore agrees not to supply CBI with any alcoholic beverages or products that may become alcoholic beverages with the passage of time.

In order to ensure that it is compliant with the terms hereof and its obligations to CBI, Vendor agrees to perform the following for the benefit and on account of CBI: (1) monitor the pH of Vendor's products; (2) monitor the alcohol content of Vendor's products; (3) follow a scientifically validated process such as a process authority evaluation or peer review scientific journal article; (4) operate under an approved Process Alternative, and Hazard Analysis and Critical Control Point Plan (HACCP); and (5) immediately inform CBI, in writing, if it becomes aware of or otherwise suspects that any of its products supplied to CBI may be considered an alcoholic beverage by any local, state, federal, or other governmental agency or is otherwise not permitted to be purchased or sold by CBI.

Vendor shall indemnify and hold CBI, including but not limited to, its agents, employees, directors, officers, attorneys, affiliates, parents, successors, owners, predecessors, assigns, and related entities and persons, harmless from and against any claims, known or unknown, arising out of or connected in any way with products provided by Vendor or its agents to CBI, regardless of the cause of any injuries or damages giving rise to such claims, even if caused by the sole negligence of CBI or its agents, as well as any breach of this agreement.

\_\_\_\_\_  
(Print Vendor's Name)

\_\_\_\_\_  
(Signature)

Signatory's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



Corporate Headquarters

One Cheney Way, Riviera Beach, FL 33404-7000 • 561.845.4700 office • 800.432.1341 toll-free • 561.845.4701 fax

Attn: Dave Rawicz or Michael Francois  
Dept. of Safety & Risk  
[daver@cheneybrothers.com](mailto:daver@cheneybrothers.com)  
[michaelf@cheneybrothers.com](mailto:michaelf@cheneybrothers.com)

## Continuing Letter of Indemnity and Guarantee Agreement (ALCOHOL INFUSED FROZEN DESSERT PRODUCTS)

Vendor desires to supply Cheney Bros., Inc. d/b/a Cheney Brothers, Inc. ("CBI") with the alcohol infused frozen dessert products and/or other products containing alcohol listed on Exhibit "A" hereto (referred to herein as "AIFD Products") for the distribution and/or or sale of same in the following states (the "Jurisdictions")<sup>2</sup>:

*\*\* Check all that apply \*\**

Florida    Georgia    North Carolina    South Carolina    Tennessee    Virginia    Alabama

**In order to induce CBI to purchase the AIFD Products from Vendor, Vendor warrants and represents as follows:**

➤ Vendor has obtained (and will continue to maintain) all required licenses, permits, registrations, and other authorizations from all applicable local, state, and federal authorities including, without limitation, Florida Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco (ABT) and U.S. Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) to manufacture, distribute, store, transport, and/or sell the AIFD Products to CBI.

➤ The AIFD Products are **not** considered to be alcoholic beverages by the ABT or any administrative, local, or state rules, regulations, laws, or governing authorities in any of the Jurisdictions. For all AIFD Products containing 2.5% or more alcohol by volume (ABV), Vendor has obtained a Certificate of Label Approval (COLA) for such product, the TTB ID referenced on the COLA for same is identified on Exhibit A and a copy of the COLA is enclosed herewith.<sup>3</sup>

➤ The AIFD Products are **not** considered to be adulterated, misbranded, or mislabeled products by the TTB or any administrative, local, state, or federal rules, regulations, laws, or authorities in any of the Jurisdictions.

➤ The AIFD Products are permitted to be transported into or sold to any food service entity in all of the Jurisdictions by CBI **without** the necessity of CBI or any food service entity obtaining a license or permit to sell products containing alcohol from any local or state government authority in the Jurisdictions (i.e. state departments of revenue and/or agriculture).

➤ Vendor will continuously remain apprised of and update CBI on the status of its authority to manufacture, store, transport, and sell the AIFD Products to CBI and CBI's authority to distribute and sell the AIFD Products in the Jurisdictions. Vendor will immediately inform CBI, in writing if: (a) Vendor becomes aware of or otherwise has reason to suspect that any of the above representations are no longer accurate or complete; and/or (b) any of the AIFD Products supplied to CBI are (or are likely to be) considered an alcoholic beverage by any local, state, or other governmental agency in any Jurisdiction or otherwise regulated by any local, state, or governmental authority in any Jurisdiction.

➤ Vendor shall indemnify, defend, and hold CBI, including but not limited to, its agents, employees, directors, officers, attorneys, affiliates, parents, successors, owners, predecessors, assigns, related entities and persons, and customers harmless from and against any claims, known or unknown, arising out of or connected

<sup>2</sup> Nothing herein shall obligate CBI to purchase any AIFD Products or sell AIFD Products in any of the Jurisdictions.

<sup>3</sup> The COLA may be located on the TTB's website <https://www.ttbonline.gov/colasonline/publicSearchColasBasic.do>







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in any way with AIFD Products provided by Vendor or its agents to CBI, regardless of the cause of any injuries or damages giving rise to such claims, even if caused by the sole negligence of an indemnified party or its agents, as well as any breach of or misrepresentation in this agreement. This defense and indemnification obligation shall include, but shall not be limited to, any and all fines, claims, fees, and penalties which may be levied or sought against CBI in any way relating to CBI's transportation, storage, purchase or sale of the AIFD Products.

➤ This agreement and any action arising out of or relating to same shall be governed exclusively by the laws of the State of Florida without regard to principles of conflicts of law. Venue for any action arising out of or relating to this agreement or the AIFD Products shall be exclusively in the Palm Beach County, Florida and Vendor submits to personal jurisdiction in same.

**VENDOR**

Company: \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_



**Corporate Headquarters**

One Cheney Way, Riviera Beach, FL 33404-7000 • 561.845.4700 office • 800.432.1341 toll-free • 561.845.4701 fax

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

▶ Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	<b>1</b>	Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	<b>2</b>	Business name/disregarded entity name, if different from above	
	<b>3</b>	Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.  <input type="checkbox"/> Other (see instructions) ▶ _____	<b>4 Exemptions</b> (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <small>(Applies to accounts maintained outside the U.S.)</small>
	<b>5</b>	Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	<b>6</b>	City, state, and ZIP code	
	<b>7</b>	List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

<b>Social security number</b>											
				-			-				

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

**or**

<b>Employer identification number</b>										
				-						

### Part II Certification

- Under penalties of perjury, I certify that:
- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
  - I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
  - I am a U.S. citizen or other U.S. person (defined below); and
  - The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or “doing business as” (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity’s name as shown on the entity’s tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a “disregarded entity.” See Regulations section 301.7701-2(c)(2)(iii). Enter the owner’s name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner’s name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity’s name on line 2, “Business name/disregarded entity name.” If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys’ fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.**

You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.**

You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

\*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

**Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)**

(Rev. July 2017)

Department of the Treasury  
Internal Revenue Service

► **For use by individuals. Entities must use Form W-8BEN-E.**  
► **Go to [www.irs.gov/FormW8BEN](http://www.irs.gov/FormW8BEN) for instructions and the latest information.**  
► **Give this form to the withholding agent or payer. Do not send to the IRS.**

OMB No. 1545-1621

**Do NOT use this form if:**

**Instead, use Form:**

- You are NOT an individual . . . . . **W-8BEN-E**
- You are a U.S. citizen or other U.S. person, including a resident alien individual . . . . . **W-9**
- You are a beneficial owner claiming that income is effectively connected with the conduct of trade or business within the U.S. (other than personal services) . . . . . **W-8ECI**
- You are a beneficial owner who is receiving compensation for personal services performed in the United States . . . . . **8233 or W-4**
- You are a person acting as an intermediary . . . . . **W-8IMY**

**Note:** If you are resident in a FATCA partner jurisdiction (i.e., a Model 1 IGA jurisdiction with reciprocity), certain tax account information may be provided to your jurisdiction of residence.

**Part I Identification of Beneficial Owner (see instructions)**

<b>1</b> Name of individual who is the beneficial owner		<b>2</b> Country of citizenship	
<b>3</b> Permanent residence address (street, apt. or suite no., or rural route). <b>Do not use a P.O. box or in-care-of address.</b>			
City or town, state or province. Include postal code where appropriate.		Country	
<b>4</b> Mailing address (if different from above)			
City or town, state or province. Include postal code where appropriate.		Country	
<b>5</b> U.S. taxpayer identification number (SSN or ITIN), if required (see instructions)		<b>6</b> Foreign tax identifying number (see instructions)	
<b>7</b> Reference number(s) (see instructions)		<b>8</b> Date of birth (MM-DD-YYYY) (see instructions)	

**Part II Claim of Tax Treaty Benefits (for chapter 3 purposes only) (see instructions)**

**9** I certify that the beneficial owner is a resident of \_\_\_\_\_ within the meaning of the income tax treaty between the United States and that country.

**10 Special rates and conditions** (if applicable—see instructions): The beneficial owner is claiming the provisions of Article and paragraph \_\_\_\_\_ of the treaty identified on line 9 above to claim a \_\_\_\_\_ % rate of withholding on (specify type of income): \_\_\_\_\_

Explain the additional conditions in the Article and paragraph the beneficial owner meets to be eligible for the rate of withholding: \_\_\_\_\_

**Part III Certification**

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- I am the individual that is the beneficial owner (or am authorized to sign for the individual that is the beneficial owner) of all the income to which this form relates or am using this form to document myself for chapter 4 purposes,
- The person named on line 1 of this form is not a U.S. person,
- The income to which this form relates is:
  - (a) not effectively connected with the conduct of a trade or business in the United States,
  - (b) effectively connected but is not subject to tax under an applicable income tax treaty, or
  - (c) the partner's share of a partnership's effectively connected income,
- The person named on line 1 of this form is a resident of the treaty country listed on line 9 of the form (if any) within the meaning of the income tax treaty between the United States and that country, and
- For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

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. **I agree that I will submit a new form within 30 days if any certification made on this form becomes incorrect.**

**Sign Here** ►

\_\_\_\_\_  
Signature of beneficial owner (or individual authorized to sign for beneficial owner) Date (MM-DD-YYYY)

\_\_\_\_\_  
Print name of signer Capacity in which acting (if form is not signed by beneficial owner)





# Instructions for Form W-8BEN

(Rev. July 2017)

## Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)

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Section references are to the Internal Revenue Code unless otherwise noted.

### Future Developments

For the latest information about developments related to Form W-8BEN and its instructions, such as legislation enacted after they were published, go to [IRS.gov/FormW8BEN](http://IRS.gov/FormW8BEN).

### What's New

Minor updates are made to Form W-8BEN to conform with Form W-8BEN-E. A note on reciprocal exchange is added before Part I; Part II, line 10, is updated to match Form W-8BEN-E; and the first bullet in Part III is revised for clarity. These instructions have been updated to reflect temporary and final regulations under chapters 3 and 4 published in January 2017. These instructions include additional information on when a foreign TIN and date of birth are required to be included on Form W-8BEN. In addition, these instructions include information about the use of electronic signatures.

**More information.** For more information on FATCA, go to [IRS.gov/FATCA](http://IRS.gov/FATCA).

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## General Instructions

For definitions of terms used throughout these instructions, see *Definitions*, later.

### Purpose of Form

**Establishing status for chapter 3 purposes.** Foreign persons are subject to U.S. tax at a 30% rate on income they receive from U.S. sources that consists of:

- Interest (including certain original issue discount (OID));
- Dividends;
- Rents;
- Royalties;
- Premiums;
- Annuities;
- Compensation for, or in expectation of, services performed;
- Substitute payments in a securities lending transaction; or
- Other fixed or determinable annual or periodical gains, profits, or income.

This tax is imposed on the gross amount paid and is generally collected by withholding under section 1441. A payment is considered to have been made whether it is made directly to the beneficial owner or to another person, such as an intermediary, agent, or partnership, for the benefit of the beneficial owner.

In addition, section 1446 requires a partnership conducting a trade or business in the United States to withhold tax on a foreign partner's distributive share of the partnership's effectively connected taxable income. Generally, a foreign person that is a partner in a partnership that submits a Form W-8BEN for purposes of section 1441 or 1442 will satisfy the documentation requirements under section 1446 as well. However, in some cases the documentation requirements of sections 1441 and 1442 do not match the documentation requirements of section 1446. See Regulations sections 1.1446-1 through 1.1446-6.

**Note.** The owner of a disregarded entity (including an individual), rather than the disregarded entity itself, must submit the appropriate Form W-8BEN for purposes of section 1446.

If you receive certain types of income, you must provide Form W-8BEN to:

- Establish that you are not a U.S. person;
- Claim that you are the beneficial owner of the income for which Form W-8BEN is being provided or a foreign partner in a partnership subject to section 1446; and
- If applicable, claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty and who is eligible for treaty benefits.

You may also be required to submit Form W-8BEN to claim an exception from domestic information reporting and backup withholding (at the backup withholding rate under section 3406) for certain types of income that are not subject to foreign-person withholding at a rate of 30% under section 1441. Such income includes:

- Broker proceeds;
- Short-term (183 days or less) OID;
- Bank deposit interest;
- Foreign source interest, dividends, rents, or royalties; and
- Proceeds from a wager placed by a nonresident alien individual in the games of blackjack, baccarat, craps, roulette, or big-6 wheel.

A withholding agent or payer of the income may rely on a properly completed Form W-8BEN to treat a payment associated with the Form W-8BEN as a payment to a foreign person who beneficially owns the amounts paid. If applicable, the withholding agent may rely on the Form W-8BEN to apply a reduced rate of, or exemption from, withholding at source.

Provide Form W-8BEN to the withholding agent or payer before income is paid or credited to you. Failure to provide a Form W-8BEN when requested may lead to withholding at the foreign-person withholding rate of 30% or the backup withholding rate under section 3406.

**Establishing status for chapter 4 purposes.** A foreign financial institution (FFI) may rely on a properly completed Form W-8BEN to establish your chapter 4 status as a foreign person. The Form W-8BEN should be provided to the FFI when requested. Failure to do so could result in 30% withholding on income paid or credited to you as a recalcitrant account holder from sources within the United States. See the definition of amounts subject to withholding, later.

**Additional information.** For additional information and instructions for the withholding agent, see the Instructions for the Requester of Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY.

## Who Must Provide Form W-8BEN

You must give Form W-8BEN to the withholding agent or payer if you are a nonresident alien who is the beneficial owner of an amount subject to withholding, or if you are an account holder of an FFI documenting yourself as a nonresident alien. If you are the single owner of a disregarded entity, you are considered the beneficial owner of income received by the disregarded entity. Submit Form W-8BEN when requested by the withholding agent, payer, or FFI whether or not you are claiming a reduced rate of, or exemption from, withholding.

You should also provide Form W-8BEN to a payment settlement entity (PSE) requesting this form if you are a foreign individual receiving payments subject to reporting under section 6050W (payment card transactions and third-party network transactions) as a participating payee. However, if the payments are income which is effectively connected to the conduct of a U.S. trade or business, you should instead provide the PSE with a Form W-8ECI.

### **Do not use Form W-8BEN if you are described below.**

- You are a foreign entity documenting your foreign status, documenting your chapter 4 status, or claiming treaty benefits. Instead, use Form W-8BEN-E.
- You are a U.S. citizen (even if you reside outside the United States) or other U.S. person (including a resident alien individual). Instead, use Form W-9 to document your status as a U.S. person.
- You are acting as a foreign intermediary (that is, acting not for your own account, but for the account of others as an agent, nominee, or custodian). Instead, provide Form W-8IMY.
- You are a nonresident alien individual who claims exemption from withholding on compensation for independent or dependent personal services performed in the United States. Instead, provide Form 8233 or Form W-4.
- You are receiving income that is effectively connected with the conduct of a trade or business in the United States, unless it is allocable to you through a partnership. Instead, provide Form W-8ECI. If any of the income for which you have provided a Form W-8BEN becomes effectively connected, this is a change in circumstances and Form W-8BEN is no longer valid with respect to such income. You must file Form W-8ECI. See *Change in circumstances*, later.

**Giving Form W-8BEN to the withholding agent.** Do not send Form W-8BEN to the IRS. Instead, give it to the

person who is requesting it from you. Generally, this will be the person from whom you receive the payment, who credits your account, or a partnership that allocates income to you. An FFI may also request this form from you to document your account as other than a U.S. account. Give Form W-8BEN to the person requesting it before the payment is made to you, credited to your account, or allocated. If you do not provide this form, the withholding agent may have to withhold at the 30% rate (under chapters 3 and 4), backup withholding rate, or the rate applicable under section 1446. If you receive more than one type of income from a single withholding agent for which you claim different benefits, the withholding agent may, at its option, require you to submit a Form W-8BEN for each different type of income. Generally, a separate Form W-8BEN must be given to each withholding agent.

**Note.** If you own the income or account jointly with one or more other persons, the income or account will be treated by the withholding agent as owned by a foreign person that is a beneficial owner of a payment only if Forms W-8BEN or W-8BEN-E are provided by all of the owners. If the withholding agent or financial institution receives a Form W-9 from any of the joint owners, however, the payment must be treated as made to a U.S. person and the account treated as a U.S. account.

**Expiration of Form W-8BEN.** Generally, a Form W-8BEN will remain in effect for purposes of establishing foreign status for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. For example, a Form W-8BEN signed on September 30, 2015, remains valid through December 31, 2018.

However, under certain conditions a Form W-8BEN will remain in effect indefinitely until a change of circumstances occurs. To determine the period of validity for Form W-8BEN for purposes of chapter 4, see Regulations section 1.1471-3(c)(6)(ii). To determine the period of validity for Form W-8BEN for purposes of chapter 3, see Regulations section 1.1441-1(e)(4)(ii).

**Change in circumstances.** If a change in circumstances makes any information on the Form W-8BEN you have submitted incorrect, you must notify the withholding agent, payer, or FFI with which you hold an account within 30 days of the change in circumstances and you must file a new Form W-8BEN or other appropriate form.

If you use Form W-8BEN to certify that you are a foreign person, a change of address to an address in the United States is a change in circumstances. Generally, a change of address within the same foreign country or to another foreign country is not a change in circumstances. However, if you use Form W-8BEN to claim treaty benefits, a move to the United States or outside the country where you have been claiming treaty benefits is a change in circumstances. In that case, you must notify the withholding agent, payer, or FFI within 30 days of the move.

If you become a U.S. citizen or resident alien after you submit Form W-8BEN, you are no longer subject to the 30% withholding rate under section 1441 or the withholding tax on a foreign partner's share of effectively

connected income under section 1446. To the extent you have an account with an FFI, your account may be subject to reporting by the FFI under chapter 4. You must notify the withholding agent, payer, or FFI within 30 days of becoming a U.S. citizen or resident alien. You may be required to provide a Form W-9. For more information, see Form W-9 and its instructions.



*You may be a U.S. resident for tax purposes depending on the number of days you are physically present in the United States over a 3-year period. See Pub. 519, available at [IRS.gov/Pub519](https://www.irs.gov/pub/519). If you satisfy the substantial presence test, you must notify the withholding agent, payer, or financial institution with which you have an account within 30 days and provide a Form W-9.*

## Definitions

**Account holder.** An account holder is generally the person listed or identified as the holder or owner of a financial account. For example, if a partnership is listed as the holder or owner of a financial account, then the partnership is the account holder, rather than the partners of the partnership (subject to some exceptions). However, an account that is held by a single-member disregarded entity is treated as held by the entity's single owner.

**Amounts subject to withholding.** Generally, an amount subject to chapter 3 withholding is an amount from sources within the United States that is fixed or determinable annual or periodical (FDAP) income. FDAP income is all income included in gross income, including interest (as well as OID), dividends, rents, royalties, and compensation. FDAP income does not include most gains from the sale of property (including market discount and option premiums), as well as other specific items of income described in Regulations section 1.1441-2 (such as interest on bank deposits and short-term OID).

For purposes of section 1446, the amount subject to withholding is the foreign partner's share of the partnership's effectively connected taxable income.

Generally, an amount subject to chapter 4 withholding is an amount of U.S. source FDAP income that is also a withholdable payment as defined in Regulations section 1.1473-1(a). The exemptions from withholding provided for under chapter 3 are not applicable when determining whether withholding applies under chapter 4. For specific exceptions applicable to the definition of a withholdable payment, see Regulations section 1.1473-1(a)(4) (exempting, for example, certain nonfinancial payments).

**Beneficial owner.** For payments other than those for which a reduced rate of, or exemption from, withholding is claimed under an income tax treaty, the beneficial owner of income is generally the person who is required under U.S. tax principles to include the payment in gross income on a tax return. A person is not a beneficial owner of income, however, to the extent that person is receiving the income as a nominee, agent, or custodian, or to the extent the person is a conduit whose participation in a transaction is disregarded. In the case of amounts paid that do not constitute income, beneficial ownership is determined as if the payment were income.

Foreign partnerships, foreign simple trusts, and foreign grantor trusts are not the beneficial owners of income paid to the partnership or trust. The beneficial owners of income paid to a foreign partnership are generally the partners in the partnership, provided that the partner is not itself a partnership, foreign simple or grantor trust, nominee, or other agent. The beneficial owners of income paid to a foreign simple trust (that is, a foreign trust that is described in section 651(a)) are generally the beneficiaries of the trust, if the beneficiary is not a foreign partnership, foreign simple or grantor trust, nominee, or other agent. The beneficial owners of a foreign grantor trust (that is, a foreign trust to the extent that all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679) are the persons treated as the owners of the trust. The beneficial owners of income paid to a foreign complex trust (that is, a foreign trust that is not a foreign simple trust or foreign grantor trust) is the trust itself.

For purposes of section 1446, the same beneficial owner rules apply, except that under section 1446 a foreign simple trust rather than the beneficiary provides the form to the partnership.

The beneficial owner of income paid to a foreign estate is the estate itself.

**Note.** A payment to a U.S. partnership, U.S. trust, or U.S. estate is treated as a payment to a U.S. payee that is not subject to 30% withholding under chapter 3 or 4. A U.S. partnership, trust, or estate should provide the withholding agent with a Form W-9. For purposes of section 1446, a U.S. grantor trust or disregarded entity shall not provide the withholding agent a Form W-9 in its own right. Rather, the grantor or other owner shall provide the withholding agent the appropriate form.

**Chapter 3.** Chapter 3 means chapter 3 of the Internal Revenue Code (Withholding of Tax on Nonresident Aliens and Foreign Corporations). Chapter 3 contains sections 1441 through 1464.

**Chapter 4.** Chapter 4 means chapter 4 of the Internal Revenue Code (Taxes to Enforce Reporting on Certain Foreign Accounts). Chapter 4 contains sections 1471 through 1474.

**Deemed-compliant FFI.** Under section 1471(b)(2), certain FFIs are deemed to comply with the regulations under chapter 4 without the need to enter into an FFI agreement with the IRS. However, certain deemed-compliant FFIs are required to register with the IRS and obtain a Global Intermediary Identification Number (GIIN). These FFIs are referred to as **registered deemed-compliant FFIs**. See Regulations section 1.1471-5(f).

**Disregarded entity.** A business entity that has a single owner and is not a corporation under Regulations section 301.7701-2(b) is disregarded as an entity separate from its owner. A disregarded entity does not submit this Form W-8BEN to a partnership for purposes of section 1446 or to an FFI for purposes of chapter 4. Instead, the owner of such entity provides appropriate documentation. See Regulations section 1.1446-1 and section 1.1471-3(a)(3)(v), respectively.

Certain entities that are disregarded for U.S. tax purposes may be recognized for purposes of claiming treaty benefits under an applicable tax treaty (see the definition of hybrid entity below). A hybrid entity claiming treaty benefits is required to complete Form W-8BEN-E. See Form W-8BEN-E and its instructions.

**Financial account.** A financial account includes:

- A depository account maintained by a financial institution;
- A custodial account maintained by a financial institution;
- Equity or debt interests (other than interests regularly traded on an established securities market) in investment entities and certain holding companies, treasury centers, or financial institutions as defined in Regulations section 1.1471-5(e);
- Cash value insurance contracts; and
- Annuity contracts.

For purposes of chapter 4, exceptions are provided for accounts such as certain tax-favored savings accounts; term life insurance contracts; accounts held by estates; escrow accounts; and annuity contracts. These exceptions are subject to certain conditions. See Regulations section 1.1471-5(b)(2). Accounts may also be excluded from the definition of financial account under an applicable IGA.

**Financial institution.** A financial institution generally means an entity that is a depository institution, custodial institution, investment entity, or an insurance company (or holding company of an insurance company) that issues cash value insurance or annuity contracts.

**Foreign financial institution (FFI).** An FFI generally means a foreign entity that is a financial institution.

**Foreign person.** A foreign person includes a nonresident alien individual and certain foreign entities that are not U.S. persons (entities should complete Form W-8BEN-E rather than this Form W-8BEN).

**Hybrid entity.** A hybrid entity is any person (other than an individual) that is treated as fiscally transparent for purposes of its status under the Code but is not treated as fiscally transparent by a country with which the United States has an income tax treaty. Hybrid status is relevant for claiming treaty benefits.

**Intergovernmental agreement (IGA).** An IGA means a Model 1 IGA or a Model 2 IGA. For a list of jurisdictions treated as having in effect a Model 1 or Model 2 IGA, see the list of jurisdictions at [www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx](http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx).

A **Model 1 IGA** means an agreement between the United States or the Treasury Department and a foreign government or one or more agencies to implement FATCA through reporting by FFIs to such foreign government or agency, followed by automatic exchange of the reported information with the IRS. An FFI in a Model 1 IGA jurisdiction that performs account reporting to the jurisdiction's government is referred to as a **reporting Model 1 FFI**.

A **Model 2 IGA** means an agreement or arrangement between the United States or the Treasury Department and a foreign government or one or more agencies to

implement FATCA through reporting by FFIs directly to the IRS in accordance with the requirements of an FFI agreement, supplemented by the exchange of information between such foreign government or agency and the IRS. An FFI in a Model 2 IGA jurisdiction that has entered into an FFI agreement with respect to a branch is a participating FFI, but may be referred to as a **reporting Model 2 FFI**.

**Nonresident alien individual.** Any individual who is not a citizen or resident alien of the United States is a nonresident alien individual. An alien individual meeting either the "green card test" or the "substantial presence test" for the calendar year is a resident alien. Any person not meeting either test is a nonresident alien individual. Additionally, an alien individual who is treated as a nonresident alien pursuant to Regulations section 301.7701(b)-7 for purposes figuring the individual's U.S. tax liability, or an alien individual who is a bona fide resident of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa is a nonresident alien individual. See Pub. 519 for more information on resident and nonresident alien status.



*Even though a nonresident alien individual married to a U.S. citizen or resident alien may choose to be treated as a resident alien for certain purposes (for example, filing a joint income tax return), such individual is still treated as a nonresident alien for chapter 3 withholding tax purposes on all income except wages. For purposes of chapter 4, a nonresident alien individual who holds a joint account with a U.S. person will be considered a holder of a U.S. account for chapter 4 purposes.*

**Participating FFI.** A participating FFI is an FFI that has agreed to comply with the terms of an FFI agreement with respect to all branches of the FFI, other than a branch that is a reporting Model 1 FFI or a U.S. branch. The term "participating FFI" also includes a reporting Model 2 FFI and a qualified intermediary (QI) branch of a U.S. financial institution, unless such branch is a reporting Model 1 FFI.

**Participating payee.** A participating payee means any person that accepts a payment card as payment or accepts payment from a third-party settlement organization in settlement of a third-party network transaction.

**Payment settlement entity (PSE).** A PSE is a merchant acquiring entity or third-party settlement organization. Under section 6050W, a PSE is generally required to report payments made in settlement of payment card transactions or third-party network transactions. However, a PSE is not required to report payments made to a beneficial owner that is documented as foreign with an applicable Form W-8.

**Recalcitrant account holder.** A recalcitrant account holder includes an individual who fails to comply with the requests of an FFI for documentation and information for determining the U.S. or foreign status of the individual's account, including furnishing this Form W-8BEN when requested.

**U.S. person.** A U.S. person is defined in section 7701(a) (30) and includes an individual who is a citizen or resident of the United States. For purposes of chapter 4, a U.S. person is defined in Regulations section 1.1471-1(b) (141).

**Withholding agent.** Any person, U.S. or foreign, that has control, receipt, custody, disposal, or payment of U.S. source FDAP income subject to chapter 3 or 4 withholding is a withholding agent. The withholding agent may be an individual, corporation, partnership, trust, association, or any other entity, including (but not limited to) any foreign intermediary, foreign partnership, and U.S. branches of certain foreign banks and insurance companies.

For purposes of section 1446, the withholding agent is the partnership conducting the trade or business in the United States. For a publicly traded partnership, the withholding agent may be the partnership, a nominee holding an interest on behalf of a foreign person, or both. See Regulations sections 1.1446-1 through 1.1446-6.

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## Specific Instructions

### Part I

**Line 1.** Enter your name. If you are a foreign individual who is the single owner of a disregarded entity that is not claiming treaty benefits as a hybrid entity, with respect to a payment, you should complete this form with your name and information. If the account to which a payment is made or credited is in the name of the disregarded entity, you should inform the withholding agent of this fact. This may be done by including the name and account number of the disregarded entity on line 7 (reference number) of the form. However, if the disregarded entity is claiming treaty benefits as a hybrid entity, it should complete Form W-8BEN-E instead of this Form W-8BEN.

**Line 2.** Enter your country of citizenship. If you are a dual citizen, enter the country where you are both a citizen and a resident at the time you complete this form. If you are not a resident in any country in which you have citizenship, enter the country where you were most recently a resident. However, if you are a U. S. citizen, you should not complete this form even if you hold citizenship in another jurisdiction. Instead, provide Form W-9.

**Line 3.** Your permanent residence address is the address in the country where you claim to be a resident for purposes of that country's income tax. If you are completing Form W-8BEN to claim a reduced rate of withholding under an income tax treaty, you must determine your residency in the manner required by the treaty. Do not show the address of a financial institution, a post office box, or an address used solely for mailing purposes. If you do not have a tax residence in any country, your permanent residence is where you normally reside.

If you reside in a country that does not use street addresses, you may enter a descriptive address on line 3. The address must accurately indicate your permanent residence in the manner used in your jurisdiction.

**Line 4.** Enter your mailing address only if it is different from the address you show on line 3.

**Line 5.** If you have a social security number (SSN), enter it here. To apply for an SSN, get Form SS-5 from a Social Security Administration (SSA) office or online at [www.ssa.gov/forms/ss-5.pdf](http://www.ssa.gov/forms/ss-5.pdf). If you are in the United States, you can call the SSA at 1-800-772-1213. Complete Form SS-5 and return it to the SSA.

If you do not have an SSN and are not eligible to get one, you can get an individual taxpayer identification number (ITIN). To apply for an ITIN, file Form W-7 with the IRS. It usually takes 4–6 weeks to get an ITIN. To claim certain treaty benefits, you must complete line 5 by submitting an SSN or ITIN, or line 6 by providing a foreign tax identification number (foreign TIN).



*An ITIN is for tax use only. It does not entitle you to social security benefits or change your employment or immigration status under U.S. law.*

A partner in a partnership conducting a trade or business in the United States will likely be allocated effectively connected taxable income. The partner is required to file a U.S. federal income tax return and must have a U.S. taxpayer identification number (TIN).

You must provide an SSN or TIN if you are:

- Claiming an exemption from withholding under section 871(f) for certain annuities received under qualified plans, or
- Submitting the form to a partnership that conducts a trade or business in the United States.

If you are claiming treaty benefits, you are generally required to provide an ITIN if you do not provide a tax identifying number issued to you by your jurisdiction of tax residence on line 6. However, an ITIN is not required to claim treaty benefits relating to:

- Dividends and interest from stocks and debt obligations that are actively traded;
- Dividends from any redeemable security issued by an investment company registered under the Investment Company Act of 1940 (mutual fund);
- Dividends, interest, or royalties from units of beneficial interest in a unit investment trust that are (or were upon issuance) publicly offered and are registered with the SEC under the Securities Act of 1933; and
- Income related to loans of any of the above securities.

**Line 6.** If you are providing this Form W-8BEN to document yourself as an account holder with respect to a financial account (as defined in Regulations section 1.1471-5(b)) that you hold at a U.S. office of a financial institution (including a U.S. branch of an FFI) and you receive U.S. source income reportable on Form 1042-S associated with this form, you must provide the TIN issued to you by your jurisdiction of tax residence identified on line 3 unless:

- You have not been issued a TIN (including if the jurisdiction does not issue TINs), or
- You are a resident of a U.S. possession.

If you are providing this form to document a financial account described above but you do not enter a TIN on line 6, and you are not a resident of a U.S. possession, you must provide the withholding agent with an explanation for why you have not been issued a TIN. For this purpose, an explanation is a statement that you are

not legally required to obtain a TIN in your jurisdiction of tax residence. The explanation may be written on line 6, in the margins of the form, or on a separate attached statement associated with the form. If you are writing the explanation on line 6, you may shorten it to “not legally required.” Do not write “not applicable.”

In addition, if you are not using this form to document a financial account described above, you may provide the TIN issued to you by your jurisdiction of tax residence on line 6 for purposes of claiming treaty benefits (rather than providing a U.S. TIN on line 5, if required).

**Line 7.** This line may be used by the filer of Form W-8BEN or by the withholding agent to whom it is provided to include any referencing information that is useful to the withholding agent in carrying out its obligations. For example, withholding agents who are required to associate the Form W-8BEN with a particular Form W-8IMY may want to use line 7 for a referencing number or code that will make the association clear. A beneficial owner can use line 7 to include the number of the account for which he or she is providing the form. A foreign single owner of a disregarded entity can use line 7 to inform the withholding agent that the account to which a payment is made or credited is in the name of the disregarded entity (see the instructions for line 1).

**Line 8.** If you are providing this Form W-8BEN to document yourself as an account holder with respect to a financial account as described above in line 6 that you hold with a U.S. office of a financial institution (including a U.S. branch of an FFI), provide your date of birth. Use the following format to input your information: MM-DD-YYYY. For example, if you were born on April 15, 1956, you would enter 04-15-1956.

## Part II

**Line 9.** If you are claiming treaty benefits as a resident of a foreign country with which the United States has an income tax treaty for payments subject to withholding under chapter 3, identify the country where you claim to be a resident for income tax treaty purposes. For treaty purposes, a person is a resident of a treaty country if the person is a resident of that country under the terms of the treaty. A list of U.S. tax treaties is available at [IRS.gov/Individuals/International-Taxpayers/Tax-Treaties](https://www.irs.gov/Individuals/International-Taxpayers/Tax-Treaties).



*If you are related to the withholding agent within the meaning of section 267(b) or 707(b) and the aggregate amount subject to withholding received during the calendar year exceeds \$500,000, then you are generally required to file Form 8833, Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b), available at [IRS.gov/Form8833](https://www.irs.gov/Form8833). See the Instructions for Form 8833 for more information on the filing requirements.*

**Line 10.** Line 10 must be used only if you are claiming treaty benefits that require that you meet conditions not covered by the representations you make on line 9 and Part III. For example, persons claiming treaty benefits on royalties must complete this line if the treaty contains different withholding rates for different types of royalties. However, this line should always be completed by foreign students and researchers claiming treaty benefits. See

*Scholarship and fellowship grants*, later, for more information.

This line is generally not applicable to treaty benefits under an interest or dividends (other than dividends subject to a preferential rate based on ownership) article of a treaty.

### **Nonresident alien who becomes a resident alien.**

Generally, only a nonresident alien individual can use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a “saving clause” which preserves or “saves” the right of each country to tax its own residents as if no tax treaty existed. Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes. The individual must use Form W-9 to claim the tax treaty benefit. See the instructions for Form W-9 for more information. Also see *Nonresident alien student or researcher who becomes a resident alien*, later, for an example.

**Scholarship and fellowship grants.** A nonresident alien student (including a trainee or business apprentice) or researcher who receives noncompensatory scholarship or fellowship income can use Form W-8BEN to claim benefits under a tax treaty that apply to reduce or eliminate U.S. tax on such income. No Form W-8BEN is required unless a treaty benefit is being claimed. A nonresident alien student or researcher who receives compensatory scholarship or fellowship income must use Form 8233, instead of Form W-8BEN, to claim any benefits of a tax treaty that apply to that income. The student or researcher must use Form W-4 for any part of such income for which he or she is not claiming a tax treaty withholding exemption. Do not use Form W-8BEN for compensatory scholarship or fellowship income. See *Compensation for Dependent Personal Services* in the Instructions for Form 8233.



*If you are a nonresident alien individual who received noncompensatory scholarship or fellowship income and personal services income (including compensatory scholarship or fellowship income) from the same withholding agent, you may use Form 8233 to claim a tax treaty withholding exemption for part or all of both types of income.*

**Completing lines 3 and 9.** Most tax treaties that contain an article exempting scholarship or fellowship grant income from taxation require that the recipient be a resident of the other treaty country at the time of, or immediately prior to, entry into the United States. Thus, a student or researcher may claim the exemption even if he or she no longer has a permanent address in the other treaty country after entry into the United States. If this is the case, you can provide a U.S. address on line 3 and still be eligible for the exemption if all other conditions required by the tax treaty are met. You must also identify on line 9 the tax treaty country of which you were a resident at the time of, or immediately prior to, your entry into the United States.

**Completing line 10.** You must complete line 10 if you are a student or researcher claiming an exemption from

taxation on your noncompensatory scholarship or fellowship grant income under a tax treaty.

**Nonresident alien student or researcher who becomes a resident alien.** You must use Form W-9 to claim an exception to a saving clause. See *Nonresident alien who becomes a resident alien*, earlier, for a general explanation of saving clauses and exceptions to them.

**Example.** Article 20 of the United States-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first protocol to the United States-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would complete Form W-9.

### Part III

Form W-8BEN must be signed and dated by the beneficial owner of the amount subject to withholding or the account holder of an FFI (or an agent with legal authority to act on the person's behalf). If Form W-8BEN is completed by an agent acting under a duly authorized power of attorney for the beneficial owner or account holder, the form must be accompanied by the power of attorney in proper form or a copy thereof specifically authorizing the agent to represent the principal in making, executing, and presenting the form. Form 2848 can be used for this purpose. The agent, as well as the beneficial owner or account holder, may incur liability for the penalties provided for an erroneous, false, or fraudulent form.

A withholding agent may allow you to provide this form with an electronic signature. The electronic signature must indicate that the form was electronically signed by a person authorized to do so (for example, with a time and date stamp and statement that the form has been electronically signed). Simply typing your name into the signature line is not an electronic signature.



*If any information on Form W-8BEN becomes incorrect, you must submit a new form within 30 days unless you are no longer an account holder of the requester that is an FFI and you will not receive a future payment with respect to the account.*

**Broker transactions or barter exchanges.** Income from transactions with a broker or a barter exchange is

subject to reporting rules and backup withholding unless Form W-8BEN or a substitute form is filed to notify the broker or barter exchange that you are an exempt foreign person.

You are an exempt foreign person for a calendar year in which:

- You are a nonresident alien individual or a foreign corporation, partnership, estate, or trust;
- You are an individual who has not been, and does not plan to be, present in the United States for a total of 183 days or more during the calendar year; and
- You are neither engaged, nor plan to be engaged during the year, in a U.S. trade or business that has effectively connected gains from transactions with a broker or barter exchange.

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**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.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for business taxpayers filing this form is approved under OMB control number 1545-0123. The estimated burden for all other taxpayers who file this form is:

**Recordkeeping**, 2 hr., 52 min.; **Learning about the law or the form**, 2 hr., 05 min.; **Preparing the form**, 2 hr., 13 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 send us comments from [IRS.gov/FormComments](https://www.irs.gov/FormComments).

You can write to Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send Form W-8BEN to this office. Instead, give it to your withholding agent.

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