

Global IRW Newsbrief

Information reporting and withholding (IRW)

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Another draft Form W-8 is released by the IRS

Today, the Internal Revenue Service (IRS) released a draft **Form W-8IMY**, *Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding*. The draft Form W-8IMY can be found by clicking [here](#).

The draft Form W-8IMY is intended to replace the current Form W-8IMY (which was last revised in February of 2006) to accommodate changes brought about by the Foreign Account Tax Compliance Act (FATCA). Currently, Form W-8IMY is provided by non-U.S. intermediaries and flow-through entities (e.g., qualified and nonqualified intermediaries, withholding and nonwithholding foreign partnerships, etc.) to establish their status for purposes of Chapter 3 of the Internal Revenue Code (IRC). Once the form is finalized, it will also be used to provide certifications to a withholding agent necessary for reducing or eliminating U.S. withholding tax imposed by the provisions of FATCA (e.g., Chapter 4 of the IRC).

Does the draft form greatly expand the information requested?

Yes. The draft Form W-8IMY is a seven page form that retains much of the current two page form but greatly expands the information requested. It includes multiple



new sections corresponding to each of the various FATCA status types. Moreover, the 'Identification of Entity' section under Part I mandates that the intermediary, branch, partnership, or trust indicate its 'FATCA status'. Twenty one separate choices are provided.

PwC Observation: *Non-U.S. taxpayers will need to complete a more complex form when establishing their status for purposes of Chapter 3. Withholding agents will need to update their business practices and systems to accommodate the new Form W-8IMY.*

When may the draft form be issued in final?

The new draft form indicates a release date of 'December 2012' giving users an indication when the IRS estimates that this form will be finalized. Note that this draft is an official draft but was not issued with instructions. Instructions will likely not be released until the final forms are published.

What other draft Form W-8s have been issued?

The IRS released two preliminary drafts on June 6, 2012 -- the Form W-8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding (Individuals)*, and Form W-8BEN-E, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding (Entities)*. The IRS subsequently released an official draft Form W-8BEN for individuals on July 18th. Click [here](#) for the W-8BEN and [here](#) for the W-8BEN-E.

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