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# ***IRS releases new Form W-9 and Instructions for the Requester of Form W-9***

*September 3, 2013*

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## ***In brief***

On August 29, 2013, the Internal Revenue Service (IRS) released a new Form W-9, Request for Taxpayer Identification Number and Certification and its instructions. In addition, the Instructions to the Requester of Form W-9 were released on August 30, 2013. The Form W-9 is one of several forms being revised to conform to the provisions of the Foreign Account Tax Compliance Act (FATCA). Form W-9 is furnished to a requester (e.g., a payor, withholding agent, etc.) and is not filed with the IRS.

The Form W-9 is used by payees to certify they are a US person and to provide their correct taxpayer identification number (TIN) to facilitate Form 1099 reporting. The Form W-9 can also be used by certain US entities to certify their status as an exempt recipient who is not subject to Form 1099 reporting and backup withholding as well as to identify themselves as a non-specified US person that is exempt from reporting under FATCA. The Form W-9 should be completed by US persons, which include individuals who are either US citizens or residents of the US, and entities such as US partnerships, corporations, estates, and domestic trusts.

Although the IRS released a new Form W-9 and instructions, the IRS did not provide a period of time for implementing the new form. The FATCA regulations allow up to six months to implement a revised Form W-8, however, this rule does not apply to Form W-9. In 2001, when there was a significant change to Form W-9 the IRS issued a notice permitting six months to implement the use of the new form. Absent specific guidance when the use of the form must be implemented, withholding agents and payors must work to implement the form immediately.

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## ***In detail***

The format of the new Form W-9 resembles prior versions. The instructions released with the new form contain guidance about FATCA and how payees should complete the form to inform payors and withholding agents about their status for FATCA and other information reporting purposes.

*Observation: The US tax regulations describe the standard to apply to determine when a Form W-9 is valid. A valid Form W-9 requires that the payee provide their name, TIN, date and signature. Form W-9 remains valid indefinitely unless or until there is a change in circumstances that makes the*

*required information on the form incorrect or unreliable.*

### ***New exemption codes***

The form now requires a payee that is exempt from backup withholding to provide a code that identifies the type of exempt recipient. However, two categories of exempt recipient

(international organizations and foreign central banks of issue) have been removed from the instructions to Form W-9 and from the Instructions for the Requester of Form W-9.

The Form W-9 also permits a payee to indicate if an exemption from FATCA reporting applies. Payees must provide a specific FATCA exemption code if they are exempt and if their account is maintained outside the US. The appropriate codes are contained in the instructions to the form.

#### ***Disregarded entity instruction clarification***

The instructions make it clear that the disregarded entity's name is not to be listed on the 'Name' line of Form W-9. Rather, the name on the 'Name' line must be consistent with the income

tax return on which the disregarded entity's income should be reported. For example, if a foreign LLC is treated as a disregarded entity for US federal tax purposes and has a single owner that is a US person, the US owner's name is required to be provided on the 'Name' line. If the direct owner is also a disregarded entity, the instructions require that the 'Name' line contain the first owner that is not a disregarded entity.

#### ***Certification***

The certification statement on the new Form W-9 has also been modified. To accommodate the implementation of FATCA, an additional statement was added to the penalty of perjury certification requiring payees to certify that their FATCA exemption code (if provided) is correct.

#### ***The takeaway***

Although some of the changes to the Form W-9 relate to FATCA, the new Form W-9 impacts anyone collecting or furnishing a Form W-9. Many payors who use substitute forms in their account opening agreements or applications, will need to make the appropriate modifications, and those account applications may eventually need to be revised and re-printed. Business practices that involve the collection and processing of W-9s will need to be revised, and consideration should be given to systems to collect and retain the new codes for FATCA reporting exemptions and exempt payees.

#### ***Let's talk***

For more information on how FATCA and other information requirements might impact your organization, please contact a member of the PwC **Global Information Reporting Network**. To view FATCA contacts for more than 50 countries worldwide, click [here](#).

#### ***Additional background***

The Form W-9 is available as a [PDF file on IRS.gov](#).

The Instructions for the Requester of Form W-9 is available as a [PDF file on IRS.gov](#).

Access to the FATCA registration system and related support information can be found on the [IRS FATCA page](#).

Additional FATCA information can be found on the US Treasury [FATCA Resource Center](#).

For additional thought leadership regarding FATCA guidance and implementation please see our [FATCA Publications archive](#).