

Special Tax Withholding Rules for Thrift Savings Plan Payments to Nonresident Aliens

This notice summarizes special tax withholding rules that apply to Thrift Savings Plan (TSP) payments made to nonresident aliens.

A **nonresident alien** is an individual who is neither a U.S. citizen nor a resident of the United States.¹ A **resident alien** is an individual who is or was a lawful permanent resident of the United States during any part of a calendar year. An alien may also be considered a U.S. resident if the individual meets the Internal Revenue Service (IRS) “substantial presence” test for a calendar year. For information on residency status and the tests for residency, you may obtain IRS Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*, or IRS Publication 519, *U.S. Tax Guide for Aliens*.

Do I owe U.S. taxes on a payment from the TSP?

In general, the only persons who **do not** owe U.S. taxes are nonresident alien participants who never worked for the U.S. Government in the United States and nonresident alien beneficiaries or court-ordered payees with respect to those participants. If you do not fit into one of these two categories then the U.S. Federal income tax treatment of payments from the TSP depends on two factors: the residency status of the participant when he or she was employed as a Federal employee and the residency status of the participant or beneficiary when he or she receives the payment(s) from the TSP. In the absence of an overriding provision in a tax treaty between the recipient’s country and the United States, the following rules apply:

- A **resident alien participant** will be liable for U.S. income tax.
- A **nonresident alien participant** will be liable for U.S. income tax if the participant worked for the U.S. Government in the United States. However, the amount of the payment that is includible in gross income will be proportional to the portion of the participant’s basic pay for services performed within the United States. See IRS Publication 721, *U.S. Guide to Civil Service Retirement Benefits*. A

nonresident alien participant who never worked for the U.S. Government in the United States will not be liable for U.S. income tax.

- A **U.S. citizen beneficiary or court-ordered payee** of any participant will be liable for U.S. income tax.
- A **resident alien beneficiary or court-ordered payee** of any participant will be liable for U.S. income tax.
- A **nonresident alien beneficiary or court-ordered payee** of a U.S. citizen participant or a resident alien participant will be liable for U.S. income tax.
- A **nonresident alien beneficiary or court-ordered payee** of a nonresident alien participant will be liable for U.S. income tax if the participant worked for the U.S. Government in the United States. However, the amount of the payment that is includible in gross income will be proportional to the portion of the participant’s basic pay for services performed within the United States. See IRS Publication 721, *U.S. Guide to Civil Service Retirement Benefits*. A nonresident alien beneficiary or court-ordered payee of a nonresident alien participant will not be liable for U.S. income tax if the participant never worked for the U.S. Government in the United States.

Will the TSP withhold U.S. taxes from my payments?

If the payment received is subject to U.S. income tax, then it is subject to withholding. In general, the only persons who do not owe U.S. taxes are nonresident alien participants who never worked for the U.S. Government in the United States and nonresident alien beneficiaries or court-ordered payees with respect to those participants. The TSP will not withhold any U.S. taxes if the recipient fits into one of these two categories

¹ The “United States” includes the 50 states and the District of Columbia.



Tax Notice

TSP-537 (5/2012)
Previous Editions Obsolete

and he or she submits the certification described in this notice. However, if the recipient does not submit the certification to the TSP, the TSP must withhold 30% of the payment for Federal income taxes.

Certification. To verify that no tax withholding is required on a payment, the TSP asks participants to certify under penalty of perjury that he or she is a nonresident alien whose contributions to the TSP were based on income earned outside the United States. If the recipient is a beneficiary or court-ordered payee, the recipient must certify that he or she is a nonresident alien and that the participant's contributions to the TSP were based on income earned outside the United States. (Certification forms are attached to this notice.)

Recipients should be aware that the TSP does not withhold for a foreign country's income tax or for state, city, or other local income tax. Recipients should consult a tax advisor or relevant foreign, state, or local taxing authority regarding any potential tax obligations to them.

Can I claim the benefit of a treaty?

The United States has income tax treaties with a number of foreign countries which reduce or eliminate U.S. income taxes owed by nonresident aliens. Consequently, a nonresident alien who receives a TSP payment that would otherwise be subject to a 30% withholding rate may be entitled to a reduced or eliminated withholding rate under a treaty entered into between his or her country and the United States. See IRS Publication 901, *U.S. Tax Treaties*. In order to claim the benefit of a treaty, the recipient of the TSP payment must establish that the treaty provisions allow for a reduced or eliminated withholding rate. The recipient must file IRS Form W-8BEN, *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding with the TSP*.

How does the TSP report payments for U.S. income tax purposes?

The TSP will report to the IRS all payments that are made directly to recipients as well as all transfers made to traditional IRAs, eligible employer plans, or Roth IRAs. If you are a nonresident alien, by March 15 of the year that follows your TSP payment, the TSP will send you Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*. This form shows the amount of the payment made to you and the amount withheld for Federal income taxes.

The TSP must provide the correct Taxpayer Identification Number (TIN) to the IRS on Form 1042-S. For U.S. citizens and resident aliens, their Social Security number (SSN) functions as a TIN. In the case of a payment to a nonresident alien, the TSP must use an Individual Taxpayer Identification Number (ITIN). A nonresident alien can obtain an ITIN by filing IRS Form W-7, *Application for IRS Individual Taxpayer Identification Number*.

If the recipient is required to file a U.S. income tax return, he or she should include the amount reported on Form 1042-S as income on his or her individual income tax return for the year in which the payments are made. However, the recipient should exclude from adjusted gross income on his or her return any amounts that were transferred or rolled over to a traditional IRA or eligible employer plan. If a recipient believes that he or she is entitled to a partial or complete refund of amounts withheld, he or she should file IRS Form 1040-NR, *U.S. Nonresident Alien Income Tax Return*, to claim such amounts.

How can I contact the TSP?

All correspondence with the TSP that concerns a TSP payment described in this notice should be sent to the following address:

**Thrift Savings Plan
P.O. Box 385021
Birmingham, AL 35238**

Include both your name and SSN or ITIN and the name and SSN or ITIN of the deceased participant (if applicable).

If you have any questions regarding this notice, please contact the TSP at 1-877-968-3778 (TDD: 1-877-847-4385). Outside the U.S. and Canada, please call 404-233-4400.



THRIFT SAVINGS PLAN

Request for Waiver of Federal Income Tax Withholding for a Beneficiary of a TSP Payment

Nonresident aliens who are not Thrift Savings Plan (TSP) participants, but who are receiving death benefit or court-ordered payments from the TSP, can use this form to request a waiver of Federal income tax withholding. You are eligible for such a waiver if:

- (1) neither you nor the TSP participant who contributed to the TSP account from which you will be paid is or ever was a resident alien or a U.S. citizen
- and**
- (2) the income from which the participant's contributions were made was earned outside the United States.

To confirm that these conditions apply, you must complete and sign the Certification below. After completing the certification, submit it to:

Thrift Savings Plan
P.O. Box 385021
Birmingham, AL 35238

Certification

I certify that I have never been a U.S. citizen or resident alien. I further certify that the TSP participant was never a U.S. citizen or resident alien and that the income upon which his or her contributions to the TSP were based was earned outside the United States. (The United States is defined as the 50 states and the District of Columbia.)

Participant's Name

_____-_____-_____
Participant's Taxpayer Identification Number

Your Name (Please print.)

_____-_____-_____
Your Individual Taxpayer Identification Number

Your Signature

_____/_____/_____
Date Signed (mm/dd/yyyy)

Warning: Any intentional false statement in this certification or willful misrepresentation concerning it is a violation of the law that is punishable by a fine or imprisonment for as long as 5 years, or both (18 U.S.C. § 1001).

PRIVACY ACT NOTICE: We are authorized to request this information under Title 5, U.S.C. Chapter 84. Your Individual Taxpayer Identification Number is collected in accordance with 26 U.S.C. 6109. We will use the information you give us to determine whether you and the participant are foreign persons and whether Federal income tax should be withheld from the participant's TSP distribution. This information may be shared with other Federal agencies or the unformed services for statistical, auditing, or archiving purposes. In addition, we may share the information with law enforcement agencies

investigating a violation of civil, criminal, or military law, or agencies implementing a statute, rule, or order. It may be shared with congressional offices, private sector audit firms, spouses, former spouses, and beneficiaries, and their attorneys. We may also disclose relevant portions of the information to appropriate parties engaged in litigation. You are not required by law to provide this information, but if you do not provide it, you may be subject to Federal income tax withholding.



THRIFT SAVINGS PLAN

Request for Waiver of Federal Income Tax Withholding on a Thrift Savings Plan Withdrawal

Use this form to request a waiver of Federal income tax withholding on your withdrawal from your Thrift Savings Plan (TSP) account. In order to waive the tax withholding, you must sign the statement below confirming that you were never a United States citizen or resident alien and that the income upon which your TSP contributions were based was earned while you were outside the United States.

After completing the certification below, submit it with your withdrawal request to:

Thrift Savings Plan
P.O. Box 385021
Birmingham, AL 35238

Certification

I certify that I was never a United States citizen or resident alien and that the income upon which my contributions to my TSP account were based was earned outside the United States. (The United States is defined as the 50 states and the District of Columbia.)

Name of Participant (Please print.)

Taxpayer Identification Number

Signature of Participant

Date Signed (mm/dd/yyyy)

Warning: Any intentional false statement in this certification or willful misrepresentation concerning it is a violation of the law that is punishable by a fine or imprisonment for as long as 5 years, or both (18 U.S.C. § 1001).

PRIVACY ACT NOTICE: We are authorized to request this information under Title 5, U.S.C. Chapter 84. Your Taxpayer Identification Number is collected in accordance with 26 U.S.C. 6109. We will use the information you give us to determine whether you are a foreign person and whether Federal income tax should be withheld from your TSP distribution. This information may be shared with other Federal agencies or the uniformed services for statistical, auditing, or archiving purposes. In addition, we may share the

information with law enforcement agencies investigating a violation of civil, criminal, or military law, or agencies implementing a statute, rule, or order. It may be shared with congressional offices, private sector audit firms, spouses, former spouses, and beneficiaries, and their attorneys. We may also disclose relevant portions of the information to appropriate parties engaged in litigation. You are not required by law to provide this information, but if you do not provide it, you may be subject to Federal income tax withholding.