



# U.S. Tax Information for Foreign Vendors

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## Background

The Internal Revenue Service (IRS) requires that all payments made to foreign vendors be made in accordance with IRS regulations. These regulations require that, when services (as defined elsewhere) are provided inside the U.S., taxes are withheld from payments made to foreign vendors unless the income is exempt under a provision of a tax treaty between the foreign vendor's country and the U.S.

To avoid withholding, foreign vendors that are business entities must have a U.S. employer identification number (EIN) and must submit a properly completed IRS Form W-8BEN, W-8ECI, W-8EXP, or W-8IMY, as appropriate. Foreign vendors that are individuals who wish to avoid withholding must be eligible to claim a tax treaty exemption by having a social security number (SSN) or individual taxpayer identification number (ITIN) and must submit for certification a completed IRS Form 8233.

Payments made to foreign vendors will be subject to U.S. federal income tax withholding of 30 percent unless:

1. The appropriate IRS forms have been completed and accepted by Shaw Industries as valid, and
2. Payments made to the foreign vendor are
  - a. Exempt (or subject to a lower withholding rate) due to a tax treaty
  - b. Effectively connected with the conduct of a trade or business in the U.S. (i.e., the vendor files a U.S. income tax return – this applies to payments to foreign business entities only), or
  - c. Made to a foreign entity with U.S. tax-exempt status.

Payments made to foreign vendors under this policy are required by the IRS to be reported annually on IRS Form 1042-S (*Foreign Person's U.S. Source Income Subject to Withholding*). Reporting is required regardless of whether or not withholding is required. A copy of the form is sent to the foreign vendor at the time it is filed with the IRS. The IRS requires that Form 1042-S be filed by March 15 following the calendar year in which payments were made.

[IRS Publication 515](#) has additional information about these tax requirements.

## Policy

All foreign vendors receiving payments for services performed in the U.S. (as defined elsewhere) are required to complete an IRS Form W-8 (W-8BEN, W-8ECI, W-8EXP, W-8IMY or 8233) unless one is already on file with Shaw Industries. All W-8 forms, Form 8233 and all instructions are available on the IRS website at <http://www.irs.gov>.

If the U.S. does not have a tax treaty with the foreign vendor's country of residence that exempts payments from U.S. federal income tax withholding, or if a valid Form W-8 or 8233 has not been correctly completed before payment is processed, 30 percent of the total payment to the foreign vendor will be withheld by Shaw Industries and remitted to the IRS.

A list of existing tax treaties between the U.S. and other countries is found in IRS Publication 901, *U.S. Tax Treaties*, available online at [www.irs.gov/pub/irs-pdf/p901.pdf](http://www.irs.gov/pub/irs-pdf/p901.pdf).

Based on a vendor's completed Form W-8 and/or Form 8233 or a vendor's failure to submit the appropriate form, Shaw Industries will determine whether withholding is required and at what percentage. If the payment is subject to 30% federal tax withholding, Shaw Industries will pay 70% of the approved portion of the requested amount and will remit the 30% to the IRS. Foreign vendors will be responsible for filing the necessary documents with the IRS to obtain a refund of the 30%, if permitted.

**In order to be valid for tax treaty exemption, both the Form W-8 and Form 8233 (for individuals) require a U.S. taxpayer identification number.**

## Services Subject to This Policy

Payments for the following types of services are subject to the policy. Note that this is not an all-inclusive list.

- Consulting
- Engineering
- Repairs and/or maintenance
- Construction
- Fabrication
- Installation
- Commissioning of equipment
- Training
- Computer software services, including design, development, implementation, support, warranties, maintenance, training, website design, website hosting and certain software licenses
- Communication services
- Leasing of real or personal property
- Use of intellectual property (patents, copyrights, etc.)
- Media advertising
- Accounting
- Legal
- Sweepstakes maintenance and/or hosting
- Licensing of certain artwork (e.g. for use in rug design)
- Transportation

Only payments for services performed in the U.S. are subject to this policy. However, the IRS considers many services performed in the U.S. if the recipients of those services are located in the U.S. As examples, the following are subject to this policy:

- Website hosting performed in France where the website’s visitors are located in the U.S.
- Use of a Swedish patent in an industrial process located in the U.S.
- Telephone and web-based conferencing services provided by a Canadian vendor where the users are located in the U.S.

Generally, this policy does not apply to the mere purchase of tangible property. However, if embedded services are included in the purchase, those services must be valued separately and are subject to this policy. An example of an embedded service might include the purchase of equipment for use in the U.S. where the vendor’s engineers assist with installation at our U.S. plant.

## Foreign Vendor Documentation Required

All foreign vendors subject to this policy must have a valid IRS Form W-8 or 8233 on file with the Shaw Industries before payment will be made.

Existing foreign vendors are also required to complete a retroactive statement. The purpose of the retroactive statement is to confirm that the information on the Form W-8 has been accurate back to 2001. Existing vendors should provide the completed retroactive statement when they submit their completed Form W-8.

In Shaw Industries’ Vendor Master File, we may consider you to be a foreign vendor based on a foreign address in our files. If you are actually a U.S. business entity, citizen or resident, please complete and submit [Form W-9](#).

## IRS Tax Forms and Retroactive Statements

Foreign vendors complete IRS W-8 form (W-8BEN, W-8ECI, W-8EXP, or W-8IMY) (and retroactive statement if an existing vendor). A brief summary of the purpose of each of the Forms W-8 is provided below with links to the form and its instructions (NOTE: The PDF version does not contain links to the retroactive statements):

Form No.	Instructions	Retroactive Statement (had a U.S. TIN on or before January 1, 2001) *	Retroactive Statement (received a U.S. TIN after January 1, 2001) *
<a href="#">W-8BEN</a>	<a href="#">Instructions</a>	Retro Statement 1	Retro Statement 2
<a href="#">W-8ECI</a>	<a href="#">Instructions</a>	Retro Statement 3	Retro Statement 4
<a href="#">W-8EXP</a>	<a href="#">Instructions</a>	Retro Statement 5	Retro Statement 6
<a href="#">W-8IMY</a>	<a href="#">Instructions</a>	Retro Statement 7	Retro Statement 8
<a href="#">8233</a>	<a href="#">Instructions</a>	Retro Statement 9	Retro Statement 10

\* The retroactive statement applies to existing vendors only

[Form W-8BEN](#) (*Certification of Foreign Status of Beneficial Owner for United States Tax Withholding*) is the most common Form W-8. It is for foreign vendors to provide their identifying information in Part I and to certify in Part IV that they are not U.S. taxpayers. The Form W-8BEN is also used to exempt certain types of payments from the 30% federal income tax withholding required under U.S. tax law (see Part II). **For a valid tax treaty**

**exemption, the recipient must provide a U.S. tax identification number.** Form W-8BEN cannot be used by partnerships. See Form W-8IMY.

**Form W-8ECI** (*Certification of Foreign Person's Claim that Income is Effectively Connected with the Conduct of a Trade or Business in the U.S.*) is for exemption from withholding on income effectively connected with a trade or business in the United States. The form stipulates that the foreign entity files yearly U.S. tax returns and pays U.S. income tax on all income claimed to be effectively connected with a U.S. trade or business. **In order for the form to be completed properly, a U.S. tax identification number must be provided.**

**Form W-8EXP** (*Certification of Foreign Government or Other Foreign Organization for United States Tax Withholding*) is used by foreign tax-exempt organizations to claim and document their tax-exempt status under U.S. tax law. To claim exemption from U.S. tax withholding, foreign tax-exempt organizations must provide documentation of their U.S. tax-exempt status. Foreign entities that cannot establish their U.S. tax-exempt status will be subject to 30% U.S. federal income tax withholding from their payments.

**Form W-8IMY** (*Certification of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for U.S. Tax Withholding*) is used for reporting payments to "flow-through entities" such as foreign partnerships or trusts. Completion of a Form W-8IMY will also require the completion of Forms W-8BEN for the partners or beneficiaries.

**Form 8233** (*Exemption from Withholding on Compensation for Independent [and Certain Dependent] Personal Services of a Nonresident Alien Individual*) is used by individual vendors who are eligible for tax treaty benefits to claim exemption from U.S. federal tax withholding.

## Suggestions for Properly Completing Form W-8 or 8233

Shaw will be able to approve your Form W-8 or 8233 more quickly if it is properly completed. Shaw does not provide tax advice so we strongly recommend you consult with your tax advisor before choosing and completing the appropriate Form W-8 or 8233. You may wish to consider these suggestions as you complete the form. While our suggestions pertain to Form W-8BEN and W-8ECI (the most common forms), similar suggestions would apply to whichever form is appropriate to the foreign vendor.

1. Read the form's instructions carefully.
2. Complete all applicable lines or boxes.
3. Do not abbreviate the name of your home country.
4. Do not use a post office box or in-care-of address where indicated on the form.
5. To claim treaty benefits, enter your U.S. taxpayer identification number (line 6).
6. Please include your foreign tax identifying number (line 7).
7. Read the certification statement above the signature line carefully.
8. Sign and date the form and include your title where indicated.
9. Specific Form W-8BEN suggestions:
  - a. Check all boxes on line 9 that apply

- b. If the U.S. has a treaty with the foreign vendor's home country, it is common to see boxes 9a, 9b and 9c all checked.
  - c. If you claim to be exempt from withholding due to treaty benefits and the fact that you do not have a permanent establishment in the U.S., please complete all blanks on line 10. A common reason used in the space provided is "***Beneficial owner does not maintain a permanent establishment in the United States***".
10. Specific Form W-8ECI suggestions:
- a. Remember that foreign vendors submitting this form must file a U.S. income tax return and pay U.S. income tax on all U.S.-sourced income.
  - b. On line 9, describe the type of income you expect to receive from Shaw.

## Obtaining a U.S. Taxpayer Identification Number (TIN)

Business entities can obtain an Employer Identification Number (EIN) by completing [Form SS-4 \(Application for Employer Identification Number\)](#). Click [here](#) for the instructions. Note that foreign vendors do not have to have employees in order obtain an EIN. The EIN is the federal taxpayer identification number for business entities in the U.S. The IRS has established a special phone number (215-516-6999) where foreign applicants can obtain their EIN immediately once they complete their Form SS-4.

While Shaw Industries does not provide tax advice, we have provided [Form SS-4 Hints](#) to help you complete Form SS-4 if the only reason you are obtaining a TIN is to be able to complete one of the W-8 forms. (NOTE: The PDF version does not contain a link to the Form SS-4 Hints).

Individuals can obtain either a social security number (SSN) or individual taxpayer identification number (ITIN), depending on the individual's circumstances. Generally, individuals must visit a local office of the Social Security Administration to obtain an SSN. An ITIN can be obtained by filing a completed [Form W-7](#) with the IRS.

## Submitting Your Tax Forms for Review and Approval

The appropriate Form W-8, 8233 or W-9 must be submitted to Shaw Industries' Tax Department for review and approval. The IRS requires that Shaw Industries maintain the ORIGINAL Form W-8 or 8233 (with an original signature). However, we recommend that foreign vendors first submit the form via fax (706-275-3880) or email ([foreign.vendor@shawinc.com](mailto:foreign.vendor@shawinc.com)) so that Shaw's Tax Department can review the form before you submit the original. The IRS has strict guidelines on accepting the forms, and our advance review will allow us to identify errors or omissions before you submit the original form.

If you are an existing vendor, be sure to submit a retroactive statement with your Form W-8 or 8233.

## Questions and Disclaimer

If you have questions regarding these forms or Shaw Industries' policy, email ([foreign.vendor@shawinc.com](mailto:foreign.vendor@shawinc.com)) or contact Shaw's Tax Department at 706-275-3927).

Shaw Industries Group, Inc., its subsidiaries, its affiliates and its employees do not provide tax advice. All vendors should consult with their tax advisors regarding these matters.