



Caltech

Vendor & Supplier Guide

IRS & FTB Withholding Guidelines for Foreign Payees

Withholding Guidelines for Foreign Payees

Why was this guide published?

Some individuals and vendors do not understand the complexities of Internal Revenue Service (IRS) and Franchise Tax Board (FTB) regulations. This guide was written in an attempt to explain the basic process and framework for providing Caltech with the information necessary for us to determine reporting and withholding requirements.

Note: This guide was written for foreign payees only. If you are a United States individual or business, please refer to the guide “Withholding Guidelines for U. S. Payees”.

Important Notice:

The information in this publication is provided as a guideline and is not intended to be an exhaustive discussion of all possible reportable income consequences and considerations. It is not intended to provide legal or tax advice and specifically, the California Institute of Technology is precluded from offering tax or legal advice. This guide is simply to explain reportable requirements in general terms. Reportable requirements do not necessarily indicate taxable situations. Failure to follow State and Federal regulations may result in fines and penalties imposed by the IRS or FTB. Vendors, suppliers and individuals should consult their own tax accountant as to their particular tax consequences and reporting obligations.

Compliance with all applicable laws and regulations

Caltech must comply with all applicable laws and regulations. This includes, but is not limited to:

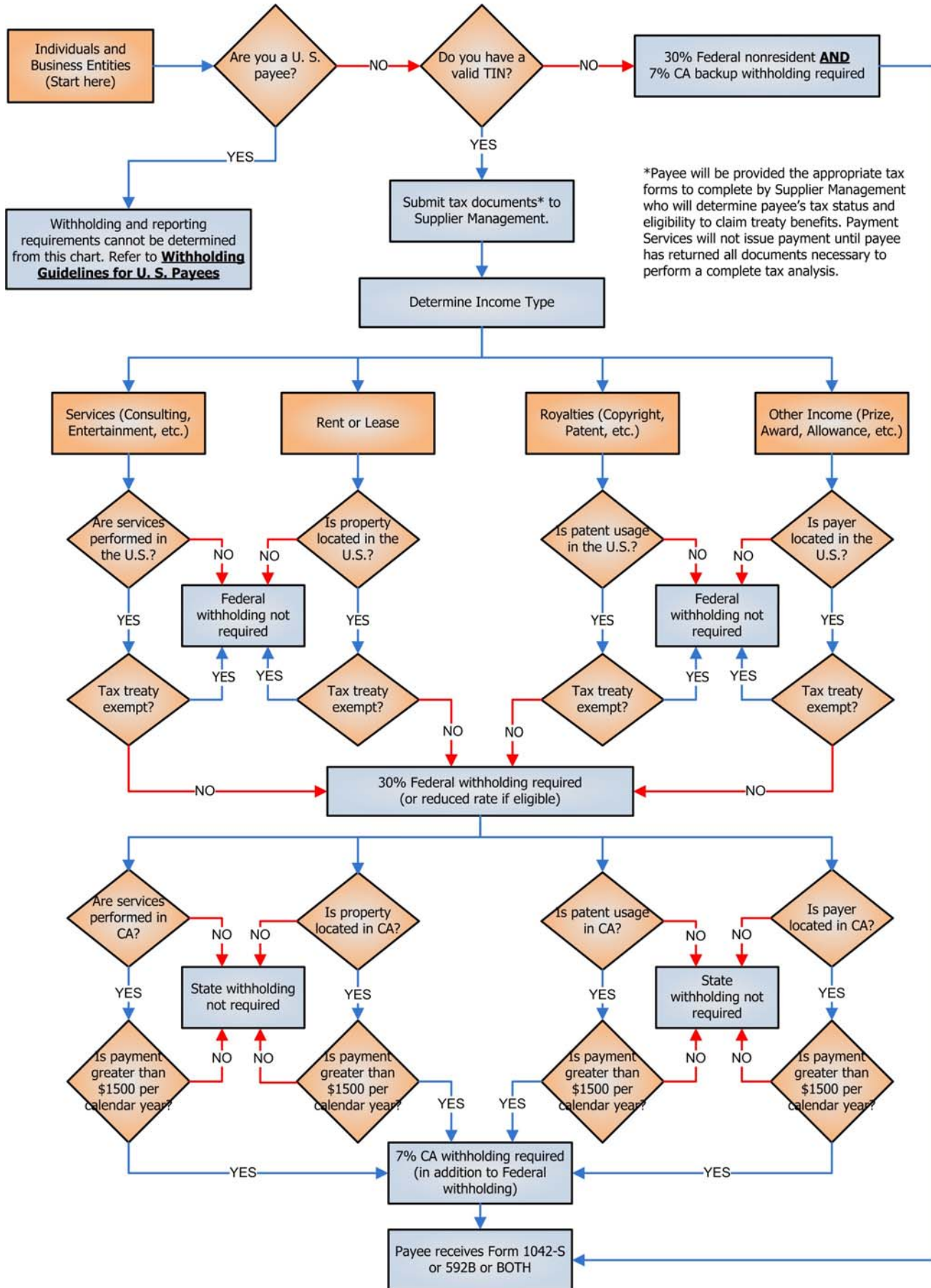
- Collecting and maintaining various IRS Forms such as W-9, W8-BEN, W8-ECI, Form 8233, etc.
- California Backup and Nonresident Withholding (592B Determination and Withholding)
- IRS and FTB Information Reporting (1099M, 1042S, 592 reporting at year end)

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. 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.

Withholding Guidelines for Foreign Payees

Nonresident Aliens (NRA) and Foreign Entities



Withholding Guidelines for Foreign Payees

Overview

California Institute of Technology (Caltech) is mandated by law to conform to Federal and State tax regulations. Payment Services is responsible for ensuring that policies and procedures are in compliance with income reporting and withholding rules established by government tax authorities when processing payments to suppliers doing business with the Institute.

Suppliers receiving reportable payments are subject to the appropriate tax treatment as defined by the Internal Revenue Service (IRS) and the California Franchise Tax Board (FTB). Non-Payroll income payments to Caltech staff, students, and faculty fall under the same reporting and withholding regulations.

Specific Federal and State tax treatment apply to different income types and are dependent on payee's tax status, residency, location of payer, and source of income. Payment Services must determine the appropriate tax ruling before payment is issued.

Types of Payee

- Individual
- Independent Contractor
- Corporation
- Partnership
- Limited Liability Company (LLC)
- Other business entity

Reportable Income

The following are examples of reportable income and may be subject to withholding.

- Artist and other performance fees
- Consulting and other professional services
- Gross proceeds paid to an attorney or law firm (regardless of whether or not they are incorporated)
- Guest speaker or honorarium fee
- Human subject participation
- Living and housing allowance
- Medical/healthcare and legal services (regardless of whether or not the entity is incorporated)
- Payments to individuals or sole proprietors
- Prizes and awards
- Rent or lease (real property, equipment, buildings and housing, etc.)
- Royalties (copyright, patent, intellectual property, etc.)
- Other income payments

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Types of Withholding: Federal Withholding

Nonresident Aliens (NRA) and Foreign Entities

The Internal Revenue Service requires 30% withholding from tax reportable U. S. source income paid to foreign nationals and business entities regardless of payment amount.

Certain payees and income types may be eligible for reduced withholding or exempt from withholding as determined by Payment Services prior to processing payment. After completion of the necessary treaty analysis, the appropriate tax treatment is applied. Foreign payees who do not have a valid U. S. TIN are not eligible for exemption and are subject to 30% withholding. Additional 7% California backup or nonresident withholding may apply.

Exemption from Withholding

- Payment is foreign source income.
- Payee is a resident of a country that has a tax treaty with the United States. Payee will be provided with appropriate tax forms to complete before exemption is allowed.

Caltech is required to report gross and withholding amounts to the IRS annually and issue Form 1042-S by March 15 for the previous calendar year. For more information about reporting and withholding, please visit the IRS website.

Types of Withholding: California State Withholding

A. Nonresident Withholding

The Franchise Tax Board requires 7% withholding from **CA source** income paid to nonresidents of California if total payments are greater than \$1,500 per calendar year. Federal income tax treaty exemption for nonresident aliens (NRA) and foreign entities does not apply to State of California withholding.

Nonresident suppliers (those who reside outside California) submitting invoices for payment are required to identify amounts considered **CA source** income. Invoices failing to specify this information may result in withholding errors and returned to suppliers for revision. Alternatively, suppliers may submit a completed CA Form 587 to allocate income or certify that payment is not reportable income.

B. State Backup Withholding - Missing TIN

Effective January 1, 2010, the Franchise Tax Board requires 7% withholding from tax reportable income payable to individuals and entities that do not have or do not provide a valid tax identification number (TIN) regardless of California and U. S. residency. The State backup withholding regulations are consistent with the IRS Federal guidelines and apply to all **U. S. source** income. The 7% State backup withholding is in addition to the required Federal withholding.

Caltech is required to report gross and withholding amounts to the FTB quarterly and issue Form 592-B by January 31 for the previous calendar year. For more information about reporting and withholding, please visit the FTB website.

Withholding Guidelines for Foreign Payees

Resources: Forms, Publications, Links

Internal Revenue Service: www.irs.gov

Federal Forms and Information:

- IRS Form 1042S - Foreign Person's U.S. Source Income Subject to Withholding
- IRS Form 8233 - Exemption From Withholding on Compensation for Independent & Personal Services of a Nonresident Alien Individual
- IRS Form W-8BEN - Certificate of Foreign Status of Beneficial Owner for U. S. Tax Withholding
- IRS Form W-8ECI - Foreign Person's Claim of Income Effectively Connected with the Conduct of a Trade or Business in U. S.
- IRS Publication 515 - Withholding of Tax on Nonresident Aliens and Foreign Entities
- IRS Publication 519 - U. S. Tax Guide for Aliens

Resources: Forms, Publications, Links

Franchise Tax Board of California

General Link: California Franchise Tax Board: www.ftb.ca.gov

State of California Forms and Publications: <https://www.ftb.ca.gov/forms/search/index.aspx>

- California Form 587 - Nonresident Withholding Allocation Worksheet
- California Form 592B - Resident and Nonresident Withholding Tax Statement
- FTB Publication 1017 - Resident and Nonresident Withholding Guidelines
- FTB Publication 1023 - Nonresident Withholding: Independent Contractor, Rent & Royalty Guidelines
- FTB Publication 1031 - Guidelines for Determining Resident Status

Note: To find the most current forms and information, you should always enter the form number in the search tool on the IRS or FTB webpage.