

MEMO# 26397

August 14, 2012

IRS Releases Draft Investor Certification Form for FATCA

[26397]

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TO: TAX MEMBERS No. 31-12
INTERNATIONAL MEMBERS No. 33-12
OPERATIONS COMMITTEE No. 28-12
TRANSFER AGENT ADVISORY COMMITTEE No. 49-12
TAAC FATCA TASK FORCE No. 3-12
INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 16-12 RE: IRS RELEASES DRAFT INVESTOR CERTIFICATION FORM FOR FATCA

The IRS has released another draft certification form for use under FATCA. [\[1\]](#) The new draft Form W-8IMY will be used to certify status as a Foreign Intermediary, Foreign Flow-Through Entity, or as a U.S. Branch for U.S. withholding, tax treaty benefit, and FATCA purposes. Draft instructions for the form have not been released. This new form will replace the existing IRS Form W-8IMY (last revised in 2006); the existing W-8IMY is generally used by entities, among other things, to confirm that an entity is an intermediary or flow-through for U.S. tax purposes and to establish that such entity is not a U.S. person.

The draft new W-8IMY- Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding – generally would be used by non-U.S. investors that are flow-through entities or intermediaries. Because this new form would be used to establish FATCA compliance, it is very different from the existing W-8IMY. Part I of the draft new form – regarding beneficial owner identification – includes 21 separate boxes to identify an entity’s status for FATCA purposes. Parts II through VI of the form are consistent with the existing W-8IMY and would be used to certify status as a qualified or nonqualified intermediary, a U.S. branch, or as a withholding or nonwithholding foreign partnership or trust. Parts VII through XXIII would be used by an entity to certify its FATCA status (e.g., as a participating foreign financial institution (“FFI”) or a registered deemed-compliant FFI). Part XXIV would be used to certify under penalties of perjury that the information provided is, to the best of the signer’s knowledge, accurate and complete.

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[Attachment](#)

endnotes

[1] See ICI [Memo](#) #26224, released June 7, 2012, discussing the release of new draft Form W-8BEN and Form W-8BEN-E.

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