

MEMO# 14750

May 29, 2002

IRS ISSUES PROPOSED GUIDANCE TO SIMPLIFY TAX WITHHOLDING AND REPORTING OBLIGATIONS FOR FOREIGN PARTNERSHIPS AND TRUSTS

[14750] May 29, 2002 TO: INTERNATIONAL COMMITTEE No. 39-02 TAX COMMITTEE No. 17-02 RE: IRS ISSUES PROPOSED GUIDANCE TO SIMPLIFY TAX WITHHOLDING AND REPORTING OBLIGATIONS FOR FOREIGN PARTNERSHIPS AND TRUSTS The Internal Revenue Service has issued Notice 2002-41 proposing guidance to simplify tax withholding and reporting obligations for “withholding foreign partnerships” (WPs) and “withholding foreign trusts” (WTs). Where the procedures described in Notice 2002-41 apply, a payment of US-source income to a WP generally would be treated as made to the foreign partnership (rather than to its partners) for US tax withholding and reporting purposes. Similarly, a payment of US-source income to a WT generally would be treated as made to the foreign trust (rather than to its beneficiaries or owners). In general, a WP or WT seeking a reduced rate of US withholding tax¹ would not be required to provide a withholding agent with documentation for its direct partners, owners or beneficiaries. Although US funds would be ineligible for WP or WT status, they could act as US withholding agents for payments to foreign partnerships or trusts. To obtain WP or WT status, a foreign partnership or foreign simple or grantor trust must enter into an agreement with the Service and follow the application procedures described in the notice. The notice includes proposed model WP and WT agreements as appendices.² The Service is seeking comments on the notice, including the proposed model agreements. ACTION REQUESTED: Please contact the undersigned (dflores@ici.org or 202/371-5436) with suggested comments on Notice 2002-41, no later than June 28, 2002. Deanna J. Flores Associate Counsel Attachment (in .pdf format) 1 Payments of US-source interest, dividends, royalties and certain other types of income to a foreign person generally are subject to 30-percent US withholding tax. A lower withholding tax rate may apply under US law for certain types of payments or under an income tax treaty. 2 The text of the proposed model WP and WT agreements may be obtained from the Service’s website at: www.irs.gov/pub/irs-drop/n-02-41.pdf.