

§ 1.897-5 Corporate distributions.

(a) through (d)(1)(iii)(E) [Reserved]. For further guidance, see § 1.897-5T(a) through (d)(1)(iii)(E).

(d)(1)(iii)(F) Identification by name and address of the distributee or transferee, including the distributee's or transferee's taxpayer identification number;

(d)(1)(iii)(G) through (d)(4) [Reserved]. For further guidance, see § 1.897-5T(d)(1)(iii)(G) through (d)(4).

(e) *Effective date.* This section is applicable to transfers and distributions after November 3, 2003.

■ 6. In § 1.897-5T, paragraph (d)(1)(iii)(F) is revised to read as follows:

§ 1.897-5T Corporate distributions (temporary).

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(d) * * * (1) * * *

(iii) * * *

(F) [Reserved]. For further guidance, see § 1.897-5(d)(1)(iii)(F).

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§ 1.897-6T [Amended]

■ 7. Section 1.897-6T is amended as follows:

■ 1. In paragraph (a)(2), second sentence, the language “, 1034” is removed.

■ 2. Paragraph (a)(5) (including the undesignated paragraph at the end) is removed and reserved.

■ 3. Paragraph (a)(7), *Example 2* and *Example 3* are removed and reserved.

■ 8. Section 1.1445-1 is amended as follows:

■ 1. In paragraph (c)(1), second sentence, remove the language “filed with the Internal Revenue Service Center, Philadelphia, PA 19255” and add in its place the language “filed at the location as provided in the instructions to Forms 8288 and 8288-A”.

■ 2. In paragraph (c)(1), two sentences are added at the end.

■ 3. In paragraph (c)(2)(i)(B), second sentence, remove the phrase “, if any,” after the words “taxpayer identification number”.

■ 4. In paragraphs (d)(1)(i) and (d)(1)(ii), remove the parenthetical “(if any)” after the words “identifying number”.

■ 5. In paragraphs (d)(2)(i), (d)(2)(iv)(B), and (d)(2)(vi)(B), remove the parenthetical “(if any)” after the words “identifying number”.

■ 6. In paragraph (f)(2), the first sentence is revised, and a sentence is added after the first sentence.

■ 7. In paragraph (f)(3)(i), the last sentence is revised.

■ 8. Paragraphs (g)(9) and (g)(10) are revised.

■ 9. Paragraph (h) is added.

■ The additions and revisions read as follows:

§ 1.1445-1 Withholding on dispositions of U.S. real property interests by foreign persons: In general.

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(c) * * *

(1) * * * Forms 8288 and 8288-A are required to include the identifying numbers of both the transferor and the transferee, as provided in paragraph (d) of this section. If any identifying number as required by such forms is not provided, the transferee must still report and pay over any tax withheld on Form 8288, although the transferor cannot obtain a credit or refund of tax on the basis of a Form 8288-A that does not include the transferor's identifying number (see paragraph (f)(2) of this section).

* * * * *

(f) * * *

(2) * * * A stamped copy of Form 8288-A will be provided to the transferor by the Service (under paragraph (c) of this section) if the Form 8288-A is complete, including the transferor's identifying number. Except as provided in paragraph (f)(3) of this section, a stamped copy of Form 8288-A must be attached to the transferor's return to establish the amount withheld that is available as a credit. * * *

(3) * * *

(i) * * * Such a transferor must attach to its return a statement which supplies all of the information required by § 1.1445-1(d), including the transferor's identifying number.

* * * * *

(g) * * *

(9) *Identifying number.* Pursuant to § 1.897-1(p), an individual's identifying number is the social security number or the identification number assigned by the Internal Revenue Service (see § 301.6109-1 of this chapter). The identifying number of any other person is its United States employer identification number.

(10) *Address of the Director, Philadelphia Service Center.* Any written communication directed to the Director, Philadelphia Service Center is to be addressed as follows: P.O. Box 21086, Drop Point 8731, FIRPTA Unit, Philadelphia, PA 19114-0586.

(h) *Effective date for taxpayer identification numbers.* The requirement in paragraphs (c)(2)(i)(B), (d)(1)(i) and (ii), (d)(2)(i), (d)(2)(iv)(B), and (d)(2)(vi)(B) of this section that taxpayer identification numbers be provided (in all cases) is applicable for dispositions of U.S. real property interests occurring after November 3, 2003.

■ 9. Section 1.1445-2 is amended as follows:

■ 1. Paragraph (b)(2)(iii) is redesignated as paragraph (b)(2)(iv), and new paragraph (b)(2)(iii) is added.

■ 2. Newly designated paragraph (b)(2)(iv)(B) is revised.

■ 3. In paragraph (d)(2)(i)(B), the language “Assistant Commissioner (International)” is removed, and “Director, Philadelphia Service Center” is added in its place, and the parenthetical “(if any),” is removed after the words “identifying number”.

■ 4. Paragraphs (d)(2)(iii) and (d)(2)(iv) are added immediately following the concluding text following paragraph (d)(2)(ii)(B).

■ 5. In paragraphs (d)(3)(iii)(A)(2) and (d)(3)(iii)(A)(3), the parenthetical “(if any)” is removed after the words “identifying number”.

6. Paragraph (e) is added.

The revision and additions read as follows:

§ 1.1445-2 Situations in which withholding is not required under section 1445(a).

* * * * *

(b) * * *

(2) * * *

(iii) *Disregarded entities.* A

disregarded entity may not certify that it is the transferor of a U.S. real property interest, as the disregarded entity is not the transferor for U.S. tax purposes, including sections 897 and 1445. Rather, the owner of the disregarded entity is treated as the transferor of property and must provide a certificate of non-foreign status to avoid withholding under section 1445. A disregarded entity for these purposes means an entity that is disregarded as an entity separate from its owner under § 301.7701-3 of this chapter, a qualified REIT subsidiary as defined in section 856(i), or a qualified subchapter S subsidiary under section 1361(b)(3)(B). Any domestic entity must include in its certification of non-foreign status with respect to the transfer a certification that it is not a disregarded entity. This paragraph (b)(2)(iii) and the sample certification provided in paragraph (b)(2)(iv)(B) of this section (to the extent it addresses disregarded entities) is applicable for dispositions occurring September 4, 2003.

(iv) * * *

(B) *Entity transferor.*

“Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real