

property interest by [name of transferor], the undersigned hereby certifies the following on behalf of [name of the transferor]:

1. [Name of transferor] is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. [Name of transferor] is not a disregarded entity as defined in § 1.1445-2(b)(2)(iii);
3. [Name of transferor]'s U.S. employer identification number is ____; and
4. [Name of transferor]'s office address is _____.

[Name of transferor] understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of [name of transferor].

[Signature(s) and date]

[Title(s)]"

* * * * *

(d) * * *

(2) * * *

(iii) *Contents of the notice.* No particular form is required for a transferor's notice to a transferee that the transferor is not required to recognize gain or loss with respect to a transfer. The notice must be verified as true and signed under penalties of perjury by the transferor, by a responsible officer in the case of a corporation, by a general partner in the case of a partnership, and by a trustee or equivalent fiduciary in the case of a trust or estate. The following information must be set forth in paragraphs labeled to correspond with the designation set forth as follows—

(A) A statement that the document submitted constitutes a notice of a nonrecognition transaction or a treaty provision pursuant to the requirements of § 1.1445-2(d)(2);

(B) The name, identifying number, and home address (in the case of an individual) or office address (in the case of an entity) of the transferor submitting the notice;

(C) A statement that the transferor is not required to recognize any gain or loss with respect to the transfer;

(D) A brief description of the transfer; and

(E) A brief summary of the law and facts supporting the claim that recognition of gain or loss is not required with respect to the transfer.

(iv) *No notice allowed.* The provisions of this paragraph (d)(2) do not apply to exclusions from income under section 121, to simultaneous like-kind exchanges under section 1031 that do not qualify for nonrecognition treatment

in their entirety (see paragraph (d)(2)(ii)(A) of this section), and to non-simultaneous like-kind exchanges under section 1031 where the transferee cannot determine that the exchange has been completed and all the conditions for nonrecognition have been satisfied at the time it is otherwise required to pay the section 1445 withholding tax and file the withholding tax return (Form 8288, "U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests"). In these cases, the transferee is excused from withholding only upon the timely application for and receipt of a withholding certificate under § 1.1445-3 (see § 1.1445-3(b)(5) and (6) for specific rules applicable to transactions under sections 121 and 1031). This paragraph (d)(2)(iv) is applicable for dispositions and exchanges occurring September 4, 2003.

* * * * *

(e) *Effective date for taxpayer identification numbers.* The requirement in paragraphs (d)(2)(i)(B), (d)(2)(iii)(B), and (d)(3)(iii)(A)(2) and (3) 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.

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■ 10. Section 1.1445-3 is amended as follows:

■ 1. In paragraph (a), after the seventh sentence, one sentence is added.

■ 2. For each of the paragraphs listed in the column below, remove the language "Assistant Commissioner (International)", and add "Director, Philadelphia Service Center" in its place.

Paragraphs

(b)(1), first sentence

(f)(1), first sentence

(f)(2)(iii), heading

(f)(2)(iii), first sentence

(g), third sentence, introductory text

■ 3. In paragraph (b)(1), last sentence, remove the language "of this section" and add ", and to the extent applicable, paragraph (b)(5) or (6) of this section" in its place.

■ 4. Paragraph (b)(2) is revised.

■ 5. Paragraphs (b)(5) and (b)(6) are added.

■ 6. In paragraphs (f)(3)(i) and (g)(1), remove the parenthetical "(if any)" after the words "identifying number".

■ 7. Paragraph (h) is added.

The revision and additions read as follows:

§ 1.1445-3 Adjustments to amount required to be withheld pursuant to withholding certificate.

(a) * * * In no event, however, will a withholding certificate be issued without the transferor's identifying number. * * *

(b) * * *

(2) *Parties to the transaction.* The application must set forth the name, address, and identifying number of the person submitting the application (specifying whether that person is the transferee or transferor), and the name, address, and identifying number of other parties to the transaction (specifying whether each such party is a transferee or transferor). The Service will deny the application if complete information, including the identifying numbers of all the parties, is not provided. Thus, for example, the applicant should determine if an identifying number exists for each party, and, if none exists for a particular party, the applicant should notify the particular party of the obligation to get an identifying number before the application can be submitted to the Service. The address provided in the case of an individual must be that individual's home address, and the address provided in the case of an entity must be that entity's office address. A mailing address may be provided in addition to, but not in lieu of, a home address or office address.

* * * * *

(5) *Special rule for exclusions from income under section 121.* A withholding certificate may be sought on the basis of a section 121 exclusion as a reduction in the amount of tax due under paragraph (c)(2)(v) of this section. The application must include information establishing that the transferor, who is a nonresident alien individual at the time of the sale (and is therefore subject to sections 897 and 1445) is entitled to claim the benefits of section 121. For example, a claim for reduced withholding as a result of section 121 must include information that the transferor occupied the U.S. real property interest as his or her personal residence for the required period of time.

(6) *Special rule for like-kind exchanges under Section 1031.* A withholding certificate may be requested with respect to a like-kind exchange under section 1031 as a transaction subject to a nonrecognition provision under paragraph (c)(2)(ii) of this section. The application must include information substantiating the requirements of section 1031. The IRS may require additional information during the course of the application