

executed the agreement described in § 1.1441-5(e)(5)(v).

(c) *Effective/applicability date.* This section applies January 28, 2013.

[T.D. 9610, 78 FR 5906, Jan. 28, 2013; 78 FR 55203, Sept. 10, 2013, as amended by T.D. 9657, 79 FR 12825, Mar. 6, 2014]

§ 1.1471-1T Scope of chapter 4 and definitions (temporary).

(a) [Reserved] For further guidance, see § 1.1471-1(a).

(b) [Reserved] For further guidance, see § 1.1471-1(b).

(1) through (6) [Reserved] For further guidance, see § 1.1471-1(b)(1) through (6).

(7) *Backup withholding.* The term *backup withholding* means the withholding required under section 3406.

(8) [Reserved] For further guidance, see § 1.1471-1(b)(8).

(9) [Reserved] For further guidance, see § 1.1471-1(b)(9).

(10) *Branch.* The term *branch* means a branch as defined in § 1.1471-4(e)(2)(ii).

(11) through (19) [Reserved] For further guidance, see § 1.1471-1(b)(11) through (19).

(20) *Chapter 4 withholding rate pool.* The term *chapter 4 withholding rate pool* means a pool of payees that are non-participating FFIs provided on a chapter 4 withholding statement (as described in § 1.1471-3(c)(3)(iii)(B)(3)) to which a withholdable payment is allocated. The term *chapter 4 withholding rate pool* also means a pool provided on an FFI withholding statement (as described in § 1.1471-3(c)(3)(iii)(B)(2)) to which a withholdable payment is allocated to—

(i) A pool of payees consisting of each class of recalcitrant account holders described in § 1.1471-4(d)(6) (or with respect to an FFI that is a QL, a single pool of recalcitrant account holders without the need to subdivide into each class of recalcitrant account holders described in § 1.1471-4(d)(6)), including a separate pool of account holders to which the escrow procedures for dormant accounts apply; or

(ii) A pool of payees that are U.S. persons as described in § 1.1471-3(c)(3)(iii)(B)(2).

(21) through (22) [Reserved] For further guidance, see § 1.1471-1(b)(21) through (22).

(23) *Consolidated obligations.* The term *consolidated obligations* means multiple obligations that a withholding agent (including a withholding agent that is an FFI) has chosen to treat as a single obligation in order to treat the obligations as preexisting obligations pursuant to paragraph (b)(104)(ii) of this section or in order to share documentation between the obligations pursuant to § 1.1471-3(c)(8). A withholding agent that has opted to treat multiple obligations as consolidated obligations pursuant to the previous sentence must also treat the obligations as a single obligation for purposes of satisfying the standards of knowledge requirements set forth in §§ 1.1471-3(e) and 1.1471-4(c)(2)(ii), and for purposes of determining the balance or value of any of the obligations when applying any of the account thresholds applicable to due diligence or reporting as set forth in §§ 1.1471-3(c)(6)(ii), 1.1471-3(d), 1.1471-4(c), 1.1471-5(a)(4), and 1.1471-5(b)(3)(vii). For example, with respect to consolidated obligations, if a withholding agent has reason to know that the chapter 4 status assigned to the account holder or payee of one of the consolidated obligations is inaccurate, then it has reason to know that the chapter 4 status assigned for all other consolidated obligations of the account holder or payee is inaccurate. Similarly, to the extent that an account balance or value is relevant for purposes of applying any account threshold to one or more of the consolidated obligations, the withholding agent must aggregate the balance or value of all such consolidated obligations.

(24) through (30) [Reserved] For further guidance, see § 1.1471-1(b)(24) through (30).

(31) *Direct reporting NFFE.* The term *direct reporting NFFE* has the meaning set forth in § 1.1472-1(c)(3).

(32) through (34) [Reserved] For further guidance, see § 1.1471-1(b)(32) through (34).

(35) *Effective date of the FFI agreement.* The term *effective date of the FFI agreement* with respect to an FFI or a branch of an FFI that is a participating FFI means the date on which the IRS issues a GIIN to the FFI or branch. For participating FFIs that receive a GIIN

prior to June 30, 2014, the effective date of the FFI agreement is June 30, 2014.

(36) through (40) [Reserved] For further guidance, see § 1.1471-1(b)(36) through (40).

(41) *Excepted NFFE*. The term *excepted NFFE* means a NFFE that is described in § 1.1472-1(c)(1).

(42) [Reserved] For further guidance, see § 1.1471-1(b)(42).

(43) *Exempt recipient*. The term *exempt recipient* means a person described in § 1.6049-4(c)(1)(ii) (for interest, dividends, and royalties), a person described in § 1.6045-2(b)(2)(i) (for broker proceeds), and a person described in § 1.6041-3(q) (for rents, amounts paid on notional principal contracts, and other fixed or determinable income).

(44) through (47) [Reserved] For further guidance, see § 1.1471-1(b)(44) through (47).

(48) *FFI agreement*. The term *FFI agreement* means an agreement that is described in § 1.1471-4(a). An FFI agreement includes a QI agreement, a WP agreement, and a WT agreement that is entered into by an FFI (other than an FFI that is a registered deemed-compliant FFI, including a reporting Model 1 FFI) and that has an effective date or renewal date on or after June 30, 2014. The term *FFI agreement* also includes a QI agreement that is entered into by a foreign branch of a U.S. financial institution (other than a branch that is a reporting Model 1 FFI) and that has an effective date or renewal date on or after June 30, 2014.

(49) [Reserved] For further guidance, see § 1.1471-1(b)(49).

(50) *Financial institution*. The term *financial institution* has the meaning set forth in § 1.1471-5(e) and includes a financial institution as defined in an applicable Model 1 or Model 2 IGA.

(51) through (66) [Reserved] For further guidance, see § 1.1471-1(b)(51) through (66).

(67) *Intergovernmental agreement (IGA)*. The term *intergovernmental agreement* or *IGA* means any applicable Model 1 or Model 2 IGA.

(68) through (75) [Reserved] For further guidance, see § 1.1471-1(b)(68) through (75).

(76) *Limited branch*. The term *limited branch* has the meaning set forth in § 1.1471-4(e)(2)(iii). With respect to a re-

porting Model 2 FFI, a limited branch is a branch of the reporting Model 2 FFI that operates in a jurisdiction that prevents such branch from fulfilling the requirements of a participating FFI or deemed-compliant FFI, or that cannot fulfill the requirements of a participating FFI or deemed-compliant FFI due to the expiration of the transitional rule for limited branches under § 1.1471-4(e)(2)(v), and for which the reporting Model 2 FFI meets the terms of the applicable Model 2 IGA with respect to the branch.

(77) *Limited FFI*. The term *limited FFI* has the meaning set forth in § 1.1471-4(e)(3)(ii). With respect to a reporting Model 2 FFI, a limited FFI is a related entity that operates in a jurisdiction that prevents the entity from fulfilling the requirements of a participating FFI or deemed-compliant FFI or that cannot fulfill the requirements of a participating FFI or deemed-compliant FFI due to the expiration of the transitional rule for limited FFIs under § 1.1471-4(e)(3)(iv), and for which the reporting Model 2 FFI meets the requirements of the applicable Model 2 IGA with respect to the entity.

(78) through (80) [Reserved] For further guidance, see § 1.1471-1(b)(78) through (80).

(81) *Non-exempt recipient*. The term *non-exempt recipient* means a person that is not an exempt recipient.

(82) [Reserved] For further guidance, see § 1.1471-1(b)(82).

(83) *Nonreporting IGA FFI*. The term *nonreporting IGA FFI* means an FFI that is identified as a nonreporting financial institution pursuant to a Model 1 IGA or Model 2 IGA that is not a registered deemed-compliant FFI, and an FFI that is a resident of, or located or established in, a Model 1 or Model 2 IGA jurisdiction, as the context requires, and that meets the requirements for certified deemed-compliant FFI status under § 1.1471-5(f)(2).

(84) through (87) [Reserved] For further guidance, see § 1.1471-1(b)(84) through (87).

(88) *Offshore obligation*. The term *offshore obligation* means an offshore obligation defined in § 1.6049-5(c)(1) (by substituting the terms *withholding agent* or *financial institution* for the term *payor*).

(89) through (90) [Reserved] For further guidance, see § 1.1471-1(b)(89) through (90).

(91) *Participating FFI*. The term *participating FFI* means an FFI that has agreed to comply with the requirements of an FFI agreement, including an FFI described in a Model 2 IGA that has agreed to comply with the requirements of an FFI agreement (a *reporting Model 2 FFI*). The term *participating FFI* also includes a QI branch of a U.S. financial institution, unless such branch is a reporting Model 1 FFI.

(92) through (97) [Reserved] For further guidance, see § 1.1471-1(b)(92) through (97).

(98) *Payor*. The term *payor* has the meaning set forth in §§ 31.3406(a)-2 and 1.6049-4(a)(2) and generally includes a withholding agent.

(99) [Reserved] For further guidance, see § 1.1471-1(b)(99).

(100) *Person*. The term *person* has the meaning set forth in section 7701(a)(1) and the regulations thereunder and includes an entity or arrangement that is an insurance company. The term *person* also includes, with respect to a withholdable payment, a QI branch of a U.S. financial institution.

(101) through (103) [Reserved] For further guidance, see § 1.1471-1(b)(101) through (103).

(104) [Reserved] For further guidance, see § 1.1471-1(b)(104).

(i) The term *preexisting obligation* means any account, instrument, contract, debt, or equity interest maintained, executed, or issued by the withholding agent that is outstanding on June 30, 2014. With respect to a withholding agent that is a participating FFI, the term *preexisting obligation* means any account, instrument, or contract (including any debt or equity interest) maintained, executed, or issued by the FFI that is outstanding on the effective date of the FFI agreement. With respect to a withholding agent that is a registered deemed-compliant FFI, a *preexisting obligation* means any account, instrument, or contract (including any debt or equity interest) that is maintained, executed, or issued by the FFI prior to the later of the date that the FFI registers as a deemed-compliant FFI pursuant to § 1.1471-5(f)(1) and receives a GIIN or

the date the FFI is required to implement its account opening procedures under § 1.1471-5(f).

(ii) [Reserved] For further guidance, see § 1.1471-1(b)(104)(ii).

(A) The account holder or payee also holds with the withholding agent (or a member of the withholding agent's expanded affiliated group or sponsored FFI group) an account, instrument, contract, or equity interest that is a preexisting obligation under paragraph (b)(104)(i) of this section;

(B) The withholding agent (and, as applicable, the member of the withholding agent's expanded affiliated group or sponsored FFI group) treats both of the aforementioned obligations, and any other obligations of the payee or account holder that are treated as preexisting obligations under this paragraph (b)(104)(ii), as consolidated obligations; and

(C) With respect to an obligation that is subject to AML due diligence, the withholding agent is permitted to satisfy such AML due diligence for the obligation by relying upon the AML due diligence performed for the preexisting obligation described in paragraph (b)(104)(i) of this section.

(105) *Pre-FATCA Form W-8*. The term *pre-FATCA Form W-8* means a version of a Form W-8 that was issued by the IRS prior to 2013 (including an acceptable substitute form based on such version) and that does not contain chapter 4 statuses but otherwise meets the requirements of § 1.1441-1(e)(1)(ii) applicable to such certificate (or substitute form) and has not expired, or a Form W-8 that was issued prior to 2013 and furnished by an individual to establish such individual's foreign status but otherwise meets the requirements of § 1.1441-1(e)(1)(ii) applicable to such certificate and has not expired.

(106) through (112) [Reserved] For further guidance, see § 1.1471-1(b)(106) through (112).

(113) *Reportable payment*. The term *reportable payment* means a payment of interest or dividends (as defined in section 3406(b)(2)) and other reportable payments (as defined in section 3406(b)(3)).

(114) [Reserved] For further guidance, see § 1.1471-1(b)(114).

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(115) *Reporting Model 2 FFI*. The term *reporting Model 2 FFI* means a participating FFI that is described in § 1.1471-1(b)(91).

(116) through (122) [Reserved] For further guidance, see § 1.1471-1(b)(116) through (122).

(123) *Sponsored direct reporting NFFE*. The term *sponsored direct reporting NFFE* has the meaning set forth in § 1.1472-1(c)(5).

(124) *Sponsoring entity*. The term *sponsoring entity* means (i) an entity that registers with the IRS and agrees to perform the due diligence, withholding, and reporting obligations of one or more FFIs pursuant to § 1.1471-5(f)(1)(i)(F) or (f)(2)(iii); or (ii) an entity that registers with the IRS and agrees to perform the due diligence and reporting obligations of one or more direct reporting NFFEs pursuant to § 1.1472-1(c)(5).

(125) *Standardized industry coding system*. The term *standardized industry coding system* means a coding system used by the withholding agent or FFI to classify account holders by business type for purposes other than U.S. tax purposes and that was implemented by the withholding agent by the later of January 1, 2012, or six months after the date the withholding agent was formed or organized.

(126) through (127) [Reserved] For further guidance, see § 1.1471-1(b)(126) through (127).

(128) *Substantial U.S. owner*. The term *substantial U.S. owner* or *substantial United States owner* has the meaning set forth in § 1.1473-1(b). In the case of a reporting Model 2 FFI, in applying this section with respect to a passive NFFE the term *substantial U.S. owner* means a *controlling person* as defined in the applicable Model 2 IGA.

(129) through (134) [Reserved] For further guidance, see § 1.1471-1(b)(129) through (134).

(135) *U.S. branch treated as a U.S. person*. The term *U.S. branch treated as a U.S. person* means a U.S. branch of a participating FFI, registered deemed-compliant FFI, or NFFE that is treated as a U.S. person under § 1.1441-1(b)(2)(iv)(A).

(136) through (140) [Reserved] For further guidance, see § 1.1471-1(b)(136) through (140).

(141) *U.S. person*—(i) The term *U.S. person* or *United States person* means a person described in section 7701(a)(30), the United States government (including an agency or instrumentality thereof), a State (including an agency or instrumentality thereof), or the District of Columbia (including an agency or instrumentality thereof). The term *U.S. person* or *United States person* also means a foreign insurance company that has made an election under section 953(d), provided that either the foreign insurance company is not a specified insurance company (as described in § 1.1471-5(e)(1)(iv)) and is not licensed to do business in any State, or the foreign insurance company is a specified insurance company and is licensed to do business in any State.

(ii) The term *U.S. person* or *United States person* does not include a foreign insurance company that has made an election under section 953(d) if it is a specified insurance company and is not licensed to do business in any State.

(142) through (151) [Reserved] For further guidance, see § 1.1471-1(b)(142) through (151).

(c) [Reserved] For further guidance, see § 1.1471-1(c).

(d) *Expiration date*. The applicability of this section expires on February 28, 2017.

[T.D. 9657, 79 FR 12826, Mar. 6, 2014; 79 FR 37176, July 1, 2014]

§ 1.1471-2 Requirement to deduct and withhold tax on withholdable payments to certain FFIs.

(a) *Requirement to withhold on payments to FFIs*—(1) [Reserved] For further guidance, see § 1.1471-2T(a)(1).

(2) *Special withholding rules*—(i) [Reserved] For further guidance, see § 1.1471-2T(a)(2)(i).

(ii) [Reserved]. For further guidance, see § 1.1471-2T(a)(2)(ii).

(iii) *Requirement to withhold if a participating FFI or registered deemed-compliant FFI makes an election to be withheld upon*. A person that otherwise would be a payee with respect to a payment but that makes an election to be withheld upon does not agree to accept primary withholding responsibility for the payment under chapter 3 or 4. Accordingly, such person cannot be treated as the payee and the withholding