

SEC. 2. BACKGROUND

.01 Section 1441(a) of the Internal Revenue Code of 1986 generally requires all persons having the control, receipt, custody, disposal, or payment of certain items of income from sources within the United States of any nonresident alien individual to deduct and withhold from such items a tax equal to 30 percent thereof. The income items subject to this withholding [*6] include interest, dividends, rent, salaries, wages, compensations, remunerations, and emoluments.

.02 Section 1.1441-4(b) (3) of the Income Tax Regulations provides that compensation for personal services of a nonresident alien individual who is engaged during the taxable year in the conduct of a trade or business within the United States may be wholly or partially exempted from withholding if an agreement is reached between the [*2] Assistant Commissioner (International) and the alien individual with respect to the amount of withholding required. The regulation states that an agreement shall be available in the circumstances and in the manner set forth by the Service. An agreement is effective for all payments it covers made after its execution. The alien individual must agree to file a timely income tax return for the taxable year.

SEC. 3. WITHHOLDING EXEMPTION PROCEDURE

.01 Recognizing that requiring deduction and withholding of 30 percent of gross income paid to nonresident alien entertainers and athletes for performing or participating in athletic events in the United States may result in overwithholding, the Internal Revenue Service will consider entering into a [*7] withholding agreement permitting withholding on projected net income at the 30 percent rate or at a graduated rate, provided that the requirements of sections 3.02 through 3.06 of this revenue procedure are met. In no event will a **central withholding agreement** reduce the amount of withheld taxes to an amount less than the anticipated income tax liability.

.02 Submit a list of the names and addresses of the nonresident aliens to be covered [*3] by the agreement (covered aliens). Submit copies of all contracts that the covered aliens or their agents and representatives have entered into regarding the time period and performances or events to be covered by the agreement, including (but not limited to) contracts with employers, agents, and promoters; exhibition halls and the like; persons providing lodging, transportation, and advertising; and accompanying personnel such as band members or trainers.

.03 Submit an itinerary of dates and locations of all performances or events scheduled during the period to be covered by the agreement, and a proposed budget containing itemized estimates of all gross income and expenses for the period. Include any documents that substantiate or support [*8] these estimates. Provide the name, address, and telephone number of the person to be contacted should the Service require additional information or documentation.

.04 Identify by name, address, and employer identification number the agent

or agents who will be the central withholding agents for the covered aliens, and who will enter into a contract with the Service. A central withholding agent ordinarily receives contract payments, keeps [*4] books of account for the covered aliens, and pays expenses (including tax liabilities) of the covered aliens during the period covered by the agreement.

.05 When the Service approves the estimated budget and the designated central withholding agents, the Associate Chief Counsel (International) will prepare a withholding agreement that must be signed by each withholding agent, each covered alien, and the Assistant Commissioner (International). Ordinarily, each withholding agent will be required to agree to withhold income tax from payments to the covered alien; to pay over the withheld tax to the Service on the dates and in the amounts specified in the agreement; and to have the Service apply the payments of withheld tax to the withholding [*9] agent's Form 1042 account. Each withholding agent will also be required to file Form 1042 and Form 1042S for each tax year in which income is paid to a covered alien with respect to the period and events covered by the agreement. The Service will credit the withheld tax payments, posted to the withholding agent's Form 1042 account, in accordance with the Form 1042S. Each covered alien must agree to file Form 1040C.

.06 Send the request to [*5] the following address at least 90 days before the agreement is to take effect:

Chief, Special Procedures Section IN:C:C:51 Room 3311 950 L'Enfant Plaza
Washington, D.C. 20024

.07 The principal author of this revenue procedure is Ed Williams of the Office of the Associate Chief Counsel (International). For further information, call Mr. Williams at (202) 287-4851 (not a toll-free call).