



Instructions for Form 1042-S

Foreign Person's U.S. Source Income Subject to Withholding

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions



Use the 2008 Form 1042-S only for income paid during 2008. Do not use the 2008 Form 1042-S for income paid during 2007.

What's New

Changes to form. Changes have been made to Form 1042-S for 2008. The major changes are as follows.

Boxes 7 through 9. These boxes are used to show the amount you withheld, the amount withheld by other withholding agents, and the total amount of tax withheld.

Box 15. This box is used to show the recipient's foreign tax identifying number, if any.

Box 22. This box is used to show the recipient's account number (optional).

Qualified intermediary branch rule. A branch of a financial institution may not act as a qualified intermediary after December 31, 2007, in a country that does not have approved know-your-customer rules. See *Qualified intermediary (QI)*, under *Definitions*, later.

Magnetic media. Beginning with tax year 2008, processing year 2009, the IRS no longer accepts tape cartridges. You cannot use magnetic media to file Form 1042-S.

Reminders

FIRE System. For files submitted on the FIRE System, it is the responsibility of the filer to check the status within 5 business days to verify the results of the transmission. The IRS no longer mails error reports for files that are bad.

Purpose of Form

Use Form 1042-S to report income described under *Amounts Subject to Reporting on Form 1042-S* on page 4 and to report amounts withheld under Chapter 3 of the Internal Revenue Code.

Also use Form 1042-S to report distributions of effectively connected income by a publicly traded partnership or nominee. See *Publicly Traded Partnerships (Section 1446 Withholding Tax)* on page 6.



Every person required to deduct and withhold any tax under Chapter 3 of the Code is liable for such tax.

Copy A is filed with the Internal Revenue Service. Copies B, C, and D are for the recipient. Copy E is for your records.

Do not use Form 1042-S to report an item required to be reported on—

- Form W-2 (wages and other compensation made to employees (other than compensation for dependent personal services for which the beneficial owner is claiming treaty benefits) including wages in the form of group-term life insurance),
- Form 1099, or
- Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests, or Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax. Withholding agents otherwise required to report a distribution partly on a Form 8288-A or Form 8805 and partly on a Form 1042-S may instead report the entire amount on Form 8288-A or Form 8805.

Who Must File

Every withholding agent (defined on page 2) must file an information return on Form 1042-S to report amounts paid during the preceding calendar year that are described under *Amounts Subject to Reporting on Form 1042-S* on page 4. However, withholding agents who are individuals are not required to report a payment on Form 1042-S if they are not making the payment as part of their trade or business and no withholding is required to be made on the payment. For example, an individual making a payment of interest that qualifies for the portfolio interest exception from withholding is not required to report the payment if the portfolio interest is paid on a loan that is not connected to the individual's trade or business. However, an individual paying an amount that has actually been subject to withholding is required to report the payment. Also, an individual paying an amount on which withholding is required must report the payment, whether or not the individual actually withholds. See *Multiple Withholding Agent Rule* on page 11 for exceptions to reporting when another person has reported the same payment to the recipient. Also see *Publicly Traded Partnerships (Section 1446 Withholding Tax)* on page 6.

You must file a Form 1042-S even if you did not withhold tax because the income was exempt from tax under a U.S. tax treaty or the Code, including the exemption for income that is effectively connected with the conduct of a trade or business in the United States, or you released the tax withheld to the recipient. For exceptions, see *Amounts That Are Not Subject to Reporting on Form 1042-S* on page 5.

Amounts paid to bona fide residents of U.S. possessions and territories are not subject to reporting on Form 1042-S if the beneficial owner of the income is a U.S. citizen, national, or resident alien.



If you are required to file Form 1042-S, you must also file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons. See Form 1042 for more information.

Where, When, and How To File

Forms 1042-S, whether filed on paper or electronically, must be filed with the Internal Revenue Service by March 16, 2009. You are also required to furnish Form 1042-S to the recipient of the income on or before March 16, 2009.

Send any paper Forms 1042-S with Form 1042-T, Annual Summary and Transmittal of Forms 1042-S, to the address in the Form 1042-T instructions. You must use Form 1042-T to transmit paper Forms 1042-S. Use a separate Form 1042-T to transmit each type of Form 1042-S. See *Payments by U.S. Withholding Agents* beginning on page 6 and the Form 1042-T instructions for more information. If you have 250 or more Forms 1042-S to file, follow the instructions under *Electronic Reporting* on page 2.



Beginning with tax year 2008, processing year 2009, Form 1042-S can no longer be filed using magnetic media. Form 1042-S for 2008 and later years can only be filed on paper or electronically.

Extension of time to file. To request an extension of time to file Forms 1042-S, file Form 8809, Application for Extension of Time To File Information Returns. See the Form 8809 instructions for where to file that form. You should request an extension as soon as you are aware that an extension is necessary, but no later than the due date for filing Form 1042-S. By filing Form 8809, you will get an