



TaxNewsFlash

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Notice 2018-20: Australia added to “no TIN list”

The IRS today released an advance version of Notice 2018-20 announcing that the IRS is expanding the list of jurisdictions that do not issue taxpayer identification numbers (TIN) to their residents to include Australia.

[Notice 2018-20](#) [PDF 19 KB] also states that the IRS and Treasury Department intend to amend temporary regulations—Reg. section 1.1441-1T(e)(2)(ii)(B)—to incorporate the guidance provided by today’s notice.

Today’s notice states that other jurisdictions may make a request of the U.S. competent authority to be included on this IRS list (the “no TIN list”).

Background

The temporary regulations (January 2017) provide that a “beneficial owner withholding certificate” provided to verify and document an account maintained at a U.S. branch or office of a withholding agent that is a financial institution must include the TIN as issued by the account holder’s jurisdiction of tax residence—that is, the “foreign TIN”—in order for the withholding agent to treat the withholding certificate as valid.

The temporary regulations also provide that for withholding certificates associated with payments made on or after January 1, 2018, an account holder that does not provide a “foreign TIN” must provide a reasonable explanation why one was not provided in order for the withholding certificate not to be considered invalid.

The IRS issued [Notice 2017-46](#) [PDF 57 KB] in September 2017 to modify the requirement under the temporary regulations that withholding agents must obtain and report “foreign TINs” of their account holders. Moreover, Notice 2017-46:

- Extended the date on which the requirement to obtain “foreign TINs” takes effect to January 1, 2018

- Provided transitional rules for withholding agents obtaining a “foreign TIN” for an account holder documented with an otherwise valid Form W-8 that was signed before January 1, 2018
- Provided exceptions to obtaining “foreign TINs” for certain categories of account holders
- Provided that under to-be-published regulations, withholding agents will not be required to obtain a “foreign TIN” (or a reasonable explanation for why an account holder has not been issued a foreign TIN) for an account held by a resident of a jurisdiction identified by the IRS on a list of jurisdictions that do not issue TINs to their residents

Notice 2017-46 identified three jurisdictions—Bermuda, British Virgin Islands, and Cayman Islands—that did not issue TINs. It also stated that this list would be updated as necessary.

Notice 2018-20

Today’s notice adds a new jurisdiction to the list that do not issue TINs—Australia.

The IRS noted that some countries and jurisdictions with laws that restrict the collection or disclosure of TINs of their residents have requested that their residents not be required to provide “foreign TINs” to withholding agents for purposes of the temporary regulations. In response, the IRS and Treasury Department announced that the “no TIN list” will be expanded to include jurisdictions that request to be on the list—even if the jurisdictions issue “foreign TINs” to individuals or entities resident in such jurisdictions.

Notice 2018-20 further states that the IRS and Treasury intend to amend the temporary regulations to clarify that withholding agents are not required to collect or report “foreign TINs” of residents in the current four jurisdictions on the “no TIN list” plus any jurisdictions that are subsequently included on the list.

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