

REPORTING FOREIGN AND CALIFORNIA NONRESIDENT ALIEN VENDORS PROVIDING SERVICES IN CALIFORNIA



FOREIGN AND CALIFORNIA NONRESIDENT ALIEN VENDORS PROVIDING SERVICES IN CALIFORNIA

Foreign vendors are required to complete the appropriate Form W-8 (remains in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year), instead of the Form W-9 normally used. Similar to the W-9, it is used for reporting when services are supplied. Foreign vendors do not receive a Form 1099 Misc, but instead are reported on Form 1042-S. This is applicable whether the foreign vendor is an individual, partnership or corporation.

California Nonresident vendors are required to complete Form W-9, but in addition to a 1099 Misc, they must also be furnished with Form 592-B.

FEDERAL: When a non-US vendor is paid, additional and separate reporting requirements are necessary. Foreign vendors providing services within the US may be subject to federal tax withholding up to 30% on all payments. There are no threshold amounts for foreign vendors:

1. If the vendor claims treaty benefits on payments for services rendered in the U.S., have the vendor complete Form 8233 for determination of tax treaty.
 - a. The form needs to be mailed to the IRS or faxed to the IRS at 267-941-1365 within 5 days of your acceptance.
 - b. Allow 10 days to see whether the IRS has any objections to the form.
2. If the IRS objects to the Form 8233, then withhold at 30% for Federal (see IT's recommendations for paying a foreign vendor through Escape).
3. If you make a payment to a foreign vendor for services, you must file a Form 1042-S. This applies even if you did not withhold tax because the income was exempt from tax under a US tax treaty:
 - a. Federal form 1042 must be filed by March 15
 - i. All federal deposits must be made EFTPS and are due according to frequency of your deposits (see Instructions for Form 1042)
 1. Work with Erin Graves in Business Services
 - ii. Must file Form 1042-S to both the vendor and the IRS by March 15.
 - iii. Use 1042-T to transmit original paper forms 1042-S

STATE: When a non-US vendor is paid, additional and separate reporting requirements are necessary. *Foreign and non-resident vendors* providing services within the state may be subject to 7% state income tax withholding on payments of \$1,500 or more:

4. Have the vendor complete Form 590 to determine California Residency. Payments (including payments of leases, rent, and royalties for property located in California) made to California nonresidents, including corporations, limited liability companies and partnerships that do not have a permanent place of business in this state, may be subject to 7% state income tax withholding.
 - a. Non-resident withholding applies to all foreign vendors unless the total payments are not greater than \$1,500 *or* the payment is made to a CA resident or Corporation that has a permanent place of business in California.
5. Have the vendor complete Form 588 to request a withholding waiver (see instructions for Form 588 as to where to send the waiver for approval).
 - a. Allow 21 business days before making payment.
 - b. When approved you will receive a waiver approval letter from the FTB (Franchise Tax Board).
6. Have the vendor complete Form 587 to allocate the amount of Services that are performed within the State of California.
 - a. Only payments sourced within CA are subject to withholding.
7. Withholding begins as soon as the district determines that the total payments for the calendar year will exceed \$1,500 (see IT's recommendations for paying a foreign vendor through Escape).
8. Filing and Making Payments:
 - a. State form 592 filed quarterly (do not need to file electronically when the number of payees on form 592 is less than 250)
 - i. Send payment due along with Form 592-V and Form 592 to the
Withholding Services and Compliance
Franchise Tax Board
PO Box 942867
Sacramento, CA 94267-0651
 - ii. Cut AP check from Escape out of expense account
9. Before January 31 following the close of the calendar year, provide the vendor with Form 592-B Resident and Nonresident Withholding Tax Statement.

FORM 590 CALIFORNIA WITHHOLDING EXEMPTION CERTIFICATE

1. Districts may choose to require a Form 590 for every vendor as their internal procedure
2. District should require a Form 590 when:
 - a. The vendor does not have a California street address and;
 - b. They will be performing services for your district within the state of California and;
 - c. They will receive payments totaling \$1,500 or more in the calendar year

How to tell if the vendor is a California Non-Resident:

You can rely on a California street address as an indication of a vendor's residency status. If the vendor has a California street address, no withholding is required and Form 590 is not needed to verify residency status, unless the withholding agent has reason to believe such address is merely a forwarding address. A valid California street address does not include a California post office box, or an in-care-of address.

Corporations:

A corporation has a permanent place of business in California if it is organized and existing under the laws of this state or, if a foreign corporation, it has qualified through the Office of the Secretary of State to transact intrastate business (i.e., a corporation engaged exclusively in interstate commerce) will be considered as having a permanent place of business in this state only if it maintains a permanent office in this state which is permanently staffed by its employees.