



**AGENT AGREEMENT**

This Agent Agreement, by and between Delta Dental Plan of New Mexico, Inc. ("Delta Dental") and \_\_\_\_\_ ("Agent"), is effective on \_\_\_\_\_.

WHEREAS, Delta Dental is a nonprofit healthcare corporation incorporated under the laws of New Mexico to market, underwrite and administer dental plans of New Mexico-domiciled entities including New Mexico-domiciled entities with multi-state operations and WHEREAS, Agent is licensed under the laws of New Mexico to act as such in connection with the solicitation and arrangement of the issuance of health insurance policies; and, WHEREAS, the parties want Agent to represent Delta Dental within a defined geographic region.

THEREFORE, based upon their mutual promises contained herein the parties agree as follows:

**SECTION 1: APPOINTMENT**

- 1.1 Delta Dental appoints Agent as its nonexclusive Agent, and Agent accepts this appointment subject to the approval of the New Mexico Division of Insurance. Agent understands and agrees that his or her appointment shall be as an independent contractor to Delta Dental and not as an employee or in any other capacity.
- 1.2 Delta Dental shall file the appointment with the New Mexico Division of Insurance on behalf of Agent. Agent may be responsible for paying some fees associated with the initial appointment. Subsequent annual re-appointment fees for Agent may be paid by Delta Dental. Agent shall provide proof to Delta Dental that said license is active by submitting a copy of current license to Delta Dental upon request.

**SECTION 2: SALES TERRITORY**

Agent's nonexclusive sales territory shall be in the State of New Mexico.

**SECTION 3: DUTIES**

- 3.1 Agent shall use its best efforts to solicit applications for Delta Dental products and services; collect initial premiums and other charges; avoid conflicts of interest, and generally cooperate with and advance the interests of Delta Dental with its customers. Agent has no authority to bind coverage and all applications for coverage must be approved by Delta Dental in its sole discretion before the coverage goes into effect.
- 3.2 Delta Dental has the exclusive right to prescribe all contracts, forms, provisions, premium rates, service fees and any other charges for coverage or services, and the rules governing the binding, acceptance, renewal, rejection or cancellation of contract for coverage and/or services.
- 3.3 Agent shall not represent itself as having any powers except those specified in this Agent Agreement. Without limiting the foregoing, Agent shall not have authority to extend the time of payment of any premium or service fee; to alter, waive or forfeit any of Delta Dental's contractual rights, requirements or conditions; or otherwise obligate Delta Dental in any way except as stated in this Agreement or otherwise specifically authorized in writing by Delta Dental.
- 3.4 Delta Dental shall furnish Agent with manuals, quotations, forms, marketing support, promotional material, formal proposals, and any other materials or supplies that Delta Dental deems appropriate. All materials furnished by Delta Dental shall remain its property. Agent agrees that these materials as well as rate and benefit schedules, client lists, marketing or other business strategies, and other information furnished by Delta Dental is and shall remain proprietary to Delta Dental, and shall only be used by Agent in furtherance of its performance of this Agreement. Agent shall not use any of Delta Dental's proprietary information for Agent's own benefit or the benefit of a third party during the term of this Agreement or at any time thereafter.

- 3.5 All expenses incurred by Agent in its performance of this Agreement shall be borne exclusively by Agent and not by Delta Dental, except as is provided in section 1.2 and as is otherwise specifically agreed in writing by Delta Dental.
- 3.6 Delta Dental will advertise and provide promotional materials in its discretion. Agent will not use the Delta Dental name, logo or service marks in advertising, internet sites, trade shows, yellow pages listings, display advertising or customer promotional collateral without Delta Dental's prior written approval.
- 3.7 The undersigned at all times shall maintain in good standing its license to act as an agent authorized to sell dental insurance products in the State of New Mexico.
- 3.8 The undersigned shall comply with all applicable requirements of state and federal laws and regulations, including the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). For the purposes of carrying out certain activities of this Agreement that may require access to certain protected health information, Agent is considered a Business Associate under the definition within the Privacy Rule of HIPAA. As a Business Associate, Agent agrees to the provisions set forth in the Business Associate Addendum attached hereto and incorporated herein by reference.
- 3.9 Agent shall be reasonably knowledgeable about the general coverage offered by dental benefit organizations as well as the specific products offered by Delta Dental. Agent agrees to abide by Delta Dental's policies and procedures, and to attend training sessions or review such training materials on Delta Dental's products, policies and procedures as may reasonably be requested by Delta Dental.
- 3.10 Agent agrees not to write dental insurance coverage solely on or for its own organization or affiliates, or on or for individuals and family members of individuals who affiliated with such organization.
- 3.11 Agent agrees to give reasonable notice to Delta Dental of open enrollment meetings by any contracted or prospective Group represented by the Agent, and to allow a Delta Dental marketing representative to be present at all open enrollment meetings.
- 3.12 Agent shall be a fiduciary for all money received or held by it in its representation of Delta Dental. All such money is the absolute property of Delta Dental and Agent will be strictly responsible for this money until it is safely and fully received by Delta Dental. Any amount that the Agent owes to Delta Dental at any time is a first lien on any payment due or thereafter becoming due the Agent under this Agreement, and Delta Dental is authorized to deduct such indebtedness from any payment due the Agent from Delta Dental.

#### **SECTION 4: COMPENSATION**

- 4.1 Delta Dental shall pay commissions to Agent only on premiums paid to Delta Dental by Groups for which the undersigned is the Agent of Record as identified by the Group in writing. Commission payments will commence in the month of completion of all regulatory licensing, appointing and Delta Dental contracting requirements. If a Group changes its designated Agent of Record at any time, the new Agent will become the Agent of Record effective the month following Delta Dental's receipt of written documentation of the change, or such later date as the Group may specify in writing, whether or not the change occurs mid-year or on renewal.
- 4.2 Commissions shall be paid in accordance with the Table of Commission Rates (Exhibit A) and may be modified from time to time by Delta Dental on thirty days' notice for all new Groups and as of the annual anniversary date for any existing Group then enrolled with Delta Dental for which the undersigned is Agent of Record.
- 4.3 Commissions shall be deemed earned only when the premiums on which they are based are paid by the Group to Delta Dental. Commissions are payable only on adjusted premiums actually paid to Delta Dental during the Group's plan year.

- 4.4 Premiums for Groups represented by Agent are payable by the Group directly to Delta Dental. Agent is not authorized to receive any moneys due to Delta Dental without written authorization, signed by a Delta Dental officer and delivered to Agent. If any funds belonging or due to Delta Dental are authorized to be received by Agent, they shall be deposited by Agent in a separate trust account and remitted in full to Delta Dental within five (5) working days after receipt. Any funds not remitted to Delta Dental as provided herein shall bear interest at the rate of 8% per annum. In the event that suit is brought to collect moneys due thereunder, Delta Dental shall be entitled to collect its costs of suit and reasonable attorney fees.
- 4.5 Commissions due under this Agreement shall be paid by Delta Dental and not by the Group. Agent agrees that in no event will it seek recourse against the Group for sums due hereunder.
- 4.6 Commission shall be payable on the fifteenth day (15<sup>th</sup>) day of the month following the month Delta Dental deposits the Group's premium. If the fifteenth (15<sup>th</sup>) day of the month falls on a Saturday or Sunday, commission shall be payable on the Friday before the fifteenth (15<sup>th</sup>) of the month. The Group census at enrollment shall establish the group size and corresponding Agent fee percentage (listed in Exhibit B) for the initial contract period. Agent fee(s) for subsequent renewal(s) shall be calculated by using the group size and corresponding Agent fee as re-established at the time of each renewal.
- 4.7 No assignment, transfer or disposal of any interest that Agent may have on account of this Agreement shall be made at any time without written approval of Delta Dental.
- 4.8 No commission shall be due or payable by Delta Dental to the Agent on any Group whose account is turned over to a collection agency for the collection of delinquent premiums.

#### **SECTION 5: TERM, CHANGES AND/OR TERMINATION OF AGREEMENT**

- 5.1 Subject to Sections 5.2 and 5.3 of this Agreement, this Agent Agreement shall be continuous from its effective date shown on page 1.
- 5.2 Either party may terminate this Agent Agreement by giving written notice of at least thirty (30) days to the other party.
- 5.3 This agreement shall terminate automatically and without notice in the event the Agent's license terminates or expires without renewal, or is suspended, revoked or cancelled for any reason or if Delta Dental has reason to believe Agent has committed fraud or misrepresentation or breached any terms of the Agreement. No commissions will be paid for any activity performed while an Agent's license is suspended, revoked or cancelled. Agent shall notify Delta Dental immediately in the event any disciplinary or other action is taken against the Agent in its capacity as an Agent by a state or federal regulatory authority. Upon expiration or termination of this Agent Agreement, Agent will not act or represent itself in any way as an Agent of Delta Dental.
- 5.4 Within ten (10) days of the expiration or termination of this Agent Agreement, Agent will return to Delta Dental all property belonging to Delta Dental, including but not limited to all customer lists and other records of Delta Dental business.
- 5.5 Delta Dental reserves the right, with or without cause, to change, modify, or terminate this Agreement and its Exhibits upon written notice to the Agent's last known address; provided, however that no such change, modification or termination shall affect rights of Agent which have accrued prior to the effective date of such change, modification or termination.

#### **SECTION 6: MISCELLANEOUS**

- 6.1 If a liability is claimed against Delta Dental based wholly or in part upon the negligence, breach of contract, or comparative fault of the undersigned and/or its employees, Agent shall indemnify Delta Dental for that portion of Delta Dental's liability, established by settlement or judgment and that portion of Delta Dental's defense cost, including attorneys' fees, which are attributable solely to the percentage of fault of the Agent and/or its employees. If a liability is claimed against Agent

based wholly or in part upon the negligence, breach of contract, or comparative fault of Delta Dental and/or its employees, Delta Dental shall indemnify Agent for that portion of Agent's liability, established by settlement or judgment and that portion of Agent's defense cost, including attorneys' fees, which are attributable solely to the percentage of fault of the Delta Dental and/or its employees.

- 6.2 Neither party to this Agent Agreement may in any way sell, assign or pledge any interest, entitlement, payment or duty arising thereunder without the prior written consent of the other.
- 6.3 This Agent Agreement shall supersede all prior written and/or verbal agreement and representations and shall constitute the sole and entire agreement between Delta Dental and Agent. No change, alteration or modification of the terms of this Agent Agreement may be made except by agreement in writing signed by an authorized representative of Delta Dental.
- 6.4 This Agent Agreement shall be governed under the laws of the State of New Mexico.
- 6.5 Unless otherwise indicated by this Agent Agreement, any notice required to be given by one party to the other shall be in writing by registered mail.
  - (a) Notices to Delta Dental shall be sent to: Delta Dental Plan of New Mexico, Inc.  
Vice President, Sales and Marketing  
2500 Louisiana Blvd. NE; Suite 600  
Albuquerque, NM 87110
  - (b) Notice to Agent shall be sent to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - (c) Commission Checks shall be payable to: \_\_\_\_\_  
Agent or Company (if Company, insert issued IRS name)
  - (d) Social Security Number if payable to individual Agent \_\_\_\_\_ or  
Tax Identification Number if payable to Company \_\_\_\_\_  
(IRS Form 1099 will be issued with this number)
- 6.6 This Agent Agreement is not intended to create any third party beneficiaries or to confer any rights on any person other than Delta Dental and Agent.
- 6.7 Neither Delta Dental nor Agent will have violated this Agent Agreement if it is prevented from performing any of its obligations for any reason beyond its control, including without limitation, acts of God, public enemy, flood, storm, strikes, or regulatory agencies.

IN WITNESS WHEREOF, the parties have caused this Agent Agreement to be executed as dated on page 1.

AGENT

DELTA DENTAL PLAN OF NEW MEXICO. INC.

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Vice President, Sales and Marketing

\_\_\_\_\_  
(Company Name)

**Exhibit A**

**AGENT STANDARD COMMISSION SCHEDULE**

The standard Agent commission for any Groups insured through Delta Dental Plan of New Mexico shall correspond to the following schedule based on the number of employees enrolled at the contract effective date or contract renewal date. Commission shall be the applicable percentage of the monthly premium collected.

<b><u># EMPLOYEES</u></b>	<b><u>COMMISSION %</u></b>
1 to 50	10.00
51 to 100	8.07
101 to 150	6.24
151 to 200	5.27
201 to 250	4.65
251 to 300	4.20
301 to 350	3.87
351 to 400	3.60
401 to 450	3.38
451 to 500	3.20
501 to 550	3.04
551 to 600	2.91
601 to 650	2.79
651 to 700	2.68
701 to 750	2.59
751 to 800	2.50
801 to 850	2.43
851 to 900	2.36
901 to 950	2.29
951 to 1000	2.23
1001 to 1100	2.15
1101 to 1200	2.05
1201 to 1300	1.97
1301 to 1400	1.90
1401 to 1500	1.83
1501 to 1600	1.77
1601 to 1700	1.71
1701 to 1800	1.66
1801 to 1900	1.62
1901 to 2000	1.58
2001 or more	1.53

Any variance in Agent commission from the above listed standard schedule shall be valid only if such variance is agreed to in writing by both Agent and Delta Dental Plan of New Mexico.

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
 requester. Do not  
 send to the IRS.**

<b>Print or type See Specific Instructions on page 2.</b>	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____  <input type="checkbox"/> Other (see instructions) ▶ _____	
	<input type="checkbox"/> Exempt payee	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number									

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number									

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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### General Instructions

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

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a “saving clause.” Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

#### **Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

### **Updating Your Information**

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

### **Penalties**

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

### **Specific Instructions**

#### **Name**

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the “Name” line. You may enter your business, trade, or “doing business as (DBA)” name on the “Business name/disregarded entity name” line.

**Partnership, C Corporation, or S Corporation.** Enter the entity's name on the “Name” line and any business, trade, or “doing business as (DBA) name” on the “Business name/disregarded entity name” line.

**Disregarded entity.** Enter the owner's name on the “Name” line. The name of the entity entered on the “Name” line should never be a disregarded entity. The name on the “Name” line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the “Name” line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the “Business name/disregarded entity name” line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

**Note.** Check the appropriate box for the federal tax classification of the person whose name is entered on the “Name” line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

**Limited Liability Company (LLC).** If the person identified on the “Name” line is an LLC, check the “Limited liability company” box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter “P” for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter “C” for C corporation or “S” for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the “Name” line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the “Name” line.

**Other entities.** Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

**Exempt Payee**

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
  2. The United States or any of its agencies or instrumentalities,
  3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
  4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
  5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
  7. A foreign central bank of issue,
  8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
  9. A futures commission merchant registered with the Commodity Futures Trading Commission,
  10. A real estate investment trust,
  11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
  12. A common trust fund operated by a bank under section 584(a),
  13. A financial institution,
  14. A middleman known in the investment community as a nominee or custodian, or
  15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

<b>IF the payment is for . . .</b>	<b>THEN the payment is exempt for . . .</b>
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 7 <sup>2</sup>

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** *A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.*

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

**Signature requirements.** Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.



**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup> The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records from Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

**Privacy Act Notice**

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.