



National Investors Title Insurance Company

INNOVATIVE BY INSTINCT

Federal Reporting Requirements

March 18, 2013

I. 1099-S, Proceeds From Real Estate Transactions

A. What is Reportable?

1. **Real Estate.** Generally, you are required to report a transaction that consists in whole or in part of the sale or exchange for money, indebtedness, property, or services of any present or future ownership interest in any of the following:
 - a. Improved or unimproved land, including air space.
 - b. Inherently permanent structures, including any residential, commercial, or industrial building.
 - c. A condominium unit and its appurtenant fixtures and common elements, including land.
 - d. Stock in a cooperative housing corporation.
 - e. Any non-contingent interest in standing timber.

Note Regarding Multiple Assets: If real estate is sold or exchanged and other assets are sold or exchanged in the same transaction, report the total gross proceeds from the entire transaction on Form 1099-S.

2. **Ownership interest.** An ownership interest includes fee simple interests, life estates, reversions, remainders, and perpetual easements. It also includes any previously created rights to possession or use for all or part of any particular year (e.g., a leasehold, easement, or timeshare), if such rights have a remaining term of at least 30 years, including any period for which the holder may renew such rights, determined on the date of closing. For example, a preexisting leasehold on a building with an original term of 99 years and a remaining term of 35 years on the closing date is an ownership interest; however, if the remaining term is 10 years, it is not an ownership interest. An ownership interest does not include any option to acquire real estate.

- B. Exceptions to Reporting.** The following is a list of transactions that are not reportable. However, you may choose to report them; but if you do, the return filed and the statement furnished to the seller must comply with the reporting rules. **(Do not report transactions if an exception applies.)**

1. **CERTIFICATION FOR NO INFORMATION REPORTING FORM.** If “true” is checked on all six assurances (or N/A for item #6) then no 1099-S is needed and you should hold the certification in your escrow file for a period of 4 years. (You may retain the certification on paper, microfilm, microfiche, or in an electronic storage system.)
 - a. The transaction involves the sale or exchange of a principal residence for \$250,000 or less (\$500,000 or less for married filing a joint return), and
 - b. They owned and used the residence as their principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange of the residence. (it does not have to be the most recent 2 years or be 2 consecutive years), and
 - c. They have not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the residence, and
 - d. They have not used any portion of the residence for business or rental purposes after May 6, 1997, and
 - e. They did not acquire the property as part of a 1031 exchange within the last five years, and
 - f. If the property was gifted to them and it was acquired (by the donor) as part of a 1031 exchange, the exchange was more than five years ago

NOTE: If there are joint sellers, you **must obtain a certification from each seller** (whether married or not) signed by each under penalties of perjury, and you must file Form 1099-S for any seller who does not make the certification.

NOTE: a way to avoid the hassle of tracking down 1099-S Forms or Certifications of No-Reporting at the end of January you may want to make it a Company requirement that your bookkeeping/disbursement department will not issue checks for funding until one of the forms is provided to the department. You will have greater success acquiring the information from the seller at the time of closing/funding rather than months down the road. They will be more inclined to provide the information if it is a condition of their receiving a proceeds check.

A sample certification form is included at the end of this paper.

2. **Any transaction in which the seller is**
 - a. A corporation;

Note regarding LLCs: According to the IRS, for "Federal tax purposes, an LLC business entity must file as either a corporation, partnership or sole proprietorship tax return." The form of taxation selected by the LLC

affects how the entity is treated. If the LLC submits a W-9 to you and indicates on the W-9 that it is treated as a corporation then you do not have to issue a 1099. If they do not submit any information to you, then you must assume that they are not exempt from receiving a 1099, and issue one to them. You can't assume they are exempt - you have to assume an entity gets a 1099 unless you have backup for your decision.

- b. A governmental unit, including a foreign government or an international organization; or
- c. An exempt volume seller.

An **exempt volume seller** is someone who sold or exchanged during the year, who expects to sell or exchange during the year, or who sold or exchanged in either of the 2 previous years, at least 25 separate items of reportable real estate to at least 25 separate buyers. In addition, each item of reportable real estate must have been held, at the date of closing, or will be held, primarily for sale or resale to customers in the ordinary course of a trade or business. You are not required to report an exempt volume seller's transactions if you receive the penalties of perjury certification required by Regulations section 1.6045-4(d)(3).

- 3. **Any transaction that is not a sale or exchange**, including a bequest, a gift (including a transaction treated as a gift under section 1041), and a financing or refinancing that is not related to the acquisition of real estate.
- 4. **A transfer in full or partial satisfaction of a debt secured by the property**. This includes a foreclosure, a transfer in lieu of foreclosure, or abandonment.
- 5. **A de minimus transfer for less than \$600**. A transaction is de minimus if it can be determined with certainty that the total money, services, and property received or to be received is less than \$600, as measured on the closing date. For example, if a contract for sale provides for total consideration of "\$1.00 plus other valuable consideration," the transfer is not a de minimus transfer unless you can determine that the "other valuable consideration" is less than \$599, as measured on the closing date. The \$600 rule applies to the transaction as a whole, not separately to each seller.
- 6. The following are also **not reportable if the transaction is not related to the sale or exchange of reportable real estate**:
 - a. An interest in crops or surface or subsurface natural resources, that is, timber, water, ores, and other natural deposits, whether or not such crops or natural resources are severed from the land.
 - b. A burial plot or vault.

- c. A manufactured structure used as a dwelling that is manufactured and assembled at a location different from that where it is used, but only if such structure is not affixed, on the closing date, to a foundation.

C. Who Must File? Generally, the person responsible for closing the transaction, as explained in 1 below, is required to file Form 1099-S. If no one is responsible for closing, the person required to file Form 1099-S is explained in 2 below. However, you may designate the person required to file Form 1099-S in a written agreement, as explained under 3 below.

1. The person responsible for closing the transaction must file the 1099-S.

- a. If a Uniform Settlement Statement, prescribed under RESPA, is used, the person responsible for closing is the person listed as the settlement agent on that statement.
- b. If a Uniform Settlement Statement is NOT used, or no settlement agent is listed, the person responsible for closing is the person who prepares the closing statement, including a settlement statement or other written document that identifies the seller, buyer, and real estate transferred, and that describes how the proceeds are to be disbursed.
- c. If no closing statement is used, or if two or more statements are used, the person responsible for closing is, in the following order:
 - 1) The buyer's attorney if the attorney is present at the delivery of either the buyer's note or a significant part of the cash proceeds to the seller or if the attorney prepares or reviews the preparation of the documents transferring legal or equitable ownership;
 - 2) The seller's attorney if the attorney is present at the delivery of either the buyer's note or a significant part of the cash proceeds to the seller or if the attorney prepares or reviews the preparation of the documents transferring legal or equitable ownership; or
 - 3) The disbursing title or escrow company that is most significant in disbursing gross proceeds.

If there is more than one attorney described in (a) or (b), the one whose involvement is most significant is the person responsible for filing.

2. If no one is responsible for closing the transaction as explained in 1 above, the person responsible for filing is, in the following order:

- a. the mortgage lender,
- b. the seller's broker,
- c. the buyer's broker, or
- d. the buyer (the person who acquires the greatest interest in the property. If no one acquires the greatest interest, the buyer is the person listed first on the ownership transfer documents)

3. Designation agreement. You can enter into a written agreement at or before closing to designate who must file Form 1099-S for the transaction. The

You may be designated in the agreement as the person who must file if you are the person responsible for closing (as explained in 1 above), the buyer's or seller's attorney (as explained in 1 above), a title or escrow company that is most significant in terms of the gross proceeds disbursed, or the mortgage lender (as explained in 2a above).

The designation agreement may be in any written form and may be included on the closing statement. It must:

- a. Identify by name and address the person designated as responsible for filing;
- b. Include the names and addresses of each person entering into the agreement;
- c. Be signed and dated by all persons entering into the agreement;
- d. Include the names and addresses of the seller and buyer; and
- e. Include the address and any other information necessary to identify the property.

Note: Each person who signs the agreement must retain it for 4 years.

D. How to Report?

1. Multiple Sellers.

- a. For multiple sellers of the same real estate, you must file a separate Form 1099-S for each seller.
- b. At or before closing, you must request from the sellers an allocation of the gross proceeds among the sellers.
- c. You may rely on the unchallenged response of any seller, and you need not make additional contacts with other sellers after at least one complete allocation is received. If you receive the allocation, report gross proceeds on each Form 1099-S accordingly.
- d. You are not required to, but you may, report gross proceeds in accordance with an allocation received after the closing date but before the due date of Form 1099-S (without extensions). However, you cannot report gross proceeds in accordance with an allocation received on or after the due date of Form 1099-S (without extensions).
- e. If no gross proceeds are allocated to a seller because no allocation or an incomplete allocation is received, you must report the total unallocated gross proceeds on the Form 1099-S made for that seller. If you do not receive any allocation or you receive conflicting allocations, report on each seller's Form 1099-S the total unallocated gross proceeds.

2. Husband and Wife.

- a. If the sellers were husband and wife at the time of closing, who held the property as joint tenants, tenants by the entirety, tenants in common, or as community property, treat them as a single seller.

- b. Only one Form 1099-S showing either of them as the seller is required.
 - c. You need not request an allocation of gross proceeds if husband and wife are the only sellers.
- 3. Partnerships.**
- a. If the property is transferred by a partnership, file only one Form 1099-S for the partnership, not separate Forms 1099-S for each partner. *(This reporting requirement will also apply to any LLC that has elected to be treated as a partnership for tax purposes.)*
- 4. Foreign Sellers.**
- a. Sales or exchanges involving foreign sellers are reportable on Form 1099-S. *(This reporting is in addition to any possible FIRPTA requirements as are discussed later in this paper.)*
- 5. Multiple Assets Sold.**
- a. If real estate is sold or exchanged and other assets are sold or exchanged in the same transaction, report the total gross proceeds from the entire transaction on Form 1099-S.
- 6. Taxpayer Identification Numbers.**
- a. You must request the seller's TIN no later than the time of closing.
 - b. The seller is required to furnish his or her TIN and to certify that the TIN is correct.
 - 1) For U.S. persons (including U.S. resident aliens), you may request a TIN on Form W-9, Request for Taxpayer Identification Number and Certification.
 - 2) Foreign persons must provide their TIN to you on the appropriate Form W-8.
 - 3) **Note:** a deceased seller cannot receive a 1099-S
 - a) The sale of their property can be reported through their estate with the estate's tax identification number or with the executor's name and tax identification number.
 - c. Alternatively, you may provide a written statement to the seller similar to the following: *"You are required by law to provide (insert name of person responsible for filing) with your correct taxpayer identification number. If you do not provide (insert name of person responsible for filing) with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law."*
 - 1) If the seller refuses to provide their TIN you must still report the 1099-S with the reason why they refused.
 - d. The solicitation must contain space for the name, address, and TIN of the seller, and a place to certify under penalties of perjury that the TIN furnished is the correct TIN of the seller. The certification must read similar to: *"Under penalties of perjury, I certify that I am a U.S. person or U.S. resident alien and the number shown on this statement is my correct taxpayer identification number."*
 - e. If you use a Uniform Settlement Statement (under RESPA), you may provide a copy of such statement, appropriately modified to solicit the

Note: You will be able to avoid delays/surprises at closing if you request the seller's TIN when you deliver the commitment to the parties.

7. Statements to Sellers.

- a. If you are required to file Form 1099-S, you must provide a statement to the seller. Furnish a copy of Form 1099-S or an acceptable substitute statement to each seller. *Any substitute statements to payees must contain the tax year, form number, and form name prominently displayed together in one area of the statement.*
- b. Must file by February 28, 2014, or March 31, 2014, if filing electronically.

II. What is FIRPTA

A. Summary

- 1. The Foreign Investment in Real Property Tax Act ("FIRPTA") imposes a tax on gain realized upon the transfer of a United States real property interest by a foreign person (the "seller").
 - a. For the purposes of FIRPTA, a "foreign person" is a non-resident alien, foreign individual or foreign entity, including corporations, partnerships, trusts and estates owned entirely or in part by a foreign individual or entity.
- 2. FIRPTA generally requires that if a foreign person disposes of a United States real property interest, then the person acquiring such interest (the "buyer") must withhold a tax equal to the lesser of (i) ten percent (10%) of the amount realized by the seller or (ii) the seller's maximum tax liability as determined by the IRS.
 - a. The buyer must pay the amount withheld to the IRS no more than twenty (20) days after the transfer. If the buyer does not collect and pay this tax to the IRS, then any agent involved in the transaction also becomes liable for the tax.
 - 1) The "date of the transfer" is defined by the Regulations to be the date the buyer first paid consideration (not including the initial deposit) or assumed liability for the transaction.
 - 2) Along with the withholding tax, the buyer must furnish the IRS with Form 8288 (U.S. Withholding Return for Dispositions by Foreign Persons of U.S. Real Property Interests) and Form 8288-A (Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests).

B. U.S. Real Property Interest

- 1. What sales are covered by FIRPTA?** All sales, including installment sales, exchanges, foreclosures, deeds in lieu of foreclosure and other transactions by a "foreign person" of a U.S. real property interest that close on or after January 1, 1985; unless an exemption applies.
2. A U.S. real property interest ("USRPI") is any interest, other than solely as a creditor, in real property (including an interest in a mine, well, or other natural deposit) located in the United States or the U.S. Virgin Islands, as well as certain personal property that is associated with the use of real property (such as farming machinery or hotel furniture). It also means any interest, other than solely as a creditor, in any domestic corporation unless it is established that the corporation was at no time a U.S. real property holding corporation during the shorter of the period during which the interest was held, or the 5-year period ending on the date of disposition. If on the date of disposition, the corporation did not hold any U.S. real property interests, and all the interests held at any time during the shorter of the applicable periods were disposed of in transactions in which the full amount of any gain was recognized, then FIRPTA withholding would not apply.

C. Rates of Withholding

1. The buyer must deduct and withhold a tax equal to 10% (or other amount) of the total amount realized by the foreign person on the disposition. The amount realized is the sum of (1) The cash paid, or to be paid (principal only), (2) the fair market value of other property transferred, or to be transferred, and (3) the amount of any liability assumed by the buyer or to which the property is subject immediately before and after the transfer. The amount realized is generally the amount paid for the property. If the property transferred was owned jointly by U.S. and foreign persons, the amount realized is allocated between the sellers based on the capital contribution of each seller.
2. A foreign corporation that distributes a U.S. real property interest must withhold a tax equal to 35% of the gain it recognizes on the distribution to its shareholders.
3. A domestic corporation must withhold a tax equal to 10% of the fair market value of the property distributed to a foreign shareholder if (1) the shareholder's interest in the corporation is a U.S. real property interest, and (2) the property distributed is either in redemption of stock or in liquidation of the corporation.

D. Exceptions from FIRPTA Withholding. No person shall be required to withhold tax with respect to a disposition of a USRPI if one of the following exceptions applies to the transaction:

1. The property is acquired for use by the **BUYER** as the buyer's residence and the sales price is not more than \$300,000.00. (This is the most common exception.)
 - a. The buyer or a member of their family must have definite plans to reside at the property for at least 50% of the number of days the property is used by any person during each of the first two 12-month periods following the date of transfer. When counting the number of days the property is used, do not count the days the property will be vacant.
2. The buyer receives a "withholding certificate" (also called a "qualifying statement") from the IRS, stating that no withholding is required.
 - a. The buyer is not required to withhold 10% of the amount realized when the IRS issues a withholding certificate, which has the effect of either reducing the amount of the withholding tax or eliminating it altogether.
 - b. The withholding certificate may be issued when the IRS determines that the seller is exempt from U.S. tax, in which case the buyer will not be required to withhold any tax.
 - c. The buyer, the buyer's agent, or the seller may request a withholding certificate. The IRS will generally act on these requests within 90 days after receipt of a complete application including the Taxpayer Identification Numbers (TIN's) of all the parties to the transaction.
3. Seller gives buyer written notice that no recognition of any gain or loss on the sale is required because of a non-recognition provision in the IRS Code or in a U.S. tax treaty. Buyer must file a copy of the notice with the IRS.
4. The amount the seller realizes on the sale is zero.
5. Property is acquired by the United States, a U.S. state or possession, a political subdivision, or the District of Columbia.
6. The seller furnishes a "Certification of Non-foreign Status" stating under penalty of perjury that they are not a foreign person. The certification must also contain the seller's taxpayer identification number. If a corporation, partnership, trust or estate seller, the certification must further certify that the seller is not treated as a "disregarded entity".
 - a. This exemption is not available if the buyer has actual knowledge that the certification is false, or if an agent in the transaction informs the buyer that it is false, or if the agent requests the buyer to furnish a copy of the certification and the buyer fails to comply.
 - b. Obtaining the "Certification of Non-foreign Status" is the best way to insure compliance with FIRPTA.

c. Disregarded Entity.

- 1) A “Disregarded Entity” is a business entity that has only a single owner and that owner elects to NOT be treated as a corporation. Thus, it is “disregarded” as an entity separate from the owner of the entity for tax purposes. If the entity is disregarded, it is treated as a division of the owner and the certificate must be given by the owner of the disregarded entity.

- d. Who or what is a "foreign person"?** A foreign person is a nonresident alien individual (an **individual who is not a U.S. citizen or a resident alien**), or a foreign corporation that has not properly made an election under 897(i) of the Internal Revenue Code to be treated as a domestic corporation (i.e., a disregarded entity as described above), or a foreign partnership, trust, estate or other entity.

As a guideline, an individual is not a foreign person if he/she:

- 1) is a United States citizen, or
- 2) is a **resident alien** (holder of a “green card” that has not been revoked), or meets the "substantial presence" test.
 - a) **Green card test.** An alien is considered a resident, for tax purposes, if they are a Lawful Permanent Resident of the United States at any time during the calendar year (i.e., hold a green card).
 - b) **Substantial presence test.** To meet this test, the alien must be physically present in the United States on at least:
 1. 31 days during the calendar year, and
 2. 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
 - a. All the days you were present in the current year, and
 - b. 1/3 of the days you were present in the first year before the current year, and
 - c. 1/6 of the days you were present in the second year before the current year.

e. What if the Seller does not have a Tax ID?

- 1) The fact that the seller does not yet have a Tax ID number should not prevent closing. The seller should complete an application for a T.I.N and the application should be delivered with the withholding amount to the buyer for submission to the IRS.

E. Settlement Agent’s Role.

1. An agent is any person who represents the seller or buyer in any negotiation with another person (or another person's agent) relating to the transaction, or

NOT treated as an agent if the person only performs one or more of the following acts related to the transaction:

- a. Receipt and disbursement of any part of the consideration,
- b. Recording of any document,
- c. Typing, copying, and other clerical tasks,
- d. Obtaining title Insurance reports and reports concerning the condition of the property, or
- e. Transmitting documents between the parties.

2. Closing concerns

- a. In closing the transaction, settlement agents should be careful not to exceed the boundaries of their obligations and responsibilities in connection with the transaction. The closing agent should not provide advice to the parties concerning the legal and tax ramifications relating to the transaction.

1) **Quote from the IRS website:** *“If you are the buyer/buyer you must find out if the seller is a foreign person. If the seller is a foreign person and you fail to withhold, you may be held liable for the tax. For cases in which a U.S. business entity such as a corporation or partnership disposes of a U.S. real property interest, the business entity itself is the withholding agent.”*

- b. **Contracts now require delivery of the Certification of Non-Foreign Status.**

1) **The following provision is from Section 20 of the Standard TREC 1-4 Contract:**

FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by applicable law, or if Seller fails to deliver an affidavit to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

2) **The following provision is from Section 10.D(7) of the Standard TAR Contract:**

At closing, Seller, at Seller's expense, will also deliver to Buyer an affidavit acceptable to the escrow agent stating that Seller is not a foreign person or, if Seller is a foreign person, a written authorization for the escrow agent to: (i) withhold from Seller's proceeds an amount sufficient to comply with applicable tax law, and (ii) deliver the amount to the Internal Revenue Service together with appropriate tax forms.

- c. Disclosure of the foreign status of the seller should be made by the closing agent to the buyer when the closing agent becomes aware, usually following solicitation of the TIN from the seller for 1099-S reporting.
- d. **Recommended closing procedures**
 - 1) You should always require the seller to execute a Certificate of Non-Foreign Status Individual Seller or Certificate of Non-Foreign Status Entity Seller at closing. However, it would be advisable and good business practice to send a sample certification form to your seller when you deliver the commitment. This will help to prevent unnecessary surprises at the closing table. Additionally, the Seller may wish to request a withholding certificate from the IRS and the IRS has 90 days to respond to such request.
 - 2) If you become aware that the seller is a foreign person, provide the buyer with the attached Notice to Purchaser(s) Regarding Transfer of United States Real Property Interest by Foreign Persons. In this instance you should further require the following:
 - a) Withhold the 10% from the seller (unless the seller provides you with a withholding certificate from the IRS) and issue a check at closing to the IRS and deliver the same to the buyer. Do not take on the responsibility of the buyer in reporting and filing with the IRS.
 - b) **Again, it is the buyer's responsibility to complete the appropriate IRS forms and deliver the withheld funds to the IRS.**
 - 3) If the parties indicate they will handle the reporting outside of closing you should require written instructions from each that direct you not to withhold from the seller's proceeds.
- e. Retain the Certificate for five (5) tax years after the tax year in which the transaction occurs.
- f. Contact Underwriting Support if you need any additional information or guidance concerning FIRPTA.
- 3. **Potential Liability.** A Withholding Agent is personally liable for the full amount of FIRPTA withholding tax required to be withheld, plus penalties and interest. A Withholding Agent is any person having the control, receipt, custody, disposal or payment of income that is subject to withholding.
 - a. ***What is the potential liability of the buyer for failure to withhold when required?*** The IRS can assess the full 10 percent of the sales price that should have been withheld, or the seller's actual tax liability in the sale, whichever is less, plus interest and penalties, against the

- b. *What potential liability to the IRS is faced by the agents of the buyer and seller?*** An agent of the buyer or seller is potentially liable to the IRS for the 10 percent of the sales price that should have been withheld, or for the seller's actual tax liability in the sale, or for the amount of commission or other compensation received by the agent, whichever is less, plus interest and penalties, but only if:
- 1) the seller provides a non-foreign affidavit and the agent knows the affidavit is false, or
 - 2) the interest being sold is shares of stock or some other interest in a US. Real Property Holding Corporation and the corporation furnishes a statement that the transfer of the interest is not a transfer of a U.S. real property interest and the agent knows the statement is false.

III. Cash Reporting Requirements (Cash exceeding \$10,000.00) – Form 8300

A. Who must file Form 8300? Any person, in a trade or business who receives more than \$10,000 in one transaction or a series of related transactions.

B. Why Report These Payments?

1. Drug dealers and smugglers often use large cash payments to “launder” money from illegal activities. Laundering means converting “dirty” or illegally gained money to “clean” money. The government can often trace this laundered money through the payments you report. Laws passed by Congress require you to report these payments. Your compliance with these laws provides valuable information that can stop those who evade taxes and those who profit from the drug trade and other criminal activities.

C. What Is A Related Transaction?

1. Transactions between a buyer (or an agent of the buyer) and a seller that occur within a 24-hour period are related transactions.
2. More than 24 hours between transactions. Transactions are related even if they are more than 24 hours apart if you know, or have reason to know, that each is one of a series of connected transactions.

D. What Payments Must Be Reported? You must file Form 8300 to report cash paid to you if the cash payment is:

1. **Over \$10,000,**
2. **Received as:**
 - a. One lump sum of over \$10,000,
 - b. Installment payments that cause the total cash received within 1 year of the initial payment to total more than \$10,000, or
 - c. Other previously unreportable payments that cause the total cash received within a 12month period to total more than \$10,000,
3. Received in the course of trade or business,
4. Received from the same buyer (or agent), and
5. Received in a single transaction or in related transactions (defined later).

E. What does the IRS consider to be Cash?

1. The coins and currency of the United States (and any other country), and
2. A cashier's check, bank draft, traveler's check, or money order you receive, if it has a face amount of \$10,000 or **LESS** and you receive it in:
 - a. A designated reporting transaction (defined later), or
 - b. Any transaction in which you know the payer is trying to avoid the reporting of the transaction on Form 8300.

Note: Cash may include a cashier's check even if it is called a "treasurer's check" or "bank check."

F. What is NOT considered Cash? Cash does not include a check drawn on an individual's personal account.

1. A cashier's check, bank draft, traveler's check, or money order with a face amount of **more than \$10,000** is not treated as cash. These items are **not defined as cash** and you do not have to file Form 8300 when you receive them **because, if they were bought with currency, the bank or other financial institution that issued them must file a report on FinCEN Form 104.**

G. What About Suspicious Transactions?

1. If you receive \$10,000 or less in cash, you may voluntarily file Form 8300 if the transaction appears to be suspicious.
2. A transaction is suspicious if it appears that a person is trying to cause you not to file Form 8300 or is trying to cause you to file a false or incomplete Form 8300, or if there is a sign of possible illegal activity.
3. If you are suspicious, you are encouraged to call the local IRS Criminal Investigation Division as soon as possible. Or, you can call the FinCEN Financial Institution Hotline toll free at 1-866-556-3974.

H. When and What To File

1. You must file Form 8300 within 15 days after the date the cash was received. A copy must be provided to the person named in the Form 8300 by January 31st of the following year.

2. You must furnish the correct Tax ID (“TIN”) of the person or persons from whom you receive the cash. If the transaction is conducted on the behalf of another person or persons, you must furnish the TIN of that person or persons. Do not accept the cash if they cannot provide you with a TIN.

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**Substitute Form 1099S
Proceeds from Real Estate**

Settlement Agent Name and Address	Seller/Transferor's Name and Address
XYZ Title 201 S. Broadway Austin, TX 78257	Jane Doe 1234 Oak Trail Austin, TX 78231 SSN/Tax ID:

Transaction Information	
Date of Closing	
Gross Proceeds	\$500,000.00
Allocation of Gross Proceeds	\$500,000.00
Total Tax Proration Credit	
Description	1806 Dallas Ave Brownwood, TX 76801
Transferor received or will receive property or services as part of the consideration	No
GF Number	1303014

- This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it has not been reported.

- You are required by law to provide the Settlement Agent with your correct Tax Payer Identification Number. If you do not provide the Settlement Agent with your correct Tax Payer Identification Number, you may be subject to civil or criminal penalties imposed by law.

- Under penalties of perjury, I certify that the number shown above on this statement is my correct Tax Payer Identification Number. I acknowledge receipt of a copy of this statement.

Jane Doe

Date

Date

Seller Instructions

Sign and return a copy of this form immediately to the Settlement Agent.

If this real estate was your principal residence, file Form 2119, Sale or Exchange of Principal Residence, for any gain, with your income tax return. For other transactions, complete the applicable parts of Form 4797, Gains and Losses From Sales or Exchanges of Assets Used in Trade or Business and Involuntary Conversions, Form 6252, Computation of Installment Sale Income, and/or Schedule D (Form 1040), Capital Gains and Losses Reconciliation of Forms 1099-B.

APPENDIX

CERTIFICATION FOR NO INFORMATION REPORTING ON THE SALE OR EXCHANGE OF A PRINCIPAL RESIDENCE

This form may be completed by the seller of a principal residence. This information is necessary to determine whether the sale or exchange should be reported to the seller, and to the Internal Revenue Service on Form 1099-S, *Proceeds From Real Estate Transactions*. If the seller properly completes Parts I and III, and makes a "true" response to assurances (1) through (6) in Part II (or a "not applicable" response to assurance (6)), no information reporting to the seller or to the Service will be required for that seller. The term "seller" includes each owner of the residence that is sold or exchanged. Thus, if a residence has more than one owner, a real estate reporting person must either obtain a certification from each owner (whether married or not) or file an information return and furnish a payee statement for any owner that does not make the certification.

Part I. Seller Information

1. Name Jane Doe
2. Address or legal description (including city, state, and ZIP code) of residence being sold or exchanged

3. Taxpayer Identification Number (TIN) _____

Part II. Seller Assurances

Check "true" or "false" for assurances (1) through (5), and "true", "false", or "not applicable" for assurance (6).

True False

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | (1) I owned and used the residence as my principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange or the residence. |
| <input type="checkbox"/> | <input type="checkbox"/> | (2) I have not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the residence. |
| <input type="checkbox"/> | <input type="checkbox"/> | (3) I (or my spouse or former spouse, if I was married at any time during the period beginning after May 6, 1997, and ending today) have not used any portion of the residence for business or rental purposes after May 6, 1997. |
| <input type="checkbox"/> | <input type="checkbox"/> | (4) At least one of the following three statements applies:
The sale or exchange is of the entire residence for \$250,000 or less.
OR
I am married, the sale or exchange is of the entire residence for \$500,000 or less, and the gain on the sale or exchange of the entire residence is \$250,000 or less.
OR
I am married, the sale or exchange is of the entire residence for \$500,000 or less, and (a) I intend to file a joint return for the year of the sale or exchange, (b) my spouse also used the residence as his or her principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange of the residence, and (c) my spouse also has not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the principal residence. |

True False

(5) During the 5-year period ending on the date of the sale or exchange of the residence, I did not acquire the residence in an exchange to which section 1031 of the Internal Revenue Code applied.

True False N/A

(6) If my basis in the residence is determined by reference to the basis in the hands of a person who acquired the residence in an exchange to which section 1031 of the Internal Revenue Code applied, the exchange to which section 1031 applied occurred more than 5 years prior to the date I sold or exchanged the residence.

Part III. Seller Certification

Under penalties of perjury, I certify that all the above information is true as of the end of the day of the sale or exchange.

Jane Doe

Date

CERTIFICATION OF NONFOREIGN STATUS OF
INDIVIDUAL TRANSFEROR

GF # _____

To: **Bob Smith** (Insert Purchaser's name here)

From: **Jane Doe** (Insert Seller's name here)

Section 1445 of the Internal Revenue Code provides that a Transferee (Buyer of a U.S. Real Property interest must withhold tax if the Transferor (Seller) is a foreign person. To inform the Transferee (Buyer) that withholding of tax is not required upon my disposition of a U.S. real property interest, I/we Jane Doe hereby certify the following:

1. I am not a nonresidential alien for purposes of U.S. income taxation.
2. My taxpayer identifying number or Social Security number is _____.
3. My home address is _____.

I understand that the Transferee may disclose the certification to the Internal Revenue Service and that any false statement I have made here could be punished by fine, imprisonment, or both.

Under the penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief, it is true, correct and complete.

Date: _____

TRANSFEROR:

Jane Doe

**CERTIFICATION OF NONFOREIGN STATUS BY
CORPORATION, PARTNERSHIP, TRUST OR ESTATE**

GF # _____

To: **XYZ, LLC** (Insert Purchaser's name here)

From: **ABC, Inc.** (Insert Seller's name here)

Section 1445 of the Internal Revenue Code provides that a Transferee (Buyer) of a U.S. real property interest must withhold tax if the Transferor (Seller) is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the Transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by Transferor (Seller), the undersigned hereby certifies the following on behalf of the Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in section 1.1445-2(b)(2)(iii);
3. Transferor's U.S. employer identification number is _____; and
4. Transferor's office address is _____.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief, it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

Date: _____

TRANSFEROR:

ABC, Inc.

By: _____

Printed Name: _____

Title: _____

Request for Taxpayer Identification Number and Certification

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

Print or type See Specific Instructions on page 2.	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.

Sign Here	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

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.

IF the payment is for . . .	THEN the payment is exempt for . . .
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 ¹	Generally, exempt payees 1 through 7 ²

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² 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. 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 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 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 ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
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 ¹ The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
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 ⁴
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

¹ 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.

² Circle the minor's name and furnish the minor's SSN.

³ 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.

⁴ 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. 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 or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit 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.

**XYZ TITLE .
201 S. Broadway
Dallas, TX 76801**

March 12, 2013

Jane Doe
1234 Rose Lane
Dallas, TX 76471

Re: GF #1201017
Sale of 1234 Rose Lane, Dallas, TX 76471
To: Bob Smith

Dear Ms. Doe,

In reference to the above captioned transaction, enclosed please find copies of the following documents:

- Commitment for Title Insurance
- **W-9 -Request for Taxpayer Identification Number and Certification** (Section 6045 of the Internal Revenue Code, as amended by the Tax Reform Act of 1997, requires the reporting of certain information to the IRS on real estate transactions. You are required by law to provide the settlement agent with your correct taxpayer identification number. If you do not provide the settlement agent with your correct tax payer identification number, you may be subject to civil or criminal penalties imposed by law.

Please note that there are often issues that could arise at the time of closing that may not appear of record in Dallas County. As such, in an effort to avoid any delays in closing, we ask that you please complete the enclosed questionnaire at your earliest convenience and return it to my attention.

Additionally, if you have a loan(s) to be paid off at closing we ask that you please complete the enclosed Payoff Information and Authorization form and forward it to our office to assist us in obtaining the necessary payoff information.

We look forward to being of service to you in this transaction. Should you have any questions or desire additional information, please do not hesitate to contact our office.

Sincerely,

Penny Closer
Escrow Officer

Enclosures

Payoff Information & Authorization for GF# 1201017

Borrower Name(s) _____ SS# _____

_____ SS# _____

Address: _____

City, State, Zip: _____

Telephone: () _____

Fax #: () _____

Loan #: _____

Property Address: _____

Mortgage Company: _____

Address: _____

City, State, Zip: _____

Telephone: () _____

Fax#: () _____

TO: Mortgage Company named above:

Please accept this form as my/our authorization to release information regarding my/our loan with you to The XYZ Title Company, 201 S. Broadway, Dallas, TX 76804, Telephone #XXX-XXX-XXXX, Fax # XXX-XXX-XXXX. A copy or facsimile of this form shall be effective as the original.

Date

Signature

Date

Signature

GF #1201017
Jane Doe to Bob Smith

MARITAL STATUS

Marital status of Seller: single married divorced widow/widower

IF MARRIED before or after the purchase of subject property.

IF DIVORCED since purchase of property; name of ex-spouse: _____

County/State divorced in: _____ If outside of county, may require certified copy of decree.

IF WIDOWED since purchase of property; name of deceased spouse: _____

Date of death: _____ What county did death take place: _____

Did spouse leave a will? yes no Was will probated? yes no

If no will, was Affidavit of Heirship done? yes no

BANKRUPTCY/COURT PROCEEDINGS/LIENS

Are you currently involved in a Bankruptcy proceeding or have proceedings ever been instituted by, or against you? yes no If yes, what district was the proceeding filed in? _____. What is the year and cause number for the proceeding? _____

Are there any proceedings relating to the subject property which are now pending in any State or Federal Court in the United States? yes no If yes, please describe the proceeding below.

Do you owe past taxes and/or the IRS? yes no

GENERAL

Do you plan on using a Power of Attorney? yes no

Provide a copy to the title company/Attorney as soon as possible.

Do you plan to use an EXISTING survey if approved by our office? yes no

Will you be attending the closing at our office? yes no If no, please contact our office at your earliest convenience so that we may coordinate your closing accordingly.
