

U.S. Withholding Tax Treaty Statement (For Non-Individual Entities)



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Please ensure an Authorised Person completes the U.S. Withholding Tax Treaty Statement for the entity.
Please use black or blue pen and write in CAPITALS. If you need help completing this form, please call us on 13 13 80.

Section 1 Trading Account details

Legal name of Entity* ("The Entity")

nabtrade Global Market Trading Account Number

Section 2 Limitation on Benefit Treaty Statement – Non-individual Australian Residents Only

"The Entity" named above is a resident of Australia and meets all provisions of the Australia-U.S. Tax Convention that are necessary to claim a reduced rate of withholding, including the limitation on benefits provisions, and derives the income within the meaning of section 894 of the U.S. Income Tax Code, and the regulations thereunder, as the beneficial owner. In particular, "The Entity" meets the requirements of the limitation on benefits provisions in the Australia-U.S. Tax Convention on the basis that one of the following categories applies (please check only one box below):

- Company that meets "the ownership and base erosion" test
- Trust and other entities (including Superannuation, Testamentary trusts and partnerships) that meets the "ownership and base erosion" test
- Government
- Publicly traded corporation or trust or subsidiary of such entity
- Pension fund
- Tax-exempt organisation (including charities)
- Entity that carries on an active trade or business
- Other (please write the provision under which you qualify):

Name of Authorised Person to sign on behalf of Entity listed in Section 1 (PLEASE PRINT)

Signature

X	Date / /
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Account Title

*For trusts, state the name of the trust (i.e. ABC Trust). Do not state the name of the trustee in the legal entity name (ABC Ltd as trustee for ABC Trust)

Please note that this document/explanation is not intended for natural persons (individuals) resident in Australia or any government, governmental entity or agency.

This explanation is provided to assist certain clients in obtaining only a general understanding of their requirements under the withholding tax rules. It is not intended to be, nor should it be construed to be, legal or tax advice to any client, prospective or otherwise. Clients are encouraged to consult a registered tax agent for advice based on their specific facts and circumstances.

Entity clients that would like to claim reduced rates of withholding tax on investment income earned on U.S. securities under the Australia-US Income Tax Convention of 1983 as amended by the 2002 Protocol (No. 1), (herein after referred to as the "Treaty") must certify that they are eligible for Treaty Benefits. Failure to certify the Treaty Statement above will result in the application of non-treaty rates of withholding (generally 30%) on the client's U.S. source investment income. This is in comparison to Treaty rates of generally 15% on U.S. source dividends and 10% on U.S. source interest. A treaty statement is valid for three (3) years unless there is a change in circumstances. We will request a new treaty statement prior to the date that this treaty statement expires.

As part of the certification process, entity clients are asked to certify the following TREATY STATEMENT: *[Name of entity] meets all the provisions of the Treaty that are necessary to claim a reduced rate of withholding, including any limitation on benefits provision, and derives the income within the meaning of section 894 of the Code, and the regulations thereunder, as the beneficial owner.*

The reference to section 894 of the Code and the regulations thereunder, refers to the U.S. Income Tax Code and the related Income Tax Regulations.

The Limitation on Benefits ("LOB") Article, found in Article 16 of the Treaty defines which entities are entitled to the benefits under the Treaty, including reduced rates of withholding on certain income, such as dividends and interest. Certification of the above statement indicates that the recipient of U.S. source income meets the definition of a "qualified person" as set forth in Article 16 of the Treaty. The entity must also certify which provision in Article 16 it satisfies to be entitled to reduced rates of withholding.

Listed below are explanations of the LOB categories under the Treaty. Entities can benefit from reduced withholding rates once they certify the treaty and LOB statements. Please note that there are various tests which must be met by each entity in order to be classified as a "qualified person". The main categories applicable to the Treaty are:

1. **Company or trust that meets "the ownership and base erosion" test** – This test generally requires that (a) more than 50% of either the votes and value of a company, the interests in a trust (including Australian superannuation entities and testamentary trusts), partnership or other entity, be owned, directly or indirectly, by qualified persons who are individuals, governments, tax-exempt entities, publicly-traded companies or publicly-traded trusts resident in Australia or the U.S., and (b) less than 50% of entity's gross income is accrued or paid, directly or indirectly, to persons other than such qualified persons. For example, if a superannuation fund only has members that are Australian tax residents, then the "ownership and base erosion" test should be satisfied.
2. **Government** – This test is generally met if the entity is the Government of Australia, a political subdivision, or local authority, agency or instrumentality of the Government of Australia.
3. **Publicly traded corporation and trusts** – This test generally requires the corporation's principal class of shares to be primarily and regularly traded on a recognised stock exchange in its country of residence (e.g. the Australian Stock Exchange) or the US. Under the Treaty, this test also captures a trust whose principal class of units are primarily and regularly traded on a recognised stock exchange in Australia or the U.S.
4. **Subsidiary of publicly traded corporation or trust** – This test generally requires that more than 50% of the votes and value of the company's shares be owned, directly or indirectly, by five or fewer companies that are publicly-traded corporations (described in item 3 above), as long as each company in the chain of ownership is a qualified person. Under the Treaty, more than 50% of the beneficial interest in a trust must also be owned, directly or indirectly, by qualified persons and each company or trust in the chain of ownership must be a qualified person resident in Australia or the U.S.
5. **Pension fund** – This test generally covers an entity established and maintained to provide pensions or other similar benefits to employed or self-employed persons, provided more than half the beneficiaries or participants in the trust or fund are residents of the country of residence of the entity or the U.S., even if the entity is exempt from tax.
6. **Other tax-exempt organization** – This test generally covers an entity organized and established exclusively for a religious, charitable, educational, scientific or similar purpose, even if the entity is generally exempt from tax.
7. **Active business** – This test generally requires that (a) the person be engaged in an active trade or business (other than the business of making or managing investments, unless such activities are carried on by a bank, insurance company or securities dealer) in its country of residence, (b) the company's activities in that country are substantial in relation to its U.S. activities, and (c) any U.S. source income is derived in connection with or is incidental to that trade or business.
8. **Other** – Any other applicable provision under Article 16 of the Treaty not mentioned above.

Section 3

Explanation of the Limitation on Benefits Article and Treaty Statement (continued)

Non-Qualified Persons

A person that is a resident of Australia but does not fit into one of the categories for “qualified persons”, listed above, may still be entitled to treaty benefits if it is engaged in the active conduct of a trade or business in Australia (as defined in Article 16(3) of the Treaty).

Section 4

Next Steps

Please complete and return this form and any attachments to:

Post:	Fax:	Email:
nabtrade GPO Box 4545 Melbourne VIC 3001	1300 368 758	forms@nabtrade.com.au

Please note: Our preferred file format for returned forms is PDF.

Please visit nabtrade.com.au/support to view our Frequently Asked Questions