

# Instructions for Form 8802

## (Rev. November 2015)



Department of the Treasury  
Internal Revenue Service

(Use with the April 2012 revision of Form 8802.)

### Application for United States Residency Certification

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

<b>Contents</b>	<b>Page</b>
U.S. Residency Certification . . . . .	<u>1</u>
General Instructions . . . . .	<u>2</u>
Purpose of Form . . . . .	<u>2</u>
When To Apply . . . . .	<u>2</u>
User Fee . . . . .	<u>2</u>
Where To Apply . . . . .	<u>2</u>
Who Is Eligible for Form 6166 . . . . .	<u>3</u>
Who Is Not Eligible for Form 6166 . . . . .	<u>3</u>
Special Rules . . . . .	<u>3</u>
Certification Under the 3-Year Procedure . . . . .	<u>2</u>
Form 8802 Filed Before Return Posted by the IRS . . . . .	<u>4</u>
Individuals With Residency Outside the United States . . . . .	<u>4</u>
Form 1116, Foreign Tax Credit . . . . .	<u>4</u>
United Kingdom . . . . .	<u>4</u>
Specific Instructions . . . . .	<u>4</u>
Check Boxes at Top of Page 1 . . . . .	<u>4</u>
Additional Requests . . . . .	<u>4</u>
Foreign Claim Form . . . . .	<u>5</u>
Line 2. Applicant's Address . . . . .	<u>5</u>
Line 3a. Mailing Address . . . . .	<u>5</u>
Line 3b. Third Party Appointee's Information . . . . .	<u>5</u>
Line 4a. Individual . . . . .	<u>6</u>
Line 4b. Partnership . . . . .	<u>6</u>
Line 4c. Trust . . . . .	<u>7</u>
Line 4d. Estate . . . . .	<u>8</u>
Line 4e. Corporation . . . . .	<u>8</u>
Line 4f. S Corporation . . . . .	<u>8</u>
Line 4g. Employee Benefit Plan/Trust . . . . .	<u>8</u>
Line 4h. Exempt Organization . . . . .	<u>8</u>
Line 4i. Disregarded Entity . . . . .	<u>8</u>
Line 4j. Nominee Applicant . . . . .	<u>9</u>
Line 5. Statement Required If Applicant Did Not File a U.S. Income Tax Return . . . . .	<u>9</u>
Table 1. Statement Required If Applicant Did Not File a U.S. Income Tax Return . . . . .	<u>10</u>
Line 6. Parent, Parent Organization, or Owner . . . . .	<u>10</u>
Line 7. Calendar Year of Request . . . . .	<u>11</u>
Line 8. Tax Period(s) . . . . .	<u>11</u>

<b>Contents</b>	<b>Page</b>
Line 9. Purpose of Certification . . . . .	<u>11</u>
Line 10. Penalties of Perjury Statements and Attachments . . . . .	<u>11</u>
Table 2. Current Year Penalties of Perjury Statements . . . . .	<u>12</u>
Signature and Date . . . . .	<u>14</u>
Table 3. Who Has Authority To Sign Form 8802 . . . . .	<u>15</u>
Daytime Phone Number . . . . .	<u>15</u>
Line 11. Number of Certifications (Forms 6166) Requested for Each Country . . . . .	<u>15</u>
Line 12. Total Number of Certifications (Forms 6166) Requested . . . . .	<u>15</u>
When To Seek U.S. Competent Authority Assistance . . . . .	<u>15</u>

States for federal tax purposes. The IRS provides this residency certification on Form 6166, a letter of U.S. residency certification. Form 6166 is a computer-generated letter printed on stationary bearing the U.S. Department of Treasury letterhead, and the facsimile signature of the Field Director, Philadelphia Accounts Management Center.

Form 6166 will only certify that, for the certification year (the period for which certification is requested), you were a resident of the United States for purposes of U.S. taxation, or in the case of a fiscally transparent entity, that the entity, when required, filed an information return and its partners/ members/owners/beneficiaries filed income tax returns as residents of the United States.

Upon receiving Form 6166 from the IRS, unless otherwise directed, you should send Form 6166 to the foreign withholding agent or other appropriate person in the foreign country to claim treaty benefits. Some foreign countries will withhold at the treaty-reduced rate at the time of payment, and other foreign countries will initially withhold tax at their statutory rate and will refund the amount that is more than the treaty-reduced rate on receiving proof of U.S. residency.

**Other conditions for claiming treaty benefits.** In order to claim a benefit under a tax treaty, there are other requirements in addition to residence. These include the requirement that the person claiming a treaty-reduced rate of withholding be the beneficial owner of the item of income and meet the limitation on benefits article of the treaty, if applicable.

The IRS cannot certify whether you are the beneficial owner of an item of income or that you meet the limitation on benefits article, if any, in the treaty. You may, however, be required by a foreign withholding agent to establish directly with the agent that these requirements have been met.

### Future Developments

For the latest information about developments related to Form 8802 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/form8802](http://www.irs.gov/form8802).

### What's New

**Third-party appointee.** The procedures for naming a third-party appointee on Form 8802 have been expanded and clarified. See the instructions for line 3b, later.

### U.S. Residency Certification

#### Income Tax Treaty

Many foreign countries withhold tax on certain types of income paid from sources within those countries to residents of other countries. The rate of withholding is set by that country's internal law. An income tax treaty between the United States and a foreign country often reduces the withholding rates (sometimes to zero) for certain types of income paid to residents of the United States. This reduced rate is referred to as the treaty-reduced rate.

Many U.S. treaty partners require the IRS to certify that the person claiming treaty benefits is a resident of the United



*You should examine the specific income tax treaty to determine if any tax credit, tax exemption, reduced rate of tax, or other treaty benefit or safeguards apply.*

## Value Added Tax (VAT)

Form 6166 may also be used as proof of U.S. tax residency status for purposes of obtaining an exemption from a VAT imposed by a foreign country. In connection with a VAT request, the United States can certify only to certain matters in relation to your U.S. federal income tax status, and not that you meet any other requirements for a VAT exemption in a foreign country.

## General Instructions

### Purpose of Form

Form 8802 is used to request Form 6166, a letter of U.S. residency certification for purposes of claiming benefits under an income tax treaty or VAT exemption. You cannot use Form 6166 to substantiate that U.S. taxes were paid for purposes of claiming a foreign tax credit.

You cannot claim a foreign tax credit to reduce your U.S. tax liability with respect to foreign taxes that have been reduced or eliminated by reason of a treaty. If you receive a refund of foreign taxes paid with the benefit of Form 6166, you may need to file an amended return with the IRS adjusting any foreign tax credits previously claimed for those taxes.

### When To Apply

You should mail your application, including full payment of the user fee, at least 45 days before the date you need Form 6166. We will contact you after 30 days if there will be a delay in processing your application. You can call (267) 941-1000 (not a toll-free number) and select the U.S. residency option if you have questions regarding your application.

**Early submission for a current year certification.** The IRS cannot accept an early submission for a current year Form 6166 that has a postmark date before December 1 of the prior year. Requests received with a postmark date earlier than December 1 will be returned to the sender. For example, a Form 6166 request for 2016:

- Received with a postmark date before December 1, 2015, cannot be processed.

- Received with a postmark date on or after December 1, 2015, can be processed with the appropriate documentation.

### User Fee

Form 8802 application(s) will not be processed until the \$85 non-refundable user fee is paid. The user fee is for the number of applications requested, not the number of certifications requested.

**Additional request.** Additional requests for Form 6166 submitted on a separate Form 8802, following the procedures established under *Additional Requests*, later, will require the payment of an \$85 user fee.



*Applicants are advised to request all Forms 6166 on a single Form 8802 to avoid paying the \$85 user fee charged for processing a second Form 8802.*

**3-year procedure.** You are required to pay the \$85 user fee for each Form 8802 application submitted under the 3-year procedure. See *Certification Under the 3-Year Procedure*, later.

### Method of Payment

Payment of the user fee can be by check, money order, or electronic payment.

### Check or Money Order

Form 8802 must be accompanied by a check or money order in U.S. dollars, payable to the United States Treasury, in the appropriate amount. Do not submit foreign checks. Do not send cash.

**Multiple Forms 8802.** If you are submitting multiple Forms 8802, you may submit a single check or money order payment to cover the aggregate amount of the user fee for all Forms 8802. No more than 200 Forms 8802 can be associated with one check or money order.

**Note.** If you pay by check, it will be converted into an electronic funds transfer (EFT). This means we will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will usually occur within 24 hours, and will be shown on your regular account statement. You will not receive your original check back. We will destroy your original check, but we will keep a copy of it. If the EFT cannot be processed for technical reasons, you

authorize us to process the copy of the check.

### Electronic Payment (e-payment)

You can access the electronic payment page at the Pay.gov website. Go to [www.pay.gov](http://www.pay.gov), and enter "IRS Certs User Fee" in the search box. At the "IRS Certs" topic, click the "Continue to the Form" button. Follow the on-screen prompts, and enter the required information when requested.

The user fee website requires the entry of the following information.

- Applicant's name.
- Applicant's TIN or EIN.
- Submitter's name (name of person or entity submitting the payment).
- Contact email address.
- Contact phone number.
- Number of Form(s) 8802 submitted.
- Payment amount.
- Selection of bank account (Automatic Clearing House (ACH)) or debit or credit card, which will open a window for account information.

Once your electronic payment has been processed, you will receive an electronic payment confirmation number for the transaction. Enter the electronic payment confirmation number on page 1 of Form 8802 before you submit the application. You can use either the Agency Tracking ID or the Pay.gov ID as the electronic payment confirmation number. Either one is acceptable. If you make an electronic payment covering multiple Forms 8802, the same electronic payment confirmation number must be written on each form. Form 8802 will not be processed if the electronic payment confirmation number has not been entered on the application.

### Supplemental User Fee Payment

If you have been contacted by the U.S. Residency Certification Unit to make a supplemental payment, you can use the e-payment system on [IRS.gov](http://IRS.gov) by checking the supplemental user fee checkbox.

### Where To Apply

The method by which you can submit Form 8802 to the IRS depends upon how you choose to pay the user fee.

### Payment by Check or Money Order

If you are paying the user fee by check or money order, send the payment, Form 8802, and all required attachments to:

Internal Revenue Service  
P.O. Box 71052  
Philadelphia, PA 19176-6052

Or, by private delivery service to:

Internal Revenue Service  
2970 Market Street  
BLN# 3-E08.123  
Philadelphia, PA 19104-5016

## Electronic Payment

After the electronic confirmation number has been entered on page 1 of Form 8802, you can submit Form 8802 and all required attachments by mail, private delivery service, or fax (see below for limitations on the use of faxed transmissions).

If you are paying the user fee by e-payment, send Form 8802 and all required attachments to:

Department of the Treasury  
Internal Revenue Service  
Philadelphia, PA 19255-0625

Or, by private delivery service to:

Internal Revenue Service  
2970 Market Street  
BLN# 3-E08.123  
Philadelphia, PA 19104-5016

**Fax.** You can fax up to 10 Forms 8802 (including all required attachments) for a maximum of 50 pages to the fax numbers below. A fax cover sheet stating the number of pages included in the transmission must be used.

The following fax numbers are not toll free:

- (267) 941-1035
- (267) 941-1366

## Who Is Eligible for Form 6166

In general, under an income tax treaty, an individual or entity is a resident of the United States if the individual or entity is subject to U.S. tax by reason of residence, citizenship, place of incorporation, or other similar criteria. U.S. residents are subject to tax in the United States on their worldwide income. An entity may be considered subject to tax on its worldwide income even if it is statutorily exempt from tax, such as a pension fund or charity. Similarly, individuals are considered subject to tax even if their income is less than the amount that would require that they file an income tax return.

In general, Form 6166 is issued only when the IRS can verify that for the year for which certification is requested one of the following applies:

- You filed an appropriate income tax return (for example, Form 1120 for a domestic corporation),
- In the case of a certification year for which a return is not yet due, you filed a return for the most recent year for which a return was due, or
- You are not required to file an income tax return for the tax period on which certification will be based and other documentation is provided.

## Who Is Not Eligible for Form 6166

In general, you are not eligible for Form 6166 if, for the tax period for which your Form 6166 is based, any of the following applies:

- You did not file a required U.S. return.
- You filed a return as a nonresident (including Form 1040NR, U.S. Nonresident Alien Income Tax Return; Form 1040NR-EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents; Form 1120-F, U.S. Income Tax Return of a Foreign Corporation; Form 1120-FSC, U.S. Income Tax Return of a Foreign Sales Corporation; or any of the U.S. possession tax forms).
- You are a dual resident individual who has made (or intends to make), pursuant to the tie-breaker provision within an applicable treaty, a determination that you are not a resident of the United States and are a resident of the other treaty country. For more information and examples, see Reg. section 301.7701(b)-7.
- You are a fiscally transparent entity organized in the United States (that is, a domestic partnership, domestic grantor trust, or domestic LLC disregarded as an entity separate from its owner) and you do not have any U.S. partners, beneficiaries, or owners.
- The entity requesting certification is an exempt organization that is not organized in the United States.

## Special Rules

### Certification Under the 3-Year Procedure

Estates, employee benefit plans/trusts, and exempt organizations (lines 4d, 4g, and 4h) can submit a Form 8802 that covers up to a 3-year period (the current year and the following two tax years). If you request certification under this procedure, you must submit a Form

8802 for each year, but in years 2 and 3 you only need to attach a copy of the year 1 Form 8802 (including the penalties of perjury statement), provided there are no material changes to the information entered on the Form 8802 in year 1.

**Note.** If you choose to use the 3-year procedure, write "Filed Under the 3-Year Procedure" at the top of page 1 of the Form(s) 8802 filed for each year.

You cannot use this procedure if there is a material change of fact (including name or permanent address) with respect to the estate, employee benefit plan/trust, or exempt organization during the period for which the certification is requested.

**First year.** In the first year for which a certification is requested under this procedure, you must submit a completed Form 8802, signed and dated by the applicant, with the current year entered on line 7. Attach Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Taxpayer Information Authorization, as applicable, to Form 8802. Form 2848 or Form 8821 must apply to all of the years for which certification is requested. For the rules relating to Forms 2848 and 8821, including the 3-year procedure, see *Line 3b. Third Party Appointee's Information*, later.

In year 1, a penalty of perjury statement is required stating that the applicant is a U.S. resident and will continue to be so through the current tax year and the following two tax years. See Table 2 for the penalty of perjury statement for the 3-year procedure that must be entered on line 10 of Form 8802 or attached to the form.

**Second year.** In the second year for which certification is requested under this procedure, you must submit a completed Form 8802 requesting certification for year 2 with a copy of the year 1 Form 8802 (including the penalty of perjury statement) and Form 2848 or Form 8821 attached, as applicable.

Enter the current year on line 7. A penalty of perjury statement and signature are not required on the Form 8802 filed in year 2. However, you must enter "See attached year 1 Form 8802 filed under the 3-year procedure" on line 10.

**Third year.** In the third year for which certification is requested under this procedure, you must submit a completed Form 8802 requesting



certification for year 3 and attach a copy of the year 1 Form 8802 (including the penalty of perjury statement) and Form 2848 or Form 8821 attached, as applicable.

Enter the current year on line 7. A penalty of perjury statement and signature are not required on the Form 8802 filed in year 3. However, you must enter "See attached year 1 Form 8802 filed under the 3-year procedure" on line 10.

### **Form 8802 Filed Before Return Posted by the IRS**

If your return has not been posted by the IRS by the time you file Form 8802, you will receive a request to provide a signed copy of your most recent return. If you recently filed your return, it may take less time to process your application if you include a copy of the income tax return with your Form 8802. Write "COPY — do not process" on the tax return.

### **Individuals With Residency Outside the United States**

If you are in any of the following categories for the current or prior tax year for which certification is requested, you must submit a statement and documentation, as described below, with Form 8802.

1. You are a resident under the internal law of both the United States and the treaty country for which you are requesting certification (you are a dual resident).
2. You are a green card holder or U.S. citizen who filed Form 2555, Foreign Earned Income.
3. You are a bona fide resident of a U.S. possession.

If you are a dual resident described in category 1, above, your request may be denied unless you submit evidence to establish that you are a resident of the United States under the tie-breaker provision in the residence article of the treaty with the country for which you are requesting certification.

If you are described in category 2 or 3, attach a statement and documentation to establish why you believe you should be entitled to certification as a resident of the United States for purposes of the relevant treaty. Under many U.S. treaties, U.S. citizens or green card holders who do not have a substantial presence, permanent home, or habitual abode in the United States during the tax year are not entitled to treaty benefits. U.S.

citizens or green card holders who reside outside the United States must examine the specific treaty to determine if they are eligible for treaty benefits and U.S. residency certification. See *Exceptions*, below.

If you are described in category 2 and are claiming treaty benefits under a provision applicable to payments received in consideration of teaching or research activities, see Table 2 for the penalties of perjury statement you must either enter on line 10 of Form 8802 or attach to the form.

### **Exceptions**

You do not need to attach the additional statement or documentation requested if you:

- Are a U.S. citizen or green card holder; and
- Are requesting certification only for Bangladesh, Bulgaria, Cyprus, Hungary, Iceland, India, Kazakhstan, Malta, New Zealand, Russia, South Africa, Sri Lanka, Ukraine; and
- The country for which you are requesting certification and your country of residence are not the same.

### **Form 1116, Foreign Tax Credit**

If you have filed or intend to file a Form 1116, Foreign Tax Credit, claiming either a foreign tax credit amount in excess of \$5,000 U.S. or a foreign tax credit for any amount of foreign earned income for the tax period for which certification is requested, you must submit evidence that you were (or will be if the request relates to a current year) a resident of the United States and that the foreign taxes paid were not imposed because you were a resident of the foreign country.

In addition, individuals who have already filed their federal income tax return must submit a copy of it, including any information return(s) relating to income, such as Form W-2 or Form 1099, along with the Form 1116. Your request for U.S. residency certification may be denied if you do not submit the additional materials.

### **United Kingdom**

If you are applying for relief at source from United Kingdom (U.K.) income tax or filing a claim for repayment of U.K. income tax, you may need to complete a U.K. certification form (US/Individual 2002 or US/Company 2002) in addition to Form 8802. For copies of these forms, contact HM Revenue and Customs.

- On the Internet at

[www.hmrc.gov.uk](http://www.hmrc.gov.uk), click the link for "Publications." In the "Contains" box on the left, enter "US Double Taxation 2002."

- Telephone at: 44-115-974-0897 if calling from outside the U.K., or 0115-974-0897 if calling from the U.K.

Send the completed U.K. form to the IRS with your completed Form 8802.

---

## **Specific Instructions**

### **Check Boxes at Top of Page 1**

#### **Additional Requests**

Check this box if Form 8802 is being submitted to request additional Form(s) 6166 for a tax period for which the IRS has previously issued a Form 6166 to you. Additional requests on a separate Form 8802 will require a non-refundable user fee of \$85. See *User Fee*, earlier.

An applicant can only use this additional request procedure if there are no changes to the applicant's tax information provided on the original Form 8802. An applicant may use this procedure to obtain a Form 6166 for any country or countries, whether or not the country was identified on a previously filed Form 8802. An additional request for Form 6166 using this procedure must be made within 12 months of the most recently issued Form 6166 relating to the same tax period.

**Additional documentation.** If you are requesting certification for a previously identified country and if additional documentation was necessary for the original application, it does not need to be resubmitted with the request for an additional Form 6166. In the signature line of the additional request form, write "See attached copy of the original Form 8802." Attach a copy of the original Form 8802.

If you are requesting Form 6166 for a country not identified on a previously filed Form 8802 that requires documentation not previously submitted, you must include that documentation with the additional request. Sign and date the additional request form. Attach a copy of the original Form 8802.

**Additional request made by third party appointees.** Third party appointees cannot use this special procedure to request additional Form(s) 6166 for countries that were not originally authorized by the taxpayer in their previously signed and dated Form 8802. If you anticipate using the

additional request procedure to authorize a third party appointee to request additional Forms 6166 for a country not identified in your current Form 8802, you must include in line 10, a written statement authorizing the third party appointee to request Form 6166 covering the same tax period for any country.

## Foreign Claim Form

Check the box if you have included with Form 8802 a foreign claim form sent to you by a foreign country. The submission or omission of a foreign claim form will not affect your residency certification. If the IRS does not have an agreement with the foreign country to date stamp, or otherwise process the form, we will not process it and such foreign claim form will be mailed back to you.

**Note.** For more information about foreign countries with which the IRS has an agreement to process a foreign claim form, call the U.S. residency certification unit at (267) 941-1000 (not a toll-free number).

## Applicant's Name and U.S. Taxpayer Identification Number

As part of certifying U.S. residency, the IRS must be able to match the name(s) and taxpayer identification number(s) (TIN(s)) on this application to those previously verified on either the U.S. return filed for the tax period for which certification is to be based or on other documentation you provide.

Enter the applicant's name and TIN **exactly** as they appear on the U.S. return filed for the tax period(s) for which certification will be based. If the applicant was not required to file a U.S. return, enter the applicant's name and TIN as they appear on documentation previously provided to the IRS (for example, Form 8832, Entity Classification Election) or on documentation provided by the IRS (for example, a determination letter).

**Joint return.** If a joint income tax return was filed for a tax period for which certification will be based, enter the spouse's name and TIN **exactly** as they appear on the return filed.

**Change in taxpayer's name.** If the taxpayer's name has changed since the most recent Form 8802 was filed with the IRS, the Form 8802 and tax disclosure authorization for each individual or entity must be submitted under the taxpayer's new name. In

addition, documentation of the name change must be submitted with Form 8802 (for example, trust agreement, corporate charter).

Certification will not be issued if the name change has not been updated in the IRS database. Businesses and trusts of estates can notify the IRS of a name change by checking the appropriate box on Forms 1120, 1120S, 1065, or 1041, when filed. Individuals can indicate a name change on Form 1040 when filed. If you change your name and address, you can notify the IRS of the changes on Form 8822. Individuals should also notify the Social Security Administration (SSA) of a name change by filing Form SS-5, Application for a Social Security Card with the SSA. See IRS.gov for more information.

For additional information on how to notify the IRS of your new name, you can also contact customer service. For businesses, the number is 1-800-829-4933. For individuals, the number is 1-800-829-1040.

## Line 2. Applicant's Address



*Do not enter a P.O. box number or C/O address. Certification may be denied if the applicant enters a P.O. box or C/O address.*

Enter your address for the calendar year for which you are requesting certification. If you are an individual who lived outside the United States during the year for which certification is requested, the special rules under *Individuals With Residency Outside the United States*, earlier, may apply to you.

## Line 3a. Mailing Address

Form 6166 and any related correspondence can be mailed to you or to a third party appointee. If you provide an address on line 3a, it will be used for all mail correspondence relating to your Form 6166 request. If you do not indicate a mailing address on line 3a, Form 6166 will be mailed to the address on line 2. If the mailing address entered on line 3a is for a third party appointee, you must provide written authorization on line 3b for the IRS to release the certification to the third party.

## Line 3b. Third Party Appointee's Information

Enter the name of your third party appointee(s) on line 3b of Form 8802. Providing this information constitutes

written authorization for the IRS to communicate with the third party appointee(s) identified on line 3b when you submit the signed and dated Form 8802.

The third party appointee identified on line 3b should be someone the IRS can communicate with in order to resolve questions related to the processing of your Form 8802. This individual should be knowledgeable about Form 8802, and be able to respond to any IRS questions regarding your Form 8802. If you enter an entity such as a corporation or trust on line 3b, identify a specific individual at the entity who can answer questions about your Form 8802. If a specific individual is not identified, the IRS is authorized to communicate with any person employed by the entity.

If you have multiple appointees, attach a list of the additional appointees not identified on line 3b whom the IRS can communicate with regarding your Form 8802. If only one individual is shown on line 3b, the IRS is authorized to communicate only with that person.

You are not required to enter the telephone or fax number of your third party appointee. However, providing a telephone or fax number will expedite the processing of your Form 8802 if the IRS has any questions. By providing a telephone or fax number, you are authorizing the IRS to communicate with your third party appointee(s).

The Centralized Authorization File (CAF) contains information on third parties authorized to represent taxpayers before the IRS and/or receive and inspect confidential tax information. If your appointee has a CAF number, enter it on line 3b.

In general, you do not need to fill out line 3b if you have attached Form 2848 or Form 8821. In line 3b, write "See attached authorization." Attach a Form 2848 or Form 8821 for each third party that you authorize to receive your tax information. If you have multiple third party appointees, see the instructions for Form 2848 or Form 8821.

**Form 8821, Taxpayer Information Authorization, and Form 2848, Power of Attorney and Declaration of Representative.** Form 8821 is used to authorize disclosure of tax information to a third party designee of the taxpayer. Form 8821 cannot be used to authorize a third party to sign Form 8802 on your behalf, and it does not authorize a third party to represent you before the IRS. Pursuant to section 6103(c) and the

regulations thereunder, authorization on Form 8821 will not be accepted if it covers matters other than federal tax matters.

Form 2848 authorizes a third party to represent you before the IRS. Only individuals who are recognized to practice before the IRS can be authorized to represent you. The only individuals who can be recognized representatives are the following:

- Attorneys
- Certified Public Accountants
- Enrolled Agents
- Enrolled Actuaries (the authority to practice before the IRS is limited)
- Student attorney or CPA (must receive permission to practice before the IRS)
- Enrolled Retirement Plan Agents (the authority to practice before the IRS is limited)
- Certain individuals who have a special relationship or status with the taxpayer

For more information, see Pub. 947, Practice Before the IRS and Power of Attorney.

**3-year procedure.** Under the 3-year procedure, the third party appointee completes a Form 8802 in the first year that must be signed and dated by the applicant. In the following two tax years the third party appointee must complete a new Form 8802 that is not required to be signed and dated by the applicant. Form 2848 or Form 8821 must be attached to Form 8802 in year 1 and must indicate all years in the 3-year period for which certification is requested.

For more information, see *Certification Under the 3-Year Procedure*, earlier.

## Line 4a. Individual

**Green card holder.** If you are a resident alien with lawful permanent resident status who recently arrived in the United States and you have not yet filed a U.S. income tax return, you should provide a copy of your current Form I-551, Alien Registration Receipt Card (green card). Instead of a copy of your green card, you can attach a statement from U.S. Citizenship and Immigration Services (USCIS) that gives your alien registration number, the date and port of entry, date of birth, and classification. For more information in determining your U.S. resident status for tax purposes, see *Nonresident Alien or Resident Alien*, in Pub. 519, U.S. Tax Guide for Aliens.

**Sole proprietor.** Include on line 6 the type of tax return, name, TIN, and any other information that would be required if certification were being requested for the individual owner that filed the Schedule C (Form 1040), Profit or Loss From Business.

**U.S. resident alien.** An individual who is not a lawful permanent resident of the United States but who meets the “substantial presence test” under section 7701(b) is a resident alien for purposes of U.S. taxation. If you are a resident alien under the substantial presence test and you have not yet filed a U.S. income tax return for the year for which certification is requested, you must attach a copy of your current Form I-94, Arrival-Departure Record. Enter the date (YYYYMMDD) your status changed on the line provided. For information on determining your period of residency, see *Substantial Presence Test* in Pub. 519.

### **Students, teachers, and trainees.**

If you filed Form 1040, U.S. Individual Income Tax Return, and you are in the United States under an “F1,” “J1,” “M1,” or “Q1” visa, include the following with Form 8802.

1. A statement explaining why Form 1040 was filed.
2. A statement and documentation showing that you reported your worldwide income.

**Note.** Nonresident aliens present in the United States on these visas may be exempt individuals for 2 or more years, and are not resident aliens under the substantial presence test while they are exempt individuals. See section 7701(b) (5).

**First-year election.** If you are an individual who made or intends to make the first-year election under section 7701(b)(4) applicable to the year for which certification is requested, enter the date (YYYYMMDD) your status as a U.S. resident for tax purposes will begin. For more information regarding the first-year election and determining your period of residency, see *First-Year Choice* in Pub. 519.

- If you have made a first-year residence election under section 7701(b)(4) applicable to the year for which you are requesting certification, attach to Form 8802 the election statement you filed with your income tax return for the taxable year of election.
- If, for the calendar year for which certification is requested, you have not yet filed a first-year residence election

statement, attach to Form 8802 a statement that you intend to file such statement and that you are eligible to make the election.

**Dual-status alien.** An individual is a dual-status alien for U.S. tax purposes if the individual is a part-year resident alien and a part-year nonresident alien during the calendar year(s) for which certification is requested. Dual-status generally occurs in the year an individual acquires status as a U.S. resident or terminates such status. For example, you are a dual-status alien if you are a U.S. citizen or green card holder and you lost citizenship or green card holder status during the same calendar year. You may also be a dual-status alien if you are a non-resident alien but due to meeting the substantial presence test become a resident alien during the same calendar year.

The dual-status alien classification does not occur merely due to a temporary absence from the United States, nor will multiple periods of temporary absence and re-entry into the United States create multiple periods of U.S. resident and non-resident status. For information and examples of a dual-status alien, and to determine your period of residency, see Pub. 519.

If you checked the dual-status box, enter the dates (YYYYMMDD) that correspond to the period that you were a resident of the United States during the year(s) for which certification is requested.

**Partial-year Form 2555 filer.** Check this box if you filed a Form 2555 that covered only part of a year for which certification is requested. For each year that this applies, enter the eight-digit dates (YYYYMMDD) that correspond to the beginning and ending of the period you were a resident of the United States.

## Line 4b. Partnership

Partnerships are not considered U.S. residents within the meaning of the residence article of U.S. income tax treaties. A domestic partnership is not considered a U.S. resident, even if all partners are U.S. residents. Treaty benefits are only available to a partner who is a U.S. resident whose distributive share of partnership income includes the item of income paid to the partnership.

**Note.** The Form 6166 issued to partnerships will include an attached list of partners that are U.S. residents. The



IRS does not certify the percentage of ownership interest of the listed partners. It is the responsibility of the partnership to provide such information to the withholding agent.

Include the following with Form 8802:

1. The name and TIN of each partner for which certification is requested and any additional information that would be required if certification were being requested for each of those partners.

2. Authorization (for example, Form 8821) from each partner, including all partners listed within tiered partnerships. Each authorization must explicitly allow the third-party requester to receive the partner's tax information and must not address matters other than federal tax matters.

3. Unless the requester is a partner in the partnership during the tax year for which certification is requested, authorization from the partnership must explicitly allow the third-party requester to receive the partnership's tax information. The authorization must not address matters other than federal tax matters.

An LLC that is classified as a partnership follows the above procedures. Members of the LLC are treated as partners.

**Nominee partnership.** Do not check the partnership box on line 4b. Instead, check line 4j and attach the information required by the instructions.

## Line 4c. Trust

Domestic and foreign grantor trusts and simple trusts can be certified for U.S. residency, to the extent the owner of the grantor trust or beneficiaries of simple trusts are U.S. residents. Domestic complex trusts may be certified without regard to the residence of the settler or beneficiaries.

A trust is domestic if a court within the U.S. is able to exercise primary supervision over the administration of the trust and one or more U.S. persons has authority to control all substantial decisions of the trust.

**Grantor trust.** Include the following with Form 8802:

1. The name and TIN of each owner and any information that would be required if certification were being requested for each owner.

2. Authorization (for example, Form 8821) from each owner. Each authorization must explicitly allow the third-party requester to receive the

owner's tax information and must not address matters other than federal tax matters.

3. Unless the requester is a trustee of the trust, authorization from the trust must explicitly allow the third-party requester to receive the trust's tax information. The authorization must not address matters other than federal tax matters.

4. If the grantor trust is a foreign trust, also include a copy of Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner, including a copy of the foreign grantor trust owner statement.

**Domestic complex trust.** Unless the requester is a trustee of the trust during the tax year for which certification is requested, authorization from the trust must explicitly allow the third-party requester to receive the trust's tax information. The authorization must not address matters other than federal tax matters.

**Simple trust.** A simple trust is not a resident, because all of its income is required to be distributed currently to its beneficiaries. A simple trust must, therefore, be certified at the beneficiary level. Include the following with Form 8802.

1. The name and TIN of each beneficiary and any information that is required to certify each beneficiary.

2. Authorization (for example, Form 8821) from each beneficiary. Each authorization must explicitly allow the third-party requester to receive the beneficiary's tax information and must not address matters other than federal tax matters.

3. Unless the requester is a trustee of the trust, authorization from the trust must explicitly allow the third-party requester to receive the trust's tax information. The authorization must not address matters other than federal tax matters.

**Group trust arrangement, described in Rev. Rul. 81-100.** A group trust arrangement that has received a determination letter recognizing its exempt status under section 501(a) must attach a copy of that letter to Form 8802.

A group trust arrangement that is seeking benefits from Switzerland with respect to dividends paid by a Swiss corporation must also attach to Form 8802 the name of each participant and a statement that each participant listed is

a trust forming part of a plan described in section 401(a), 403(b), or 457(b).

**IRA.** Domestic individual retirement arrangements (individual retirement accounts within the meaning of section 408(a) and Roth IRAs within the meaning of section 408A) (collectively referred to as IRAs) may be certified as residents (without regard to the residence of the IRA holder). Either the IRA holder or the trustee of the IRA may request certification on behalf of the IRA.

An IRA holder requesting certification on behalf of an IRA must provide the IRA account name (that is, the IRA holder's name) and number, the IRA holder's TIN, and a copy of Form 8606, Nondeductible IRAs, or Form 5498, IRA Contribution Information. Complete the remainder of Form 8802 as if certification were being requested by the IRA.

A bank or financial institution acting as the trustee for IRAs may request certification for multiple IRAs grouped by year and by country for which certification is requested. The bank or financial institution must include the following with Form 8802:

1. A list of IRA account names and account numbers for which certification is requested.

2. A statement that each IRA account name and number listed is an IRA within the meaning of section 408(a) or 408A.

3. A statement that the bank or financial institution is a trustee of the IRA.

**Common trust fund as defined in section 584.** Include the following with Form 8802:

1. The name and TIN of each participant and any information that would be required if certification were being requested for each participant.

2. Authorization (for example, Form 8821) from each participant. Each authorization must explicitly allow the third-party requester to receive the participant's tax information and must not address any matters other than federal tax matters. If a pass-through entity is a participant, you must list the partners/shareholders/owners/participants/members/beneficiaries in the pass-through entity and obtain authorization from each such participant.

3. Unless the requester is a trustee of the trust, authorization from the trust must explicitly allow the third-party

requester to receive the trust's tax information. The authorization must not address matters other than federal tax matters.

A common trust fund that is seeking benefits from Switzerland with respect to dividends paid by a Swiss corporation must also attach to Form 8802 the name of each participant and a statement that each participant listed is a trust forming part of a plan that is described in section 401(a), 403(b), or 457(b), or is a trust forming part of a plan described in section 401(a), 403(b), or 457(b) that is within a group trust arrangement described in Rev. Rul. 81-100, 1981-13 I.R.B. 33, as clarified and modified by Rev. Rul. 2004-67, 2004-28 I.R.B. 28 and modified by Rev. Rul. 2011-1, 2011-2 I.R.B. 251, and Rev. Rul. 2014-24, 2014-37 I.R.B. 529. Also, see Notice 2012-6.

#### Line 4d. Estate

If you are filing a Form 8802 on behalf of the estate of a decedent, you must include proof that you are the executor or administrator of the decedent's estate. Form 8802 can be submitted on behalf of an estate for the year of the taxpayer's death or any prior year. Proof can include a court certificate naming you executor or administrator of the estate. U.S. residency certification will be based on the tax information and residency of the decedent.

**3-year procedure.** If you check box 4d, you may be able to use the 3-year procedure. See *Certification Under the 3-Year Procedure*, earlier.

#### Line 4e. Corporation

Generally, a corporation is a resident entitled to U.S. residency certification only if it is incorporated in the United States. An unincorporated domestic entity, such as an LLC, can be a resident if it is an association taxable as a corporation.

Certain foreign corporations can be treated as domestic corporations if they qualify as U.S. corporations under sections 269B, 953(d), and 1504(d). Only Canadian and Mexican corporations are eligible to be treated as domestic corporations under section 1504(d). Foreign corporations can obtain residency certification if they can establish that they are covered by these Code sections.

Corporations requesting U.S. residency certification on behalf of their subsidiaries must attach a list of the subsidiaries and the Form 851,

Affiliations Schedule, filed with the corporation's consolidated return.

**Dual-resident corporation.** If you are requesting certification for treaty benefits in the other country of residence named on line 4e, certification depends on the terms of the residence article of the relevant treaty. If the treaty provides that benefits are available only if the competent authorities reach a mutual agreement to that effect, request competent authority assistance in accordance with Rev. Proc. 2015-40, 2015-35 I.R.B. 236, prior to seeking certification.

#### Line 4f. S Corporation

S corporations are not considered U.S. residents within the meaning of the residence article of U.S. income tax treaties. Treaty benefits are only available to a shareholder who is a U.S. resident for purposes of the applicable treaty.

Include the following with Form 8802:

1. The name and TIN of each shareholder for which certification is requested and any additional information that would be required if certification were being requested for each of those shareholders.
2. Authorization (for example, Form 8821) from each shareholder. Each authorization must explicitly allow the third-party requester to receive the shareholder's tax information and must not address any matters other than federal tax matters.
3. Unless the requester is a shareholder in the S corporation during the tax year for which certification is requested, authorization from an officer with legal authority to bind the corporation must explicitly allow the third-party requester to receive the corporation's tax information. The authorization must not address matters other than federal tax matters.

#### Line 4g. Employee Benefit Plan/Trust

Trusts that are part of an employee benefit plan that is required to file Form 5500, Annual Return/Report of Employee Benefit Plan, must include a copy of the signed Form 5500 with Form 8802.

An employee plan that is not subject to the Employee Retirement Income Security Act (ERISA) or is not otherwise required to file Form 5500 must include with Form 8802 a copy of the employee benefit plan determination letter.

An employee plan that is not required to file Form 5500 and does not have a determination letter must provide evidence that it is entitled to certification. It must also provide a statement under penalties of perjury explaining why it is not required to file Form 5500 and why it does not have a determination letter.

**3-year procedure.** If you check box 4g, you may be able to use the 3-year procedure. See *Certification Under the 3-Year Procedure*, earlier.

#### Line 4h. Exempt Organization

Generally, an organization that is exempt from U.S. income tax must attach to Form 8802 a copy of either the organization's determination letter from the IRS or the determination letter for the parent organization.

An exempt organization that is not required to file a U.S. income tax return and that has not received a determination letter will not be issued a Form 6166, unless such organization has other means of proving U.S. residency for tax treaty purposes. For such an entity, include with Form 8802 the entity's bylaws, corporate charter, trust agreement, partnership agreement, etc.

**Governmental entity.** Federal, state, or local government agencies requesting U.S. residency certification that have not obtained a determination letter, private letter ruling, revenue ruling, etc., can submit in writing, on official government letterhead, a letter under penalties of perjury from a legally authorized government official stating that the organization is a government agency.

**3-year procedure.** If you check box 4h, you may be able to use the 3-year procedure. See *Certification Under the 3-Year Procedure*, earlier.

#### Line 4i. Disregarded Entity

Disregarded entities (DRE) are not considered U.S. residents within the meaning of the residence article of U.S. income tax treaties. Treaty benefits will only be available to a DRE owner who is a U.S. resident. The DRE type must be specified on line 4i.

**Note.** See line 5 for more information regarding the DRE's owner information that may be required to be included with your Form 8802.



#### **Line 4j. Nominee Applicant**

If you act as a nominee for another person or entity, you must provide all certification information required for each individual or entity for which you are acting as a nominee. For example, if you are acting as a nominee for a resident alien, you must attach the information required of applicants that are resident aliens. Similarly, if one of the entities for which you are acting as a nominee is a partnership, then you must submit the certification information for each of the partners requesting certification. In addition, you must include the following with Form 8802.

1. Authorization (for example, Form 8821) from each individual or entity.

Each authorization must explicitly allow the nominee applicant to receive the individual's or entity's tax information and must not address any matters other than federal tax matters.

2. A statement under penalties of perjury signed by an individual with legal authority to bind the nominee applicant, explicitly stating the nominee applicant is acting as an agent on behalf of the above-named individual(s) or entity(ies) for whom the Form 6166 is being requested.

**Note.** If you are a nominee partnership, please do not provide information concerning your partners. The residence of your partners will not be verified.

#### **Line 5. Statement Required If Applicant Did Not File a U.S. Income Tax Return**

If the applicant was not required to file a U.S. income tax return for the tax period(s) for which certification will be based, check the applicable box next to "No." If the applicant does not fit in any of the categories listed, check "Other" and on the dotted line that follows, enter the code section that exempts the applicant from the requirement to file a U.S. income tax return. See Table 1 for the statement required if the applicant did not file a U.S. income tax return.

**Table 1. Statement Required If Applicant Did Not File a U.S. Income Tax Return**

<b>IF the applicant was not required to file a U.S. income tax return and the applicant is...</b>	<b>THEN ...</b>
an individual	attach proof of income (for example, an income statement, Form W-2, Form 1099, etc.) and a written statement that explains why the individual is not required to file an income tax return for the tax period(s) for which certification is based. If the individual is a U.S. citizen, the written statement must be made under penalties of perjury.
a child under age 19, or under age 24 if a full-time student, whose parent(s) elected to report the child's income on their return	attach a signed copy of the Form 8814, Parents' Election To Report Child's Interest and Dividends.
a qualified subchapter S subsidiary (QSub) (include the parent S corporation information on line 6 of Form 8802)	attach proof of the election made on Form 8869, Qualified Subchapter S Subsidiary Election, and all other requirements listed in the instructions for line 4f that apply to the parent S corporation.
a trust or estate	attach an explanation of why the trust or estate is not required to file Form 1041.
a common trust fund	attach a copy of the determination letter or proof that a participant is not required to file.
a group trust arrangement	attach a copy of the determination letter or private letter ruling.
a partnership described in section 761(a)	attach a copy of the section 761(a) election submitted with Form 1065, U.S. Return of Partnership Income, or a statement from a general partner that is signed and dated under penalties of perjury. See Table 2, Current Year Penalties of Perjury Statements.
a government entity	submit in writing, on official government letterhead, an explanation of why the government entity is exempt from a filing requirement. The letter must be signed and dated under penalty of perjury by a government official with the authority to bind the organization or agency.
a foreign partnership	include all information indicated in the instructions for line 4b for each partner requesting certification.
a domestic disregarded entity (domestic DRE)	include the entity's single owner information on line 6 of Form 8802. Include with Form 8802: the owner's name and entity type (e.g., corporation, partnership), TIN, and all other certification information required for the owner's type of entity. If the DRE has not filed a Form 8832 with the IRS, also include a statement from the owner, signed under penalties of perjury (see Table 2).
a foreign disregarded entity (foreign DRE)	for tax years beginning on or after January 1, 2004, if the disregarded entity is organized outside the United States and the owner is a U.S. person, attach a copy of the Form 8858, Information Return of U.S. Persons With Respect To Foreign Disregarded Entities, filed with the U.S. owner's income tax return for the calendar year(s) for which certification is requested. If the owner has not identified the foreign DRE on the Form 8858, the foreign DRE cannot be certified. Include the foreign DRE's owner information on line 6. Include with Form 8802, the owner's name and entity type, TIN, and all other certification information required for the owner's type of entity. If certification is being requested for tax years prior to January 1, 2004, the U.S. owner is not required to attach a copy of the Form 8858, but must attach proof that the foreign DRE is owned by a U.S. resident. For example, if the foreign DRE is owned by a U.S. corporation, attach a copy of Schedule N (Form 1120), Foreign Operations of U.S. Corporations, filed with the owner's income tax return for the calendar year for which certification is requested. If the owner has not identified the DRE on an attachment to its Schedule N, the foreign DRE cannot be certified.
1 See <i>Caution</i> under <i>Line 4e. Corporation</i> , earlier.	

**Line 6. Parent, Parent Organization, or Owner**

If you answered "Yes" to line 5, do **not** complete line 6.

If you answered "No" to line 5, you must complete line 6.

If you answered "Yes" to line 6, check the appropriate box and enter the parent's, parent organization's, or

owner's information. If the applicant is a minor child, enter the name, address, and TIN of the parent who reported the child's income.

If you answered "No" to line 6, attach proof of the parent's, parent organization's, or owner's income and an explanation of why the parent is not required to file a tax return for the tax

period(s) for which certification is based.

**Disregarded entity.** The single owner of a DRE must include the following information on Form 8802.

- On line 6, check the box corresponding to the entity type of the owner, and enter the owner's name, address, and TIN.

- On line 10, enter a statement signed under penalties of perjury if a Form 8832 has not been filed with the IRS (see Table 2).

## Line 7. Calendar Year of Request

The certification period is generally 1 year. You can request certification for both the current year and any number of prior years.

If you entered the most recent prior year on this line, see *Form 8802 Filed Before Return Posted by the IRS*, earlier.

Enter the four-digit (YYYY) calendar year(s) for which you are requesting certification. However, see the *Exception* below.

**Exception.** If you were a dual-status alien during any year for which you are requesting certification, enter instead the eight-digit dates (YYYYMMDD) that correspond to the beginning and ending of the period you were a resident of the United States. You must show the specific period of residence for each year for which you are requesting certification. For information on determining your period of residency, see Pub. 519.

**Fiscal year taxpayers.** Fiscal year filers also enter a four digit (YYYY) calendar year on line 7. You must request a separate calendar year certification for any part of a fiscal tax year that falls outside the calendar year.

**Current year certification.** If certification is requested for purposes of claiming benefits under an income tax treaty or VAT exemption for any period during the current calendar year or a year for which a tax return is not yet required to be filed with the IRS, penalties of perjury statement(s) will be required from all applicants stating that such applicant is a U.S. resident and will continue to be so throughout the current tax year. See Table 2 for the current year penalties of perjury statement you must enter on line 10 of Form 8802 or attach to the form.

**Note.** For VAT certification, the penalties of perjury statement must include a statement that the business activity has not changed since the last return was filed. For more information, see the instructions for line 10 below.

**3-year procedure.** If you are using the 3-year procedure (discussed earlier), enter all years in the 3-year period, as applicable, on the Form 8802 filed for

the first year. For years two and three, enter only the current calendar year for which you are requesting certification.

## Line 8. Tax Period(s)

If you are requesting certification for a tax period for which a tax return is not yet due, enter the four-digit year and two-digit month (YYYYMM) that correspond to the latest return required to have been filed (including extensions). If you are a fiscal year taxpayer, enter the year and month that correspond to the end of that fiscal tax year. For a prior year certification, the four-digit year and two-digit month should correspond to the end of the prior year tax period for which certification is requested.

**Note.** These examples assume no extension is filed, unless stated otherwise.

**Example 1.** A Form 1040 filer who is completing Form 8802 for certification year 2015 on January 1, 2015, would enter 201312 on line 8. This is because on January 1, 2015, the 2013 Form 1040 is the latest return required to have been filed by an individual requesting certification for 2015.

**Example 2.** On May 1, 2015, the same Form 1040 filer would enter 201412 on line 8 as the tax period for certification year 2015 (the 2014 Form 1040 was required to have been filed before May 1, 2015).

If the Form 1040 filer had filed an extension for 2014, the filer would enter 201312 on line 8. This is because on May 1, 2015, the 2013 Form 1040 is the latest return required to be filed.

**Example 3.** On January 1, 2015, a Form 1040 filer completing Form 8802 for certification year 2012 would enter 201212.

**Example 4.** A Form 1120 filer has a fiscal year ending on September 30. The Form 1120 filer completing Form 8802 for certification year 2015 on January 15, 2015, would enter 201409 on line 8. This is because on January 15, 2015, the 2013 Form 1120 with fiscal year ending September 30, 2014, is the latest return required to have been filed.

If you were not required to file a U.S. tax return for the tax period for which certification is requested, enter the tax period that would have been applicable, if you were required to file a U.S. tax return. After the tax period, add "(not required to file)."

## Line 9. Purpose of Certification

You must indicate the purpose of the certification.



*Your application will be returned to you for completion if you do not include a purpose on the application.*

**Income tax treaty.** If you are requesting certification to obtain benefits under an income tax treaty but you have requested certification for a non-treaty country, your application will be returned to you for correction.

**VAT.** The North American Industry Classification System (NAICS) codes can be found in the instructions for your tax return (for example, Form 1120 or Schedule C (Form 1040)). If you do not provide a NAICS code on Form 8802 and one was not provided on the return you filed, one will not be entered automatically. Form 6166 will only certify that you filed a return with a particular NAICS code if it matches the NAICS code on your application. If you provide a code that does not match, Form 6166 will state that you represent that your NAICS code is as stated on Form 8802.

**Note.** VAT certification requires a penalties of perjury statement, and a statement that the NAICS codes have not changed since the last return was filed. For more information, see the instructions for line 10 next.

## Line 10. Penalties of Perjury Statements and Attachments

Penalties of perjury statements from Table 2 may be entered in the space provided under line 10 or as an attachment to Form 8802. Penalties of perjury statements submitted independently of Form 8802 must have a valid signature and date. See Table 3.

**VAT.** For VAT certifications, the penalties of perjury statement must also include a statement that the business activity (NAICS code) has not changed since your last filed return.

**3-year procedure.** If you are using the 3-year procedure (discussed earlier), you are required to enter a penalty of perjury statement in the first year stating that the applicant is a U.S. resident and will continue to be so through the current tax year and the following two tax years. See Table 2 for the 3-year procedure penalty of perjury statement



you must enter on line 10 of Form 8802 or attach to Form 8802.

**Note.** For a Form 8802 submitted after the first year of the 3-year procedure, enter “See attached year 1 Form 8802 filed under the 3-year procedure” in place of the penalty of perjury statement on line 10.

**Attachments.** If any attachment is submitted independently of Form 8802 and is prepared by someone other than the person signing Form 8802, the attachment must be signed and dated under penalties of perjury by an individual who has authority to sign Form 8802. See Table 3.

**Additional information.** If additional information is required to be submitted with Form 8802, use the space provided under line 10 or attach the information to the form.

**Table 2. Current Year Penalties of Perjury Statements**

IF the applicant is...	THEN the Form 8802 penalties of perjury statement must include...	STATING: “This certification is given under penalties of perjury and to the best of my knowledge and belief, the statements are true, correct, and complete.”
an individual	a statement from the individual	<i>[Insert name of individual and TIN]</i> is a U.S. resident and will continue to be throughout the current tax year.
an individual claiming treaty benefits for teaching or research activities	a statement from the individual	<p><b>Countries other than Japan:</b> <i>[Insert name of individual and TIN]</i> was a U.S. resident within the meaning of Article [#] of the U.S.-<i>[country]</i> treaty (including, in some cases, physical presence in the United States) immediately before entering <i>[country]</i>. The assignment began on <i>[date]</i> and ends on <i>[date]</i>. Article [#] of the U.S.-<i>[country]</i> treaty provides a [2 or 3] year exemption from income tax.</p> <p><b>Japan:</b> <i>[Insert name of individual and TIN]</i> is (and will continue to be) a U.S. resident within the meaning of Article 4(1) of the U.S.-Japan treaty. The assignment began on <i>[date]</i> and ends on <i>[date]</i>. Article 20 of the U.S.-Japan treaty provides a 2-year exemption from income tax.</p>
a partnership	a statement from each individual partner for which certification is requested	<i>[Insert name of partner and TIN]</i> is a U.S. resident and will continue to be throughout the current tax year, <b>and</b>
	a statement from a general partner	<i>[Insert name of partnership and EIN]</i> has filed its required return and the entity classification has not changed since the return was filed.
an S corporation	a statement from each individual shareholder for which certification is requested	<i>[Insert name of shareholder and TIN]</i> is a U.S. resident and will continue to be throughout the current tax year, <b>and</b>
	a statement from an officer of the corporation with the authority to legally bind the corporation	<i>[Insert name of S corporation and EIN]</i> has filed its required return and the entity classification has not changed since the return was filed.
a common trust fund, grantor trust, or simple trust	a statement from each individual participant/owner/beneficiary for which certification is requested	<i>[Insert name and TIN]</i> is a U.S. resident and will continue to be throughout the current tax year, <b>and</b>
	a statement from the trustee with authority to legally bind the trust	<p><i>[Insert name of trust and EIN]</i> has filed its required return and the entity classification has not changed since the return was filed.</p> <p><b>Note:</b> When the participant, beneficiary, or owner, is other than an individual, use the statement that corresponds to the type of entity.</p>
a trust	a statement from the trustee with authority to legally bind the trust	<i>[Insert name of trust and EIN]</i> is a U.S. resident and will continue to be throughout the current tax year.

IF the applicant is...	THEN the Form 8802 penalties of perjury statement must include...	STATING: "This certification is given under penalties of perjury and to the best of my knowledge and belief, the statements are true, correct, and complete."
a corporation	a statement from an officer of the corporation with the authority to legally bind the corporation	<i>[Insert name of corporation and EIN]</i> is a U.S. resident and will continue to be throughout the current tax year.
an exempt organization	a statement from an officer of the organization with authority to legally bind the organization	<i>[Insert name of organization and EIN]</i> is a U.S. resident and will continue to be throughout the current tax year.
an exempt organization submitting a Form 8802 under the 3-year procedure (in year 1)	a statement from an officer of the organization with authority to legally bind the organization	<i>[Insert name of organization and EIN]</i> is a U.S. resident and will continue to be throughout the current tax year and the following two tax years.
an estate of a decedent	a statement from the personal representative	<i>[Insert name of estate and EIN]</i> is a U.S. resident and will continue to be throughout the current tax year.
an estate of a decedent submitting a Form 8802 under the 3-year procedure (in year 1)	a statement from the personal representative	<i>[Insert name of estate and EIN]</i> is a U.S. resident and will continue to be throughout the current tax year and the following two tax years.
an employee benefit plan/trust	a statement from an officer of the plan/trust with authority to legally bind the plan/trust	<i>[Insert name of plan/trust and EIN]</i> is a U.S. resident and will continue to be throughout the current tax year.
an employee benefit plan/trust submitting a Form 8802 under the 3-year procedure (in year 1)	a statement from an officer of the plan/trust with authority to legally bind the plan/trust	<i>[Insert name of plan/trust and EIN]</i> is a U.S. resident and will continue to be throughout the current tax year and the following two tax years.
a partnership under IRC section 761(a) election	a statement from each partner for which certification is requested	<i>[Insert name of partner and TIN]</i> is a U.S. resident and will continue to be throughout the current tax year, <b>and</b>
	a statement from a general partner	a. <i>[Insert name of partnership and EIN]</i> has made an election pursuant to IRC section 761(a). As a result, it is not required to file Form 1065 on an annual basis and all of its partners report their respective shares of income, gain, loss, deductions, and credits on their tax returns as required. b. The <i>[insert name of partnership]</i> 's entity classification has not changed since the filing of the partners' returns.

IF the applicant is...	THEN the Form 8802 penalties of perjury statement must include...	STATING: "This certification is given under penalties of perjury and to the best of my knowledge and belief, the statements are true, correct, and complete."
a foreign partnership under Regulations section 1.6031(a)-1(b)	an additional statement from a general partner	<i>[Insert name of partnership and EIN]</i> is not required to file Form 1065 under Regulations section 1.6031(a)-1(b) and the entity classification has not changed since the filing of the partners' returns.
a disregarded entity (DRE)	a statement from the owner of the DRE	This certifies that <i>[insert name and TIN of the owner of the DRE corporation, partnership, or individual]</i> trading as <i>[insert name of limited liability company]</i> is a single-owner limited liability company that is treated as a disregarded entity for U.S. income tax purposes, that <i>[insert name of corporation, partnership, or individual]</i> is the single owner of <i>[insert name of limited liability company]</i> , and, as such, <i>[insert name of corporation, partnership, or individual]</i> is required to take into account all the income, gain, loss, deductions, and credits of <i>[insert name of limited liability company]</i> on its/his/her U.S. federal income tax or information return.
a nominee	a statement from each individual or entity for whom the nominee is acting	<i>[Insert name and TIN of individual(s)/entity(ies) on whose behalf the nominee is acting]</i> is a U.S. resident and will continue to be throughout the current year.

<sup>1</sup> See *Caution* under *Line 4e. Corporation*, earlier.

## Signature and Date

Form 8802 will not be considered complete and valid if the application is not signed and dated by an individual who has the authority to sign Form 8802. A third-party representative with authorization to sign Form 8802 must

attach documentation (for example, Form 2848) of the authorization. See Table 3 to determine who has authority to sign Form 8802.

To avoid processing delays and possible rejection of Form 8802, if Form 8802 is signed by an individual who is

not identified in the instructions, enter a statement in line 10 and attach any appropriate documentation to indicate such individual's authority to sign Form 8802. If you are granting authority to a third party, you must sign and date the documentation.



**Table 3. Who Has Authority To Sign Form 8802**

<b>IF the applicant is...</b>	<b>THEN the individual with authority to sign Form 8802 is...</b>
an individual	the individual.
a married couple	both spouses.
a minor child who cannot sign	either parent by signing the child's name and adding "By (your signature), parent for minor child."
a child under age 19, or under age 24 if a full-time student, whose parent(s) reported the child's income on Form 8814	the parent who filed Form 8814 with his/her income tax return.
a partnership	any partner or partners duly authorized to act for the partnership (general partner or tax matters partner). Each partner must certify that he or she has such authority.
an S corporation	any corporate officer, for example, president, vice president, treasurer, chief accounting officer, etc., duly authorized by the corporation to bind the corporation in accordance with applicable state law.
a trust, common trust fund, grantor trust or simple trust	the fiduciary (trustee, executor, administrator, receiver, or guardian).
an estate of a decedent	the personal representative (executor or administrator).
a corporation	any corporate officer, for example, president, vice president, treasurer, chief accounting officer, etc., duly authorized by the corporation to bind the corporation in accordance with applicable state law.
an employee benefit plan or trust	any organization officer, for example, president, vice president, treasurer, chief accounting officer, etc., duly authorized by the plan or trust to bind the plan or trust in accordance with applicable state law.
an exempt organization	any organization officer, for example, president, vice president, treasurer, chief accounting officer, etc., duly authorized by the organization to bind the organization in accordance with applicable state law.
a partnership under an IRC 761(a) election	any partner or partners duly authorized to act for the partnership. Each partner must certify that he or she has such authority.
a governmental organization	an officer of the governmental organization with authority in the course of his or her official duties to bind the organization.
1 See <i>Caution</i> under <i>Line 4e. Corporation</i> , earlier.	

**Daytime Phone Number**

Providing your daytime phone number can help speed the processing of Form 8802. We may have questions about items on your application, such as the NAICS code, type of applicant, etc. By answering our questions over the phone, we may be able to continue processing your Form 8802 without mailing you a letter. If you are filing a joint application, you can enter either your or your spouse's daytime phone number.

**Line 11. Number of Certifications (Forms 6166) Requested for Each Country**

Enter the number of certifications (Forms 6166) requested for each country listed in columns A, B, C, and D. For any country not listed, enter the country in the blank spaces at the bottom of column D. If you are

requesting certifications for more than one calendar year for a country, enter the number of certifications requested for all years to get the total number of certifications requested for that country.

**Example.** You are requesting certifications for Germany. You need 3 certifications for 2012, 2 certifications for 2013, and 4 certifications for 2014. Enter 9 as the total number of certifications requested for Germany.

**Note.** If you are requesting certifications for multiple years, attach a statement to Form 8802 identifying the country, year, and number of certifications per year. The total must agree with the number entered to the right of the related country code on line 11.

**Line 12. Total Number of Certifications (Forms 6166) Requested**

Add the total number of certifications requested in columns A, B, C, and D of line 11, and enter the total on line 12.

**When To Seek U.S. Competent Authority Assistance**

If your request for Form 6166 is denied and you believe you are entitled to treaty benefits under a specific treaty article, you can request U.S. competent authority assistance following the procedures established in Rev. Proc. 2015-40, 2015-35 I.R.B. 236.

A request for U.S. competent authority assistance regarding a residency issue will be accepted for consideration only if it is established that the issue requires consultation with the foreign competent authority to ensure

consistent treatment by the United States and the applicable treaty partner. The U.S. competent authority does not make unilateral determinations with respect to residency. Residency determinations are made by mutual agreement between the two competent authorities.



*The U.S. competent authority cannot consider requests involving countries with which the United States does not have an income tax treaty.*

Your request for U.S. competent authority assistance should be mailed to the address indicated in Rev. Proc. 2015-40 which is available at [www.irs.gov/irb/2015-35\\_IRB/ar10.html](http://www.irs.gov/irb/2015-35_IRB/ar10.html).

**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on this form under sections 6103 and 6109 of the Internal Revenue Code. You are required to provide the information requested on this form only if you wish to have your U.S. residency for tax purposes certified in order to claim VAT exemption or to claim certain benefits under a tax treaty between the United States and the foreign country (countries) indicated on Form 8802. We need this information to determine if the applicant can be certified as a U.S. resident for tax purposes for the period

specified. Failure to provide the requested information may prevent certification. Providing false or fraudulent information may subject you to penalties. If you designate an appointee to receive Form 6166, but do not provide all of the information requested, we may be unable to honor the designation.

Generally, tax returns and tax return information are confidential, as required by section 6103. However, section 6103 authorizes or requires us to disclose this information in certain circumstances. We may disclose the information to the tax authorities of other countries pursuant to a tax treaty. We may disclose this information to the Department of Justice for civil and criminal litigation. We may also disclose this information to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must

be retained as long as their contents may become material in the administration of any Internal Revenue law.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

<b>Recordkeeping</b> . . . . .	33 min.
<b>Learning about the law or the form</b> . . . . .	1 hr., 13 min.
<b>Preparing the form.</b> . . . . .	1 hr., 3 min.
<b>Copying, assembling, and sending the form to the IRS</b> . . . . .	48 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from [www.irs.gov/formspubs](http://www.irs.gov/formspubs). Click on "More Information" and then on "Give us feedback." You can write to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW IR-6526, Washington, DC 20024. Do **not** send the form to this address. Instead, see *Where To Apply*, earlier.