

# **Non-Financial Foreign Entity (NFFE) Information Reporting and Withholding under FATCA (Foreign Account Tax Compliance Act)**

## **General Overview**

The Foreign Account Tax Compliance Act (FATCA) was signed into law in March 2010, as a part of the Hiring Incentives to Restore Employment Act of 2010, P.L. 111-147 to curb offshore tax evasion.

The release of these regulations significantly increased the compliance burden for not only financial institutions such as banks, insurance companies, and asset management companies but also US residents who hold foreign financial assets. In addition, non-financial foreign entities (“NFFE”) are required to prepare newly released Form W-8BEN-E to abide by the new withholding rules and submit the forms to US withholding agents.

## **Introduction of New Form W-8BEN-E**

With the enactment of FATCA, foreign corporations receiving US source interest income, dividend, royalty and other income are required to submit new form, Form W-8BEN-E to the payers in order to receive income tax treaty benefits rather than being subject to 30% withholding tax. For example, if a US subsidiary pays dividend, interest, and royalty to its Japanese parent company, the US subsidiary should withhold taxes at 30% rate if no Form W-8BEN-E was submitted by the Japanese parent company to claim a reduced withholding rate under tax treaty provisions. Also, in case the US companies make such payments to unrelated foreign corporations, the Form W-8BEN-E should be obtained from the unrelated payees to determine the appropriate withholding tax rates.

The old Form W-8BEN consisted of only 1 page; however, the new Form W-8BEN-E has 6 pages. Since the new form is necessary for payments made on or after July 1, 2014, please contact EOS personnel in charge if you need assistance to obtain the new forms for your parent company and other related foreign corporations.

Form W-8BEN-E is available from the IRS site below.

<http://www.irs.gov/pub/irs-pdf/fw8bene.pdf>