

COMPETENT AUTHORITY AGREEMENT

The Competent Authorities of the United States and Norway hereby enter into the following mutual agreement regarding the eligibility of entities that are treated as fiscally transparent under the laws of either Contracting State to benefit under the Convention Between the United States of America and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Property, signed on December 3, 1971, and as amended by the Protocol signed on September 19, 1980 (the "Treaty"). This agreement clarifies the cases in which fiscally transparent entities are entitled to treaty benefits and clarifies the procedure for claiming treaty benefits from Norway. The agreement is entered into under paragraph 2 of Article 27 (Mutual Agreement Procedure) of the Treaty.

1) Eligibility of fiscally transparent entities for treaty benefits

Paragraph 1(a)(ii) of Article 3 (Fiscal Residence) of the Treaty provides, in relevant part, that the term "resident of Norway" means a partnership, estate or trust only to the extent that the income derived by such person is subject to Norwegian tax as the income of a resident.

Paragraph 1(b)(ii) of Article 3 of the Treaty provides, in relevant part, that the term "resident of the United States" means a partnership, estate, or trust only to the extent that the income derived by such person is subject to U.S. tax as the income of a resident.

The Competent Authorities agree that in applying paragraphs 1(a)(ii) and 1(b)(ii) of Article 3, income from sources within one of the Contracting States received by an entity, wherever organized, that is treated as fiscally transparent under the laws of either Contracting State will be treated as income derived by a resident of the other Contracting State to the extent that such income is subject to tax as the income of a resident of the other Contracting State.

For an entity to be fiscally transparent, the income subject to tax in the hands of the resident must have the same source and character as if the income were received directly by the resident. It is not relevant whether the entity would be fiscally transparent for tax purposes in the other Contracting State or any third jurisdiction in which the entity is organized. For U.S. tax purposes, a fiscally transparent entity includes any entity treated as a partnership under subchapter K of the Internal Revenue Code (Code), a "disregarded entity" (an entity such as an LLC that is disregarded as an entity separate from its single member owner), a subchapter S corporation (a domestic corporation with exclusively U.S. shareholders described in section 1361 of the Code), a "grantor trust" described in section 671 of the Code, et seq., and a common trust fund within the meaning of section 584 of the Code.

For example, if a resident of the United States is a partner in a partnership or a member of a limited liability company ("LLC") organized in the United States, and the entity is treated for U.S. federal tax purposes as a partnership, the resident of the United States would be entitled to benefits of the Treaty on the income that the resident derives from Norway through the partnership to the extent of the U.S. resident's distributive share of that income. Similar rules would apply to a resident of the United States that is a shareholder of a subchapter S corporation, the single member owner of an LLC that is a disregarded entity, or an owner of a grantor trust that derives income from Norway through the grantor trust.

2) Procedures for entities that are fiscally transparent for U.S. tax purposes to claim treaty benefits from Norway

An entity, wherever organized, that is treated as fiscally transparent for U.S. federal tax purposes and that has a U.S. resident member, partner or owner, may claim treaty benefits from Norway on behalf of the U.S. resident by providing the Norwegian withholding agent with a U.S. residency certification that identifies the names of the fiscally transparent entity and the U.S. resident.

For example, a partnership, whether organized in the United States, Norway, or a third jurisdiction, may obtain a certificate of residence on Form 6166 on behalf of its partners, by submitting a request for certification on Form 8802 (Application for U.S. Residency Certification) to the Internal Revenue Service. For those partnerships required to file a Form 1065, U.S. Return of Partnership Income, generally domestic partnerships and foreign partnerships with U.S. source income, the Form 6166 confirms the filing of such form and includes the names of all partners who have filed tax returns as U.S. residents. The Form 6166 will inform the withholding agent to contact the partnership directly to provide information regarding the allocation of the Norwegian source income to the listed U.S. partners. If a foreign partnership with U.S. partners is not required to file a Form 1065, the Form 6166 will confirm that position and otherwise contain the same information regarding its U.S. partners. The same procedures apply to an LLC seeking certification if it has more than one owner and is treated as a partnership for U.S. tax purposes.

An S corporation may submit a Form 8802 and obtain a Form 6166 certificate of residence in a manner similar to that of a partnership. A Form 6166 confirms the filing of an information return, Form 1120S, U.S. Income Tax Return for an S Corporation, as required for an S corporation, and includes a list of shareholders who filed returns as U.S. residents.

