

§ 1.1445-9T Special rule for section 1034 nonrecognition (temporary).

(a) *Purpose and scope.* This section provides a temporary regulation that, if and when adopted as a final regulation, will add a new paragraph (d)(2)(iii) to § 1.1445-2. Paragraph (b) of this section would then appear as paragraph (d)(2)(iii) of § 1.1445-2.

(b) No particular form is required for a transferor's notice to a transferee that the transferor is not required to recognize gain or loss with respect to a transfer. The notice must be verified as true and signed under penalties of perjury by a responsible officer in the case of a corporation, by a general partner in the case of a partnership, and by a trustee or equivalent fiduciary in the case of a trust or estate. The following information must be set forth in paragraphs labeled to correspond with the designation set forth below:

(1) A statement that the document submitted constitutes a notice of a nonrecognition transfer pursuant to the requirements of § 1.1445-2(d)(2);

(2) The name, identifying number (if any), and home address (in the case of an individual) or office address (in the case of an entity) of the transferor submitting the notice;

(3) A statement that the transferor is not required to recognize any gain or loss with respect to the transfer;

(4) A brief description of the transfer;

(5) A brief summary of the law and facts supporting the claim that recognition of gain or loss is not required with respect to the transfer; and

(6) If the transferor claims nonrecognition on the sale or exchange of a principal residence under section 1034(a) and another principal residence in the United States has not been purchased as of the date of sale of the principal residence, either (i) a copy of an executed binding contract for purchase by the transferor of a further principal residence in the United States with a purchase price exceeding the adjusted sales price of the old principal residence or (ii) an affidavit by the transferor signed under penalties of perjury stating that the transferor intends to complete purchase of another principal residence within the United States with a purchase price exceeding the adjusted sales price of the old prin-

icipal residence by April 15 of the year following the taxable year of the sale of the principal residence, and that the transferor is expected to continue to be employed or stationed in the United States for a period of two years from the sale of the principal residence. If the transferor's adjusted sales price of the old principal residence exceeds the transferor's cost of purchasing another principal residence in the United States, withholding shall be required at the rate of ten percent on the portion of the gross amount realized on the sale or exchange of the principal residence equal to such excess.

(c) *Effective Date.* The rules of this section are effective with respect to sale of a principal residence after August 3, 1988.

[T.D. 8198, 53 FR 16230, May 5, 1988]

§ 1.1445-10T Special rule for Foreign governments (temporary).

(a) This section provides a temporary regulation that, if and when adopted as a final regulation will add a new paragraph (d)(6) to § 1.1445-2. Paragraph (b) of this section would then appear as paragraph (d)(6) of § 1.1445-2.

(b) *Foreign government*—(1) *As transferor.* A foreign government is subject to U.S. taxation under section 897 on the disposition of a U.S. real property interest except to the extent specifically otherwise provided in the regulations issued under section 892. A foreign government that disposes of a U.S. real property interest that is not subject to taxation as specifically provided by the regulations under section 892 may present a notice of nonrecognition treatment pursuant to paragraph (d)(2) of this section that specifically cites the provision of such regulation, and thereby avoids withholding by the transferee of the property. A foreign government that disposes of a U.S. real property interest or the transferee of the property may obtain a withholding certificate from the Internal Revenue Service that confirms the applicability of section 892, but neither is required to do so. Rules concerning the issuance of withholding certificates are provided in § 1.1445-3.

(2) *As transferee.* A foreign government or international organization