

U.S. INTERNAL REVENUE SERVICE FORMS
8840 Closer Connections
W8-BEN Certificate of Foreign Status

8840 – Closer Connection Exemption Statement for Aliens

Canadian residents who winter in the U.S. are technically subject to U.S. income tax if they exceed a specific number of days (based on a calculation on the form 8840) in the U.S. in any one year.

To avoid U.S. taxation, IRS form 8840 (Closer Connection Exemption Statement for Aliens) needs to be filed annually with the U.S. Internal Revenue Service.

The form, in essence, acknowledges that you met or exceeded the "substantial presence test" BUT are not going to be filing a U.S. income tax return due to the fact that you maintain "a closer connection" to a foreign country, such as Canada, where you will be paying annual income tax.

You will be considered to have a "closer connection" with a country other than the U.S. based on the location of:

- Your permanent home.
- Your family.
- Your personal belongings, such as cars, furniture, clothing, and jewellery.
- Your current social, political, cultural, or religious affiliations.
- Your business activities (other than those that constitute your tax home).
- The jurisdiction in which you hold a driver's licence.
- The jurisdiction in which you vote.

It does not matter whether your permanent home is a house, an apartment, or a furnished room. It also does not matter whether you rent or own it. It is important, however, that your home is available at all times, continuously, and not solely for short stays.

Canadians should pro-actively complete and file a new 8840 form each year with the U.S. Internal Revenue Service. This is a positive acknowledgment that you are entering the U.S. each year as a "temporary visitor for pleasure" and are complying with U.S. tax laws. A photocopy of each year's completed form should also be carried, when crossing the border into the U.S. the following year, to indicate that you are entering the U.S. as a temporary visitor from Canada.

A copy of the current year's 8840 form can be downloaded from the [U.S. Internal Revenue Service](http://www.irs.gov) website by logging onto your computer and visiting the CSA website www.snowbirds.org. Click on "Lifestyle Links" on the blue navigation bar at the top of the page. This will take you directly to the IRS webpage dealing with international taxpayers.

W8-BEN – Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding

If you have a bank account with a financial institution in the U.S. that earns interest on deposits, then you should complete IRS form W8-BEN (Certificate of Foreign Status) with your U.S. financial institution to avoid possibly having 30% of any interest earned on your deposits withheld and sent to the IRS.

As Canadian residents are aware, bank interest earned on their accounts (regardless how small) is considered a form of taxable income when completing each year's Canadian income tax return with the Canada Revenue Agency (CRA) – formerly known as Revenue Canada.

Similarly, Canadian banks are required to withhold 30% (the maximum income tax rate) of any bank interest they pay to foreigners on their Canadian bank accounts because non-Canadians rarely receive T5 slips and complete a Canadian income tax return. Non-Canadians must, in turn, complete a Canadian income tax return in order to receive any refund.

In the U.S., a similar situation exists for U.S. banks and credit unions paying interest earned on the accounts of Canadians (foreigners).

IRS form W8-BEN is a withholding tax exemption form that the bank or credit union must keep on file to explain to the U.S. Internal Revenue Service why they did not hold back any bank interest paid to you or conversely did not issue you the U.S. equivalent of a Canadian T5 income tax slip.

Unlike the 8840 form that is sent directly to the IRS each year, the W8-BEN form is kept on file by the financial institution for IRS audit purposes and is valid for up to three years.