Foreign Account Tax Compliance Act
What is FATCA?

- The provisions commonly known as the Foreign Account Tax Compliance Act (FATCA) became law in March 2010 as a measure to the Hiring Incentives to Restore Employment (HIRE) Act.
- United States statute that requires United States persons, including individuals who live outside the United States, to report their financial accounts held outside of the United States.
- Requires foreign financial institutions to report to the Internal Revenue Service (IRS) about their American clients.
Source of Income

- **US Source Income** - Publication 515 and IRSC 1441, 1442, & 1443 states that US Withholding agents generally must withhold tax at the 30 percent rate on compensation paid to a nonresident alien individual for labor or personal services performed in the United States, unless that pay is specifically exempted from NRA withholding or subject to graduated withholding. This rule applies regardless of your place of residence, the place where the contract for service was made, or the place of payment.

- **Foreign Source Income** - (non-U.S. source income) paid to a nonresident alien or foreign entity is normally not subject to U.S. tax. Income from sources outside the United States is exempt from NRA withholding under Internal Revenue Code Section 1441(a).

- **FATCA** provisions apply to “withholdable” payments such as payment of interest (including any portfolio interest and original issue discount), dividends, rents, royalties, salaries, wages, annuities, licensing fees, gains, and profits, if such payment is from sources within the United States.
Impact of US Institutions

- All US entities may now be required to withhold a 30% tax on that income paid to a non-U.S. person/entity that is U.S. sourced (meaning earned while working or performing business in the U.S.). This will require U.S. entities to maintain documentation on those non-U.S. persons/entities, such as collecting Form W-8 and W-9.

Keep things to keep in mind...
- Know who you are paying?
- What are you paying?
- Was the service provided in the U.S. or abroad?
- Are you documenting your Foreign and U.S. vendors correctly?
W-8 Compliance

- How do you know which is the correct form to use?
- 5 Forms to choose from.
- Each form has different reasons.

W-8BEN – Foreign Individuals

W-8BEN-E – Foreign Entities

W-8ECI – Effectively Connected Income (US)

W-8EXP – Foreign governments, organizations, or private foundations

W-8IMY – Foreign intermediary (agent of another person or entity)
Questions?
(Not too hard, please)

Thank you!