

# S3 - Explanation of a U.S. Address and/or U.S. Phone Number

Account Name \_\_\_\_\_

Account Number \_\_\_\_\_

By completing your IRS Form W-8 you are affirming that you are not a citizen or resident of the United States or other U.S. person for the purposes of U.S. tax law. Your account records, however, indicate that you have a mailing address/permanent residence address in the U.S. and / or a U.S. phone number. Because a U.S. address / Phone Number is an indication that you may be a U.S. resident for U.S. tax law purposes, we would be grateful if you would please:

1. Provide an explanation for the address and / or phone number in **Part A** below; and
2. Complete the substantial presence test table in **Part B** below (if applicable); and
3. As appropriate, complete the declaration in **Part C OR Part D** below.

4. Mail the completed declaration or other required documents to the address below:  
The Hongkong and Shanghai Banking Corporation Limited  
Bandar Seri Begawan Office  
HSBC Chambers, Corner of Jalan Sultan/Jalan Pemancha  
Bandar Seri Begawan BS8811  
Brunei Darussalam

Attn: Banking Operations - Account Services

## **PART A – U.S. ADDRESS / U.S. PHONE NUMBER EXPLANATION (Select one)**

1. ☐ I only have a U.S. Phone Number and do not have any U.S. addresses.
  2. ☐ The US address is a secondary residence address (e.g. a vacation home).
  3. ☐ The US address is that of my/our financial or legal advisor.
  4. ☐ Other (please explain): \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

If you selected #1 (I only have a U.S. Phone Number) above, please proceed to Part C, otherwise proceed to Part B.

## **PART B – SUBSTANTIAL PRESENCE TEST**

One factor that must be considered when determining a person's U.S. tax status is the number of days that person has been present in the U.S. So, if it is possible that you may spend or have spent significant time in the U.S, you may be considered a U.S. person. Because your account records indicate that you have a mailing address/permanent residence in the U.S. we need you to provide **information to demonstrate that you have not spent significant time in the U.S. by asking if you meet the "Substantial Presence Test"** described below.

Subject to certain exceptions (see Appendix 2 of the form), a person is considered to be substantially present in the U.S. if he or she is:

1. Physically present in the U.S. for at least 31 days during the current calendar year, and
2. Physically present in the U.S. for at least 183 days during the 3 year period that includes the current calendar year and the 2 years immediately before that, counting:
  - a. all the days the individual was present in the U.S. in the current year, and
  - b. 1/3 of the days the individual was present in the U.S. in the 1st year before the current year, and

1/6 of the days the individual was present in the U.S. in the 2nd year before the current year.

Please complete the following table based on your days of presence in the U.S.

(See Instructions and Example in Appendix 1 of this form before completing)

Year	Total days (A)	Calculation (B)	Days to be counted (C)
Current year		(If you have spent or intend to spend less than 31 total days in the US in the current calendar year, enter 0 in box D below and sign in Section (C))	
Year before the current year		(Divide total days by 3)	
Second year before the current year		(Divide total days by 6)	
Total days of present (Box D)			

**Disclaimer:** The details requested in this Part B are required for informational purposes only. You should not rely upon it as a statement of applicable law. HSBC does not provide legal or tax advice and no parts of this form (including the Appendices) should be construed or considered as advice. You should seek guidance from an independent legal and/or tax adviser regarding your personal tax situation.

**PART C – DECLARATION OF NON-US STATUS (if box D is less than 183)**

I certify that although I have the connection(s) indicated above with the United States, for the reason(s) indicated on this form, I am not a U.S. Person for U.S. tax purposes. If I am signing on behalf of the account holder/payee identified on page 1 of this form, I further certify that I am authorised to sign for that person

I acknowledge that I must inform you within 30 days in the event of a change in circumstance impacting my status as a non-U.S. Person and I agree to provide you with any document requested by you to support my status as non-U.S. Person for U.S. tax purposes. If my status changes to that of a U.S. person, I will notify you within 30 days of that change, and I agree to provide you with an IRS Form W-9 and any other document requested by you relating to that status.

**By signing this form, I also acknowledge and agree that HSBC has no liability in respect of any of my tax obligations and/or any legal and/or tax advice provided to me by third parties.**

Please print name, sign and date below.

Print Name	Signature	Date (DD/MM/YYYY)

Capacity in which acting (if form is not signed by account holder/payee)

\_\_\_\_\_

**Part D - US SUBSTANTIAL PRESENCE (If Box D is greater than or equal to 183)**

In the event that the value from Box D in Part B is equal to or greater than 183 days, please submit the following documentation to HSBC within 30 days from the date on this letter:

- IRS Form W-9

The Hongkong and Shanghai Banking Corporation Limited  
Bandar Seri Begawan Office  
HSBC Chambers, Corner of Jalan Sultan/Jalan Pemancha  
Bandar Seri Begawan BS8811  
Brunei Darussalam

Attn: Banking Operations - Account Services

## APPENDIX 1

### INSTRUCTIONS TO PART B

1. Please complete the table in Part B by adding the number of days you were present in the U.S. in each of the years and inserting the total days in column A
2. Apply the calculation shown in column B
3. Record the number of days to be counted for each year in column C
4. Calculate the sum of values in column C and record in the total days present box D

Before completing the table, please refer to the guidance in Appendix 2 for information about the days on which you would NOT be considered present in the United States (potential excluded days).

Year	Total days (A)	Calculation (B)	Days to be counted (C)
Current year	A1	(If you have spent or intend to spend less than 31 total days in the US in the current calendar year, enter 0 in box D below and sign in Section (C))	$A1 = C1$
Year before the current year	A2	(Divide total days by 3)	$A2 \div 3 = C2$
Second year before the current year	A3	(Divide total days by 6)	$A3 \div 6 = C3$
Total days present ( Box D)			$D = C1 + C2 + C3$

#### EXAMPLE (Substantial Presence Test calculation)

If John Doe were physically present in the United States for 120 days in this year and 90 days in the previous year and 60 days 2 years prior to the current year, to determine if he met the Substantial Presence Test for this year, count:

- all 120 days of presence in this year,
- 30 days for the year before the current year (1/3 of 90), and,
- 10 days in the second year before the current year (1/6 of 60)

In this example, because the countable total days for the 3-year period is 160 (120 + 30 + 10) days, Mr. X would not be considered a U.S. resident under the Substantial Presence Test for this year.

Account holder Name:	John X
Account Number:	123456789

Year	Total days (A)	Calculation (B)	Days to be counted (C)
Current year	120	120 / 1	120
Year before the current year	90	90 / 3	30
Second year before the current year	60	60 / 6	10
Total days present (Box D)			160

## Appendix 2

### Days of Presence in the United States:

You are treated as present in the United States on any day you were physically present in the country, at any point during the day. However there are exceptions to this rule. Do not count the following as days of presence in the United States for the purposes of the Substantial Presence Test:

- Days you commute to work in the U.S. from a residence in Canada or Mexico, if you regularly commute from Canada or Mexico
- Days you are in the U.S. for less than 24 hours, when you are in transit between two places outside the U.S.
- Days you are in the U.S. as a crew member of a foreign vessel
- Days you are unable to leave the U.S. because of a medical condition that develops while you are in the U.S.
- Days you are temporarily in the U.S. as a professional athlete to compete in a charitable sports event
- Days you are an exempt individual (see below)

### Exempt Individual

Do not count days for which you are an exempt individual. The term “exempt individual” does not refer to someone exempt from U.S. tax, but to anyone in the following categories who is exempt from counting days of presence in the U.S.:

1. Foreign Government Related Individual or International Organisation Employee present in U.S.
  - Employee of Foreign Government;
  - Employee of International Organisation;
  - Usually in U.S. on A or G visa;
  - Exempt Individual status applies also to immediate family members (i.e., spouse and unmarried children under age 21 years residing in the home).
2. Teacher, Professor, Trainee, Researcher in U.S. on J or Q visa
  - Does NOT include students on J or Q visas;
  - Does include any alien on a J or Q visa who is not a student (physicians, au pairs, summer camp workers, etc.);
  - If you were a teacher, professor, trainee or researcher in a year prior to the current year, see IRS Publication 519 regarding how you should apply the Substantial Presence Test
  - Exempt Individual status applies also to immediate family members with J-2 or Q-3 visa.
3. Student in U.S. on F, J, M or Q visa
  - If you were a student in a year prior to the current year, see IRS Publication 519 regarding how you should apply the Substantial Presence Test
  - Exempt Individual status applies also to spouse and child on F-2, J-2, M-2, or Q-3 visa.

For details on days excluded from the Substantial Presence Test (including for exempt individuals) described above, please refer to IRS Publication 519, U.S. Tax Guide for Aliens, or information about the Substantial Presence Test on the IRS website at <http://www.irs.gov/Individuals/International-Taxpayers/Substantial-Presence-Test>