

[Important] Amendment to the Internal Revenue Code pertaining to Section 1446(f)

The following is important information regarding an upcoming amendment to the Internal Revenue Code pertaining to Section 1446(f) that will go into effect on **Sunday, January 1, 2023**.

All foreign (W-8) documented accounts that hold securities in scope under the 1446(f) regulations will be affected. Generally, 1446(f) regulations impose 10% withholding when there is a "sale, exchange, or other disposition" on securities classified as partnerships (PTP Securities) for U.S. tax purposes. Examples include, but are not limited to, Master Limited Partnerships (MLP), Publicly Traded Partnerships (PTP), and Exchange Traded Funds (ETF).

Currently, section 1446 regulations subject non-residents to withholding under the existing partnership withholding regime. These include withholding rates as high as 37% under section 1446(a).

The following changes will be made effective Sunday, January 1, 2023. The new 1446(f) introduces a second-level 10% withholding tax on Excess of Cumulative Net Income (ECNI) on distributions. ECNI is defined as excess cumulative net income earned by a publicly traded partnership since its formation that has not been previously distributed by the partnership. This amount will be declared by the partnership, which can be up to the declared distribution amount. Consequently, partnership distributions could be subject to withholding tax twice at different tax rates. The new 1446(f) also introduces 10% gross proceeds withholding on sales of PTPs by W-8 accounts.

You can refer to the following links for more details.

<https://www.irs.gov/individuals/international-taxpayers/partnership-withholding>

<https://www.irs.gov/pub/irs-drop/n-22-23.pdf>

This is a major amendment to this regulation, please be aware of the impact on your own rights and interests and we recommend that you consult with your tax advisors about the relevant implications.

Due to the impact of the above-mentioned changes to US domestic tax regulations for PTP securities, KGI will only accept orders to sell and will no longer accept buy orders of PTP Securities from November 15, 2022. Effective January 1, 2023, any buying, selling or transfer of PTP securities will be prohibited. If you are a PTP Securities holder, KGI recommends that you liquidate your PTP position as soon as possible to lower any possible impact of holding such securities after January 1, 2023.

The list is summarized in the following table:

(Updated: 21 September 2022)

Bloomberg Code	Description	CUSIP	ISIN
ARLP	ALLIANCE RESOURCE PARTNERS LP	01877R108	US01877R1086
AB	ALLIANCEBERNSTEIN HOLDING LP	01881G106	US01881G1067
BBU	BROOKFIELD BUSINESS PARTNERS LP	G16234109	BMG162341090
BIP 5⅛ PERP	BROOKFIELD INFRASTRUCTURE PARTNERS LP	G16252267	USG162522670
BIP 5 PERP	BROOKFIELD INFRASTRUCTURE PARTNERS LP	G16252275	BMG162522756
BPY6⅜ PERP	BROOKFIELD PROPERTY PARTNERS LP	G16249156	BMG162491564
BPY 5¾ PERP	BROOKFIELD PROPERTY PARTNERS LP	G16249164	BMG162491648
BPY 6½ PERP	BROOKFIELD PROPERTY PARTNERS LP	G16249149	BMG162491499
CLMT	CALUMET SPECIALTY PRODUCTS	131476103	US1314761032
CEQP	CRESTWOOD EQUITY PARTNERS LP	226344208	US2263442087
ET	ENERGY TRANSFER LP	29273V100	US29273V1008
EPD	ENTERPRISE PRODS PARTNERS LP	293792107	US2937921078
BDRY	ETF MANAGERS GROUP COMMODITY TR I BREAKWAVE DRY BULK SHIPPING ETF	26923H200	US26923H2004
IEP	ICAHN ENTERPRISES LP/CORP	451100101	US4511001012

GSG	ISHARES S&P GSCI COMMODITY IDX UNITS OF BENEFICIAL INTEREST	46428R107	US46428R1077
LAZ	LAZARD LTD	G54050102	BMG540501027
MMP	MAGELLAN MIDSTREAM PARTNERS LP	559080106	US5590801065
MPLX	MPLX LP	55336V100	US55336V1008
NGL	NGL ENERGY PARTNERS LP	62913M107	US62913M1071
NSUS Float REPR	NUSTAR ENERGY LP	67058H300	US67058H3003
PAA	PLAINS ALL AMERICAN PIPELINE LP	726503105	US7265031051
UGL	PROSHARES TRUST II PROSHARES ULTRA GOLD	74347W601	US74347W6012
SVXY	PROSHARES TRUST II SHORT VIX SHRT TRM FUTRS ETF	74347W130	US74347W1302
UCO	PROSHARES TRUST II ULTA BLOMBERG CRUD OIL	74347Y888	US74347Y8883
BOIL	PROSHARES TRUST II ULTRA BLOOMBERG NAT GAS NEW	74347Y870	US74347Y8701
AGQ	PROSHARES TRUST II PROSHARES ULTRA SILVER	74347W353	US74347W3530
UVXY	PROSHARES TRUST II ULTRA VIX SHORT TERM FUTURES ETF (P/S)	74347Y839	US74347Y8396
KOLD	PROSHARES TRUST II ULTRASHORT BLOOMBERG NATURAL GAS (R/S)	74347Y813	US74347Y8131
SCO	PROSHARES TRUST II ULTRASHORT BLOOMBERG CRUDE OIL	74347Y797	US74347Y7976
VIXY	PROSHARES TRUST II VIX SHORT TERM FUTURES ETF	74347Y854	US74347Y8545
GLL	PROSHARES TRUST II ULTRASHORT GOLD NEW	74347W395	US74347W3951
SUN	SUNOCO LP	86765K109	US86765K1097
CORN	TEUCRIUM COMMODITY TRUST CORN FD SHS	88166A102	US88166A1025
SOYB	TEUCRIUM COMMODITY TRUST SOYBEAN FUND	88166A607	US88166A6073
CANE	TEUCRIUM COMMODITY TRUST SUGAR FUND	88166A409	US88166A4094
WEAT	TEUCRIUM COMMODITY TRUST WHEAT FUND	88166A508	US88166A5083
BNO	UNITED STS BRENT OIL FD LP UNIT	91167Q100	US91167Q1004
UNG	UNITED STATES NATURAL GAS FUND LP UNIT	912318300	US9123183009
USO	UNITED STATES OIL FUND LP UNITS	91232N207	US91232N2071
USAC	USA COMPRESSION PARTNERS LP	90290N109	US90290N1090