

SUPPORTING STATEMENT
REG-106030-98

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1.863-8 of the proposed regulations provides rules for determining the source of a U.S. and foreign person's income derived from space or ocean activity. Section 1.863-9 of the proposed regulations provides rules for determining the source of a U.S. and foreign person's income derived from communications activity. The information requested in proposed sections 1.863-8(g) and 1.863-9(g) is necessary for the Service to audit taxpayers' returns to ensure that taxpayers are applying the regulation properly.

2. USE OF DATA

The data will be used by the Service to determine whether the taxpayer determined the source of its income in a manner consistent with the requirements of the regulations.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON

AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

A notice of proposed rulemaking was published in the Federal Register on January 17, 2001 (66 FR 3903). Reg-106030-98 was published in the Federal Register on September 19, 2005 (70 FR 54859).

In response to the Federal Register notice (71 FR 58474), dated October 3, 2006, we received no comments during the comment period regarding REG-106030-98.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The proposed regulations, in sections 1.863-8(g), for space and ocean activity, and in 1.863-9(g), for communications activity, describe the reporting and documentation requirements.

Section 1.863-8(g) provides that when a taxpayer allocates gross income, to the satisfaction of the Commissioner, under paragraph (b)(3)(in the case of certain foreign persons), or under paragraph (b)(4)(ii)(C) (in the case of certain production activity), or under paragraph (b)(5) (in the case of services), it does so by using the method on a timely filed original return (including extensions). An amended return does not qualify, and section 301.9100 will not apply. In all cases, a taxpayer must maintain contemporaneous documentation in existence when such return is filed regarding the allocation of gross income, and the allocation of expenses, losses, or other deductions, the methodology used, and the circumstances justifying use of that methodology. The taxpayer must produce such documentation within 30 days of a request. We estimate that 50 taxpayers will take from 3 to 7 hours to comply with this requirement, with an estimated average of 5 hours per taxpayer. The total burden for this requirement is estimated to be 250 hours.

Section 1.863-9(g) of the proposed regulations provides the reporting and documentation requirements governing income derived from communications activity. Under that

section, when a taxpayer allocates gross income to the satisfaction of the Commissioner under paragraph (b)(2)(ii)(D) (in the case of certain foreign persons), or paragraph (d)(1)(ii)(in the case of separate transactions), it does so by using the method on a timely filed original return (including extensions). An amended return does not qualify, and section 301.9100 will not apply. In all cases, a taxpayer must maintain contemporaneous documentation in existence when such return is filed regarding the allocation of gross income, and the allocation of expenses, losses, or other deductions, the methodology used, and the circumstances justifying use of that methodology. The taxpayer must produce such documentation within 30 days of a request. We estimate that 200 taxpayers will take from 3 to 7 hours to comply with this requirement, with an estimated average of 5 hours per taxpayer. The total burden for this requirement is estimated to be 1,000 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated October 3, 2006, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations sunset as of the

expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.