

**SUPPORTING STATEMENT
(REG-120509-06)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 882(c) provides for the allocation of expenses of foreign residents to income effectively connected with a trade or business within the United States under section 864(c). Current final regulations under §1.882-5 provide a three-step formula for determining the amount of interest expense that foreign corporations may treat as allocable to income effectively connected with their trades or businesses within the United States.

This document has temporary and proposed regulations that provide amendments to the three-step formula under §1.882-5. The regulation provides certain elective alternative methods for the computation of allocable interest expense. An election provided under the third-step of the formula provides a simplified procedure for taxpayers to calculate an allocable amount of U.S. dollar denominated interest expense booked by foreign banks in foreign locations. The election allows taxpayers to use a published 30-day U.S. dollar LIBOR rate of their choosing in lieu of their actual foreign-based U.S. dollar borrowing rate so long as it is elected on a timely filed income tax return. Taxpayers may make the election annually and it is binding for each year that it is made. The collection of information provides simplicity of administration for both taxpayers and the IRS, provides finality to this aspect of the calculation and reduces examination burdens through the tax return review process.

2. USE OF DATA

The data will be used only by regulated foreign banks that are engaged in a trade or business within the United States and will be used for the purpose of computing the excess interest component of the allocable interest expense under the elective adjusted U.S. book liability method in §1.882-5. The data will fix with certainty the allowable interest rate a foreign bank may use to compute this portion of their interest expense allocation. The collection of information will be used as a final verification procedure by the IRS and remove this issue from controversy during the audit process.

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

We received no comments during the comment period in response to our Federal Register notice dated November 28, 2006 (71 FR 68898).

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

We estimate the total number of respondents for this collection to be 75, with a total annual burden of 35 hours.

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

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated November 28, 2006 (71 FR 68898), 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 capital or start-up costs and costs of operation, maintenance and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

Burden was reduced by 3 hours to correct a prior error.

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 regulation sunsets 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.