

**SUPPORTING STATEMENT  
(REG-136481-04 (TD 9212 (final)))**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The collections of information in these final regulations are in Sec. 1.861-4(b)(2) (ii)(C)(1)(i), (b)(2)(ii)(D), and (b)(2)(ii)(D)(6). The information required in Sec. 1.861-4(b)(2) (ii)(C)(1)(i) will enable an individual, where appropriate, to use an alternative basis other than that described in Sec. 1.861-4(b)(2)(ii)(A) or (B) to determine the source of his or her compensation as an employee for labor or personal services performed partly within and partly without the United States. The information required in Sec. 1.861-4(b)(2)(ii)(D) and (D)(6) will enable an employee to source certain fringe benefits on a geographical basis. The collections of information will, likewise, allow the IRS to verify these determinations.

2. USE OF DATA

This information is necessary to determine the proper source of income which, in turn, is needed for the proper computation of the foreign tax credit or the determination of how much income is subject to United States Federal income tax. The information collected by the IRS will be used for audit and examination purposes.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. 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 whenever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESS 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 COLLECTON TO BE INCONSISITENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not Applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

This document contains amendments to 26 CFR part 1. On August 6, 2004, proposed revisions to the regulations (REG-208254-90) under section 861 of the Internal Revenue Code (Code) relating to the source of compensation for labor or personal services were published in the Federal Register (69 FR 47816). In the same document, a prior notice of proposed rulemaking (REG-208254-90), published in the Federal Register on January 21, 2000 (65 FR 3401), was withdrawn. A public hearing was held on January 13, 2005. Two written comments were received. After consideration of these comments, the August 6, 2004 proposed regulations are adopted as amended by this Treasury decision (9212). It was published in the Federal Register on July 14, 2005 (70 FR 40663).

In response to the Federal Register notice (72 FR 19764), dated April 19, 2007, we received no comments during the comment period regarding TD 9212.

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 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not Applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collections of information in these final regulations are in Sec. 1.861-4(b)(2) (ii)(C)(1)(i), (b)(2)(ii)(D), and (b)(2)(ii)(D)(6). The information required in Sec. 1.861-4(b)(2) (ii)(C)(1)(i) will enable an individual, where appropriate, to use an alternative basis other than that described in Sec. 1.861-4(b)(2)(ii)(A) or (B) to determine the source of his or her compensation as an employee for labor or personal services performed partly within and partly without the United States. The information required in Sec. 1.861-4(b)(2)(ii)(D) and (D)(6) will enable an employee to source certain fringe benefits on a geographical basis. The collections of information will, likewise, allow the IRS to verify these determinations. It is estimated that 20,000 taxpayers annually will meet the requirements set forth therein. It is estimated that the average recordkeeping burden will be 30 minutes. Accordingly, the estimated annual recordkeeping burden is 10,000 hours.

Estimates of the annualized cost to respondents for the 30 minute 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 April 19, 2007, 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 CHANGES IN BURDEN

There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

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 number and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON FORM 83-1

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 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.