

SUPPORTING STATEMENT (REG-209826-96)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Subpart E of part I of subchapter J, chapter 1 of the Internal Revenue Code (sections 671 through 679) provides that under certain circumstances the income of a trust is taxed to the grantor or another person notwithstanding that the grantor or other person may not be a beneficiary of the trust.

Section 1.671-l(h)(1) of the proposed regulation provides that in the case of a foreign employees' trust (as defined in §1.671-l(h)(2)), the provisions of subpart E are applicable only to the portion of the trust that is the overfunded fractional interest, which is defined in §1.671-l(h)(3)(i).

For purposes of computing the overfunded fractional interest, it will be necessary to determine the overfunded amount under §1.671-l(h)(3)(ii). Section 1.671-l(h)(3)(iii) provides that the overfunded amount for certain foreign employees' trusts will be reduced to the extent the taxpayer demonstrates to the Commissioner, and indicates on a statement attached to a timely filed Form 5471 that it is relying on this rule, that the overfunded amount is attributable to a reasonable funding exception.

2. USE OF DATA

The data will be used by the Internal Revenue Service and taxpayers to verify that the proper amount of tax is reported and excluded.

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 September 27, 1996 (61 FR 50778). A public hearing was held on January 15, 1997.

In response to the **Federal Register Notice** dated **May 12, 2008 (73 FR 27028)**, we received no comments during the comment period.

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

Section 1.671-l(h)(3)(iii) provides that the overfunded amount for certain foreign employees' trusts will be reduced to the extent the

taxpayer demonstrates to the Commissioner, and indicates on a statement attached to a timely filed Form 5471 that it is relying on this rule, that the overfunded amount is attributable to a reasonable funding exception. We estimate that 1,000 taxpayers will file a statement, and it will take an average of 1 hour to prepare and file the statement. The total burden for this requirement is 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 **May 12, 2008 (73 FR 27028)**, 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 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.

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.