

SUPPORTING STATEMENT

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The collection of information for foreign persons that receive payments subject to withholding under sections 1441, 1442, 1443, or 6114 of the Internal Revenue Code is in 1441-1(e), 1.1441-4(a)(2), 1.1441-4(b)(1) and (2), 1.1441-4(c), (d), and (e), 1.1441-5(b)(2)(ii), 1.1441-5(c)(1), 1.1441-6(b) and (c), 1.1441-8(b), 1.1441-9(b), 1.1461-1(b) and (c), 301.6114-1, 301.6402-3(e), and 31.3401(a)(6)-1(e). This information is used to claim foreign person status and, in appropriate cases, to claim residence in a country with which the United States has an income tax treaty in effect, so that withholding at a reduced rate of tax may be obtained at source.

The collection of information requirement for withholding agents is in §1.1461-1 and 31.3401(a)(6)-1(e). This information is used by withholding agents to report to the IRS income paid to foreign persons that is subject to withholding under sections 1441, 1442, and 1443.

Section 301.6114-1 requires that a foreign taxpayer claiming a reduced amount of withholding tax under the provisions of an income tax treaty must disclose its reliance upon a treaty provision by filing Form 8833 with its U.S. income tax return.

2. USE OF DATA

This information will be used to verify taxpayer return information and as part of exchange of information agreements with treaty partners under obligations imposed by income tax treaties to which the United States is a party. The likely respondents and recordkeepers are individuals, businesses and other organizations that make payments to nonresident alien individuals and foreign corporations.

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 April 15, 1996 (61 FR 17614). A public hearing was held on July 24, 1996. The final regulations were published in the Federal Register on May 22, 2000 (65 FR 32152).

We received no comments during the comment period in response to the Federal Register notice dated May 8, 2008 (73 FR 26189).

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 burden for the reporting requirements contained in sections 1.1441-1(e), 1.1441-4(a)(2), 1.1441-4(b)(1) and (2), 1.1441-4(c), (d), and (e), 1.1441-5(b)(2)(ii), 1.1441-5(c)(1), 1.1441-6(b) and (c), 1.1441-8(b), 1.1441-9(b), 1.1461-1(b) and (c), 301.6114-1, 301.6402-3(e), and 31.3401(a)(6)-1(e) is reflected in the burdens of Forms W-8BEN, W-8ECI, W-8EXP, W-8IMY, 8233, 8833, and the amended income tax return of a foreign person serving as a claim for refund.

Section 1.1461-1 provides the reporting requirements for withholding agents on payments of income subject to withholding under sections 1441, 1442 and 1443. The burden of the reporting requirements under section 1.1461-1 is reflected in the burden of Forms 1042 and 1042S.

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 8, 2008 (73 FR 26189), 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.