

**1SUPPORTING STATEMENT  
REG-159243-03**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

**Sections 931 and 933 of the Code apply to bona fide residents of American Samoa and Puerto Rico, respectively, and provide rules for determining the gross income of such taxpayers for purposes of the Internal Revenue Code. Section 931 permits an exclusion for income derived from or effectively connected with the conduct of a trade or business in a specified possession. Section 933 permits an exclusion for income derived from sources in Puerto Rico.**

**Section 932 of the Code provides rules for determining the income tax return filing requirements and tax liabilities of (1) individual U.S. citizens and residents who have income derived from sources in or effectively connected with the conduct of a trade or business in the United States Virgin Islands (USVI) and who are not residents of the USVI; and (2) individuals who are bona fide residents of the USVI.**

**Section 935 of the Code provides rules for determining the income tax return filing requirements and tax liabilities of (1) individual U.S. citizens and residents who have income derived from sources in Guam or the Northern Mariana Islands; and (2) individuals who are bona fide residents of Guam or the Northern Mariana Islands.**

**Section 934(b) of the Code limits the authority of the USVI to reduce the territorial income tax on certain items of income, including (1) income of bona fide residents of the USVI from sources in or effectively connected with the conduct of a trade or business in the USVI; and (2) income of foreign corporations that is not derived from a U.S. source or effectively connected with the conduct of a trade or business in the United States.**

**Section 937(a) of the Code imposes an objective standard for determining whether an individual is a bona fide resident of Guam, Puerto Rico, American Samoa, the USVI, or the Northern Mariana Islands. Section 937(b) provides that no income from sources in or effectively connected with the conduct of a trade or business in the United States may be treated as from sources in or effectively connected with the conduct of a trade**

or business in a U.S. possession. Sections 937(a) and (b) authorize Treasury to provide exceptions by regulation to the statutory residency and source rules. Section 937(c) requires an individual who claims to become, or cease to be, a resident of a U.S. possession to file notice of such claim in such manner as the Secretary prescribes.

Section 7654(e) of the Code contains additional authority to prescribe such regulations as may be necessary to carry out the provisions of sections 931, 932, 935, and 7654, including regulations prescribing the information that the individuals to whom such sections may apply shall furnish to the Secretary.

## **2. USE OF DATA**

The recordkeeping requirements will be used to verify that taxpayers' determination of residency and reporting of source of income in a U.S. possession is accurate.

## **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**

The final regulations were published in the Federal Register on January 31, 2006 (71 FR 4996).

We received no comments during the comment period in response to the Federal Register Notice dated May 30, 2008 (73 FR 31192).

**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 collection of information in this regulation is in the following sections:

(1) 1.932-1T(h)(1) and 1.935-1T(e)(1) which require information to ensure the filing of consistent entity classification elections with the United States and U.S. possessions to identify inconsistent or improper reporting of income source. The filing of a duplicative election requires no additional collection of information and minimal taxpayer burden.

(2) 1.935-1T(b)(7)(ii) which requires individuals claiming to be a bona fide resident of Guam or the Northern Mariana Islands

to file a copy of their territorial income tax returns with the Internal Revenue Service. The information on these returns will assist the IRS in identifying individuals who improperly claim to be residents of Guam or the Northern Mariana Islands or who incorrectly characterize the source of items of income. The filing of a duplicative return requires no additional collection of information and minimal taxpayer burden.

(3) 1.937-1T(g) which requires individuals claiming to become, or cease to be, a resident of a U.S. possession to file notice of such claim with the Internal Revenue Service in accordance with section 937(c) of the Code. Individuals subject to this reporting requirement must retain information to establish their residency as required by section 937(c) of the Code and 1.937-1T.

We estimate that 75,000 recordkeepers will keep records annually. The estimated annual burden per recordkeeper is 4 hours. The total recordkeeping requirement is 300,000 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 30, 2008 (73 FR 31192), 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 purchases 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**

Not applicable.

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

Not applicable.

**17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

Not applicable.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB 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 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.**