

## **SUPPORTING STATEMENT**

### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Article XIII(7) of the U.S-Canada Income Tax Treaty (the "Treaty"), as amended by the 2007 Protocol, provides for an election to any individual who emigrates from Canada to the United States, without regard to whether the individual is a U.S. citizen immediately before ceasing to be a resident of Canada (or would otherwise have been subject to U.S. tax on an actual disposition of property). If the individual is not subject to U.S. tax at that time, the effect of the election is to give the individual an adjusted basis for U.S. tax purposes equal to the fair market value of the property as of the date of the deemed alienation in Canada, with the result that only post-emigration gain will be subject to U.S. tax when there is an actual alienation. If the Canadian resident is also a U.S. citizen at the time of his emigration from Canada, or the Canadian resident would be subject to taxation in the United States on a disposition of the property, then the rule allows the U.S. citizen to accelerate the tax under U.S. tax law and allows tax credits to be used to avoid double taxation.

In order to take advantage of this election, this revenue procedure provides that the individual must attach documentation establishing the fair market value of the property at the time of the deemed alienation in Canada and confirming that built in gain (or loss if permitted) was recognized for Canadian tax purposes in the taxable year of the deemed alienation. The individual must also retain copies of this documentation, along with Form 8833, until the property is disposed of.

### **2. USE OF DATA**

The Service will use the information for audit purposes to confirm that such individual taxpayer, upon making the election provided in this revenue procedure, can get the appropriate adjustment to basis for U.S. tax purposes and can take advantage of foreign tax credits that may be available under the Code and the Treaty.

### **3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

### **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 will publish a notice in the Federal Register in the near future to solicit public comments on this revenue procedure.

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

Burden estimation:

The first reporting requirement provided by the revenue procedure is in section 3.01(3) and (5), 3.02(3), and 3.03(3) of the revenue procedure and requires that an individual taxpayer that is emigrating from Canada to the

United States attach documentation establishing the fair market value of the property that such taxpayer is treated as having alienated in Canada for Canadian tax purpose. The value must be the value of such property at the time of such deemed alienation in Canada, and the documentation must confirm that gain or loss was recognized for Canadian tax purposes. We estimate that approximately 100 taxpayers annually will wish to make this election upon emigrating to the United States, and that it will take approximately 1 hour to prepare the documentation. The total reporting burden is estimated to be 100 hours.

The recordkeeping requirement requires the individual taxpayer to retain copies of the Form 8833 (Treaty-Based Return Position Disclosure Under Section 6114 and 7701(b)) on which the election is made along with the accompanying documentation of the fair market value of the property until the property is disposed of. We estimate that no additional time will be required to retain these records until the disposition of the property at issue.

The total burden for this regulation is 100 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

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

For a new revenue procedure: Not applicable.

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 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.

**Note:** This is an emergency submission. The revenue procedure provides guidance to Canadian residents emigrating to the United States who wish to make an election under Article XIII(7) of the U.S.-Canada Treaty with respect to property that will be subject to Canadian Departure tax in order to get an adjustment to basis in such property and to prevent the possibility of double taxation in the future. The 2007 Protocol to the Treaty made certain amendments to Article XIII(7) that went into effect on January 1, 2009, but taxpayers do not yet have any guidance as to the actual procedure of making the election provided in Article XIII(7) of the Treaty.

The election is made on Form 8833 (Treaty-Based Return Position Disclosure Under Section 6114 and 7701(b)) along with the required supporting documentation described in the revenue procedure. Form 8833 is required to be filed along with the individual's U.S. tax return, so that this revenue procedure would provide procedural guidance that is relevant for the 2008 filing season.

The Service believes that the interest of both taxpayers and the Service would be best served if the procedure for making an election under Article XIII(7) of the Treaty is published as soon as possible, and therefore, an emergency submission is requested.