

**SUPPORTING STATEMENT
(INTL-868-89 Final)**

22416. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6038A generally requires that 25-percent foreign-owned U.S. corporations and foreign corporations engaged in a trade or business within the United States must furnish information annually on an information return, Form 5472, and maintain records relating to transactions between such corporations and any foreign related parties. Additionally, section 6038A requires a foreign related party that engages in a transaction with a foreign-owned U.S. or foreign corporation to authorize that corporation to act as its agent for IRS summons purposes.

22417. USE OF DATA

The records required to be maintained and the information reported on Form 5472 will be used in auditing foreign-owned U.S. corporations 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. Also, the Office of Management and Budget will search the Federal Information Locator System.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

A safe harbor is provided for small businesses that meet certain tests exempting such businesses from the record maintenance and authorization of agent requirements.

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 proposed regulations were published as a Notice of Proposed Rulemaking in the **Federal Register** on December 10, 1990, (55 FR 50706), which provided the general public with a 60-day period in which to review and provide comments relating to any aspect of the proposed regulations. A public hearing was held on February 22, 1991. Final regulations were published in the **Federal Register** on June 19, 1991 (56 FR 28056).

In response to the Federal Register Notice dated January 23, 2009 (74 FR 4302), we received no comments during the comment period regarding INTL-868-89.

9. **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and 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**

Section 1.6038A-2 of the attached regulations advises taxpayers as to the requirement to complete Form 5472. The burden estimate for this requirement is reflected in the burden of Form 5472.

Section 1.6038A-3 of the attached regulations advises taxpayers as to the record maintenance requirement. A reporting corporation must keep the permanent books of account or records as required by section 6001 that are sufficient to establish the correctness of the Federal income tax return of the corporation, including information or records that might be relevant to determine the correct tax treatment of transactions with related parties. The estimated number of recordkeepers is 63,000. We estimate that each recordkeeper will spend ten hours each year keeping these records. The total burden for this requirement is 630,000 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 January 23, 2009 (74 FR 4302), 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.

