

SUPPORTING STATEMENT  
Notice 97-19 and Notice 98-34

1. **CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

The Health Insurance Portability and Accountability Act of 1996 amended section 877 of the Internal Revenue Code ("Code") and added section 6039F to the Code. Under section 877, certain citizens and long-term residents who expatriate with a tax avoidance motive are taxed on their U.S. source income for ten years following expatriation. Certain individual taxpayers will be considered to have a principal purpose to avoid tax unless they obtain a private letter ruling that their expatriation did not have a principal purpose of tax avoidance. Section 877(d)(2) requires certain taxpayers to immediately recognize gain on certain transactions that, but for section 877, would not be taxable. However, taxpayers can avoid the immediate recognition of gain by entering into a gain recognition agreement with the Secretary. Section 877(d)(4) requires taxpayers to recognize gain or income from property contributed to certain controlled foreign corporations and provides that the Secretary may prescribe information reporting as necessary to carry out the purposes of section 877(d)(4). Section 6039F requires U.S. citizens who lose citizenship and long-term residents who cease to be taxed as lawful permanent residents to provide information statements to the Department of State or the IRS, respectively. Section 7701(b)(10) provides that certain residents of the United States who end their residency, but subsequently become residents of the United States again are subject to tax in the manner provided by section 877(b).

Notice 97-19 provides guidance in five areas. First, the notice describes individuals eligible to submit ruling requests and the procedures for submitting such requests. The notice also provides detailed guidance on the type of information that should be included with the requests. Second, the notice describes the procedures a taxpayer should follow when entering into a gain recognition agreement and provides guidance on specific information and representations that must be included in the gain recognition agreement. Third, the notice explains how to report information in accordance with section 6039F. Section 6039F(b) requires an individual to report his TIN, mailing address of principal foreign residence, the foreign country of citizenship, information on the individual's assets and liabilities if such individual's net worth exceeds \$500,000, and such other information as the Secretary may prescribe. The notice sets forth the additional information that is prescribed by the Secretary.

Notice 97-19 also provides that certain individuals subject to both old and new section 877 should annually file a tax return for each year of the 10-year period following expatriation and attach a statement to that return

that sets forth the individual's U.S. and foreign source gross income, with an identification of those items subject to tax by reason of section 877. Fourth, the notice provides that individuals subject to section 877(d)(4) must file an information statement for each taxable year in which contributions are made to certain controlled foreign corporations. Fifth, the notice provides that an individual subject to tax by reason of section 7701(b)(10) must attach a statement to his or her tax returns, when returning to the U.S. as a resident and filing returns for the intervening years, that sets forth the individual's foreign and gross source income for those years. The notice also describes procedures that an individual subject to section 7701(b)(10) must comply with to enter into a gain recognition agreement to avoid recognition of gain on exchanges described in section 877(d)(2).

Notice 98-34 modified section IV of Notice 97-19 by requiring slightly more information of all ruling request applicants to ensure that useful information is submitted with the requests. Also, the citizenship requirement under some of the categories of former long-term residents eligible to request a ruling was eliminated, thereby resulting in more applicants for rulings.

2. **USE OF DATA**

The information that taxpayers provide through the private letter ruling process will be used to help the Secretary make a determination as to whether these taxpayers expatriated with a principal purpose to avoid tax.

The information collected in connection with gain recognition agreements, annual information reporting, reporting of contributions to certain controlled foreign corporations, and initial information reporting will be used by the IRS for tax administration purposes.

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**

Notice 97-19 was published in the **Internal Revenue Bulletin** on March 10, 1997 (1997-10 I.R.B. 40). Notice 98-34 was published in the **Internal Revenue Bulletin** on July 6, 1998 (1998-27 I.R.B. 30). We have also consulted with the Department of State and the Immigration and Naturalization Service to coordinate the collection of information required by section 6039F.

In response to the Federal Register Notice dated March 19, 2009, (74 F.R. 11811), we received no comments during the comment period regarding Notice 97-19 and Notice 98-34.

**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 USC 6103.

**11. JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

**12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

Section IV of Notice 97-19, as modified by Notice 98-34, permits certain former citizens and former long-term

residents to submit ruling requests for a determination by the Secretary as to whether such individual expatriated with a principal purpose to avoid tax. It also sets forth information to be submitted with each request. We estimate that approximately 100 individuals will submit private letter ruling requests each year and that it will take approximately 3.5 hours to complete the ruling request as well as provide any additional requested information. The total burden for this requirement is 350 hours.

Section V of Notice 97-19 sets forth procedures that taxpayers must follow when submitting gain recognition agreements under section 877(d)(2)(c) and information that must be included with each agreement. We estimate that approximately 100 individuals will enter into gain recognition agreements each year and that these individuals will spend approximately 1 hour completing the agreements. The total time estimate for this requirement is 100 hours.

Section 6039F requires all citizens who lose citizenship and all long-term residents who cease to be taxed as residents to provide information statements. Section IX of Notice 97-19 describes the information that must be included in these statements. We estimate that approximately 1,000 U.S. citizens will lose U.S. citizenship each year and 10,000 long-term residents will cease to be taxed as U.S. residents each year. It will take these individuals approximately .50 hour to complete their information statements. The total time estimate for this requirement is 5,500 hours.

Section VI of Notice 97-19 describes the information that must be reported with respect to contributions to certain controlled foreign corporations. We estimate that approximately 50 individuals will submit this information annually and that they will spend .50 hour completing these statements. The total time estimate for this requirement is 25 hours.

Section VII of Notice 97-19 sets forth the information that needs to be attached with certain expatriating individuals' annual U.S. tax returns for each year of the 10-year period following expatriation. We estimate that approximately 500 individuals each year will spend .50 hour to prepare the attached statements. The total time estimate for this requirement is 250 hours.

Section XI sets forth the information that needs to be

included with certain individuals' annual U.S. tax returns for each year during which the individual was not a resident of the United States, but subsequently becomes a resident again. We estimate that approximately 500 individuals will spend .50 hour each year to prepare the attached statements. The total time estimate for this requirement is 250 hours.

Section XI also sets forth procedures that taxpayers subject to section 7701(b)(10) must follow when submitting gain recognition agreements and information that must be included with each agreement. We estimate that approximately 100 individuals will spend approximately .50 hour completing these agreements. The total time estimate for this requirement is 50 hours.

TOTAL BURDEN PER YEAR: 6,525 hours.

TOTAL INDIVIDUAL RESPONSES PER YEAR: 12,350.

Estimates of the annualized cost to respondents for the hour burdens shown above are not available at this time.

13. **ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our **Federal Register** notice dated March 19, 2009 (74 FR 11811), 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 these notices 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.

## OMB EXPIRATION DATE

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.