

**SUPPORTING STATEMENT  
(Revenue Procedure 2000-35)**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

The Tax Reform Act of 1984, section 129, 1984-3 (Vol. 1) C.B. 163, added section 1445 to the Internal Revenue Code as a means of enforcing the tax imposed pursuant to section 897 on dispositions by foreign persons of investments in U.S. real property. Section 1445(a) provides that a transferee of a U.S. real property interest from a foreign person must deduct and withhold a tax equal to 10 percent of the amount realized by the foreign person on the disposition. Section 1445(b) and the regulations thereunder provide several exceptions to this requirement, including an exemption from withholding for persons who purchase property for use as a residence costing \$300,000 or less. Other exemptions include cases where the transferor furnishes an affidavit of non-foreign status, where the property transferred is stock that is regularly traded on an established securities market, where the transferor is not required to recognize any gain or loss with respect to a nonrecognition transfer (and the requirements of section 1.1445-2(d)(2) are met), and where a statement is obtained from the Internal Revenue Service that excuses withholding. Similarly, section 1445(c) provides that the amount required to be withheld can be reduced pursuant to a determination by the Service of the transferor's maximum tax liability upon the disposition. Sections 1.1445-3 and 1.1445-6 of the regulations provide rules concerning the issuance by the Service of a withholding certificate that reduces or eliminates withholding. This revenue procedure provides additional guidance concerning applications for withholding certificates.

**2. METHOD OF COLLECTION AND USE OF DATA**

This information will be used to enable the IRS to determine whether to issue a withholding certificate to an applicant, which reduces or eliminates withholding under section 1445 of the Code.

**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**

Revenue Procedure 2000-35 was published in the **Internal Revenue Bulletin** on August 28, 2000 (2000-35 IRB 211).

In response to the Federal Register Notice dated September 22, 2009 (74 FR 48351), we received no comments during the comment period regarding Rev. Proc. 2000-35.

**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**

The collections of information are contained in sections 4 through 9 of this revenue procedure. The number of withholding certificate applications processed at the Philadelphia Service Center were as follows: 3,422 in 1995, 3,865 in 1996, 4,340 in 1997, 5,575 in 1998. Based on these figures, we estimate that 6,000 applications will be submitted annually. The estimated average annual burden per applicant to provide information required in sections 4 through 9 of this revenue procedure is 10 hours, and the total annual reporting and/or recordkeeping burden is 60,000 hours (6,000 X 10).

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 September 22, 2009, 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 COSTS 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 revenue procedure 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

## **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.