

SUPPORTING STATEMENT
(INTL-939-86)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

A United States shareholder of a controlled foreign corporation ("CFC") is subject to current United States taxation on the subpart F income of the foreign corporation. One of the categories of subpart F income is "insurance income," as defined in section 953. Section 953 insurance income is income, whether premium or investment income, attributable to any insurance, reinsurance, or annuity contract in connection with risks located in a country other than the country in which the CFC is incorporated. Section 953(c) creates a subcategory of section 953 insurance income referred to as related person insurance income ("RPII"), which is subject to special rules. RPII is insurance income derived from insuring the risks of United States shareholders of the CFC, or persons related to United States shareholders. In addition to section 953 insurance income, sections 954(a)(1) and (c) of the Code treat investment income attributable to insurance, reinsurance, or annuity contracts covering risks located in the controlled foreign corporation's country of incorporation as subpart F income. Thus, under subpart F there are three classes of insurance income: (1) income from insuring risks located outside the CFC's country of incorporation where the insured is related to the CFC (RPII); (ii) income from insuring risks located outside the CFC's country of incorporation where the insured is not related to the CFC (non RPII); and (iii) investment income derived from insuring risks located in the same country in which the CFC is incorporated (same country insurance, or "SCI").

Generally, risks in connection with property are located where the property is located. The regulation provides an exception to this rule with respect to moveable property. Under that exception, moveable property will be located during a period of insurance coverage where the property was located during a prior period, provided that this method of location does not result in a material distortion when compared to the actual location of the property. To avail itself of this method of property location, the CFC must maintain records provided by the insured that demonstrate the reasonableness of its apportionment and that the apportionment did not result in a material distortion.

Section 953(b)(3) provides that all items of income, expenses, losses, and deductions shall be allocated or apportioned under regulations prescribed by the Secretary. The regulations provide that a CFC may allocate its investment income and deductions to a particular category of insurance income, whether RPII, nonRPII, or SCI, if the CFC identifies on its books and records the assets which related to those categories, and the CFC separately accounts for the various income, exclusion, deduction, reserve, and other liability items properly attributable to such contracts.

Under sections 953(a) and (b), a CFC computes its taxable insurance income under subchapter L of the Code. In addition, the regulations also provide that the taxable investment income derived from same-country insurance is also computed under subchapter L of the Code. Certain items relevant to the computation of a CFC's taxable section 953 insurance incomes or same-country investment income are determined by using the figures appearing on an insurance company annual statement prescribed by the National Association of Insurance Commissioners (NAIC) as required to be filed by the authorities of any state of the United States. CFC's that have income attributable to doing an insurance business outside the United States do not file NAIC annual statements. However, because the NAIC annual statement figures are the starting point for making certain computations under subchapter L of the Code, such as the deduction for reserves, the regulations require CFC's that have section 953 insurance income or same-country investment income attributable to doing an insurance business outside of the United States to prepare those portions of an NAIC annual statement that are necessary to compute its taxable income under subchapter L.

Section 953(c)(3)(C) permits a controlled foreign corporation to treat its RPII as income effectively connected with the conduct of a United States business with the result that such income is subject to taxation at the corporate level rather than the shareholder level. Under section 953(c)(3)(C), the Secretary is to prescribe regulations relating to the time and manner of the election and insuring collection of the tax imposed. The regulations require a CFC making the election to submit an election statement, to enter a closing agreement, and to provide a letter of credit. The electing corporation must provide a list of its United States shareholders, the United States

person insured by the corporation, and any foreign persons insured by the corporation that are related to the United States shareholders.

Section 6046 requires officers, directors, and shareholders of a foreign corporation to comply with certain reporting requirements. Section 1.6046-1 of the regulation modifies the regulations under section 6046 to clarify that certain officers and directors and United States shareholders of a CFC as defined in section 953(c) of the Code must comply with the reporting requirements of section 6046. The information reporting requirement under section 6046 is complied with by filing Form 5471.

2. USE OF DATA

The information will be used to verify that locating moveable property on the basis of where the property is located in a prior period does not result in a material distortion from where the property is actually located during the period of insurance coverage, to verify the relationship of investment income and deductions to specific categories of insurance income, to provide a basis for, and a means of verifying, those items which are determined from an insurance company's annual statement, and to permit related person insurance income to be taxed at the corporate level as income effectively connected with the conduct of a United States trade or business. The information collected on Form 5171 will be used to verify the identity of United States shareholders and their reported income.

Without this information, the election regarding the moveable property, which is intended to ease compliance, could not be granted and the election to treat RPII income as effectively connected could not be administered and collection of the tax insured. Further, without the recordkeeping requirements regarding the allocation of investment income and deductions to separate lines of business, taxpayers could not be accorded the opportunity to determine the amount of income attributable to each category of insurance business by segregating those categories for accounting purposes and would have to use more burdensome means of determining the proper amount of taxable income attributable to each category of insurance business.

Without the information required under section 6046 and Form 5171, the identity of the United States shareholder of a CFC and their respective shares of the CFC's subpart F

income could not be verified.

The recordkeeping requirements are necessary to administer the Internal Revenue 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

A notice of proposed rulemaking was published in the Federal Register on April 17, 1991 (56 FR 15540). At that time, a 60-day period was given in which to review and provide public comments relating to any aspect of the proposed regulation. A public hearing was held on June 24, 1991.

In response to the **Federal Register** notice dated **July 6, 2010 (75 FR 38873)**, we received no comments during the comment period regarding INTL 939-86.

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

Section 1.953-2(e)(3)(iii) of the regulations permits a CFC to determine the location of moveable property based on the location of the property in a prior period, provided that the insured provides information regarding the actual location of the property during the period of insurance coverage. We estimate that 250 of the respondents will compile such information and that the time spent will be 10 hours per respondent. Total reporting burden: 2,500 hours.

Sections 1.953-4(b) and 1.953-5(a) of the regulations permit a CFC to allocate investment income and deductions to the RRPII, nonRRPII, and SCI categories if the CFC identifies on its books and records the assets which relate to those categories, and the CFC separately accounts for the various income, exclusion, deduction, reserve, and other liability items properly attributable to such contract. We estimate that 100 of the respondents will keep books and records on this basis and that the time spent will be 10 hours. Total recordkeeping burden: 1,000 hours.

Section 1.953-6(a) of the regulations requires CFC's that have section 953 insurance income or same-country investment income attributable to doing an insurance business outside the United States to prepare those portions of a NAIC annual statement that are necessary to compute its taxable income under subchapter L. We anticipate that this requirement will affect 500 respondents who will prepare one statement each. It will take approximately 20 hours to complete the statement. Total reporting burden: 10,000 hours.

Section 1.953-7(c)(8) of the regulations requires a CFC making an election to treat RPII as income effectively connected with the conduct of a U.S. trade or business to submit an election statement, to enter into a closing agreement, and to provide a letter of credit. The electing corporation must provide a list of its United States shareholders, the United States persons insured by the corporation, and any foreign persons insured by the corporation that are related to the United States shareholders. We anticipate that this requirement will affect 30 respondents who will prepare one statement each. It will take approximately 20 hours to complete the statement. Total reporting burden: 600 hours.

Section 1.6046-1 modifies the regulations under section 6046 to clarify that certain officers and directors and United States shareholders of a CFC as defined in section 953(c) of the Code must comply with the reporting requirements of section 6046. The burden for the requirement under section 1.6046-1 to file Form 5471 is reflected in the burden of Form 5471.

We estimate that the above requirements will affect a total of 500 respondents and the total annual burden will be 14,100 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

As suggested by OMB, our **Federal Register** notice dated **July 6, 2010 (75 FR 38873)**, 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 are no changes in burden for INTL-939-86. 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.