

1SUPPORTING STATEMENT  
REG-251703-96 (TD 8813)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1161 of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788 (1997), provides that a trust that was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986) and that was treated as a United States person on August 19, 1996, may elect to continue to be treated as a United States person notwithstanding § 7701(a)(30)(E) of the Code. The election will require the Internal Revenue Service to collect information.

Section 301.7701-7(f) of the Income Tax Regulations generally required the election to be filed by the due date of the trust's return for the 1998 taxable year, plus extension. In addition, if the election is not filed within the required time period, the trustee may provide a written statement to the district director requesting an extension of the time limit if reasonable cause is shown. However, relief is not ordinarily available if the statute of limitations for the trust's 1997 taxable year has expired. The regulations also provide that the election to remain a domestic trust may only be revoked with the consent of the Commissioner.

Section 301.7701-7(d)(2) of the Income Tax Regulations allows trusts that want to continue to be treated as a foreign trust or a domestic trust, as the case may be, to correct inadvertent changes to the trust within 12 months of the change to retain the pre-change status as domestic or foreign. The trust may submit a written statement to the district director requesting an extension of the 12-month time period to correct certain inadvertent changes to the trust if reasonable cause is shown.

2. USE OF DATA

Taxpayers must submit the information in order to make the election to remain a United States person. The information will be used by the I.R.S to determine if a trust is a domestic trust or a foreign trust.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS publication, 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 98-25 was published in the Internal Revenue Bulletin on May 4, 1998 (1998-18 IRB 11) and was approved by OMB.

REG-251703-96 was published in the Federal Register as a notice of proposed rulemaking on June 5, 1997 (62 FR 30796). The proposed regulations did not impose a paperwork burden on the public. The final regulations were published in the Federal Register on February 2, 1999 (64 FR 4967). However, the final regulations contained collections of information that were originally included in Notice 98-25.

We received no comments during the comment period in response to the Federal Register notice (75 FR 38184), dated July 1, 2010.

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

We estimate that 200 trusts will submit a statement requesting an extension of time to file the election statement to the district director and that it will take approximately .5 hours to complete the statement. The burden for this requirement is 100 hours.

We estimate that 20 trusts per year will provide the written statement to the district director requesting an extension of the 12-month time period to correct certain inadvertent changes to the trust and that it will require 30 minutes to prepare the written statement per trust. Therefore, the estimated total annual burden is 10 hours.

We estimate that 2 trusts per year will request permission to revoke the election to remain a domestic trust and that it will require 2 hours to prepare the request. Therefore the estimated total annual burden is 4 hours.

The total burden for this regulation is 114 hours.

The burden for filing Forms 1041 and 1040NR is included in the burden estimate for those forms.

Estimates of the annualized cost to respondents for the burden 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 1, 2010, 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.