

SUPPORTING STATEMENT
Guidance on Reporting Interest Paid to Nonresident Aliens
TD 9584

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Sections 1441 and 1442 and §1.1441-1(b)(1) generally require a person that makes a payment of an “amount subject to withholding” to a beneficial owner that is a foreign person to deduct and withhold 30 percent of the payment unless it can reliably associate the payment with documentation upon which it can rely to treat the payment as made to a beneficial owner that is a U.S. person or as made to a beneficial owner that is a foreign person entitled to a reduced rate of withholding under the Code, regulations, or an income tax treaty.

Recent global events have demonstrated that greater cooperation among taxing authorities to achieve robust information reporting, collection, and exchange is a critical component in combating the evasion of tax and implements the fundamental purpose of tax information exchange articles in U.S. tax treaties. Regulations currently in effect require reporting of U.S. bank deposit interest if the interest is paid to a U.S. person or a nonresident alien individual who is a resident of Canada. These regulations extend routine reporting to the IRS for all bank deposit interest paid within the United States to all nonresident aliens. This reporting will help to ensure voluntary compliance by U.S. taxpayers by minimizing the possibility of avoidance of the U.S. information reporting system (such as through false claims of foreign status) and, where appropriate, will permit the United States to implement exchange of information in respect of the information.

2. USE OF DATA

The information collected by the IRS will be used for audit and examination purposes.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic filing of Forms 1042-S, Foreign Person’s U.S. Source Income Subject to Withholding, is available to satisfy the withholding agent’s reporting responsibility, and it is estimated that 90% of the information will be reported electronically.

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

On January 17, 2001, the IRS published a NPRM (REG 126100– 00) in the **Federal Register** (66 FR 3925); On August 2, 2002, the IRS published a NPRM (REG–133254– 02) in the **Federal Register** (67 FR 50386) which withdrew previous regulations and proposed narrower regulations; On January 7, 2011, the IRS issued a NPRM (REG-146097-09) in the **Federal Register** (76 FR 1105) which withdraw the 2002 regulations and provide new proposed regulations.

Written comments were received on the 2011 proposed regulation. A public hearing on was held on May 18, 2011, at which time further comments were received. All comment were considered and are available for public inspection at <http://www.regulations.gov> and an explanation and summary of comments are provide in the final rulemaking.

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

The collections of information are in §§1.6049-4(b)(5)and 1.6049-6(e)(4).

In §1.6049-4(b)(5)a payor must make an information return on Form 1042-S, “Foreign Person’s U.S. Source Income Subject to Withholding” for the calendar year in which a

payment of deposit interest is made to a foreign person. It is estimated that it will require approximately 15 minutes of additional recordkeeping to complete a Form 1042-S. The total recordkeeping burden is estimated to be 250 hours.

In §1.6049-6(e)(4) any person who makes a Form 1042-S under §1.6049-4(b)(5) must furnish a statement to the recipient in person or by first class mail to the recipient's last known address. The statement must include a copy of the Form 1042-S and a statement that the information on the Form 1042-S is being furnished to the IRS and may be furnished to the government of the foreign country where the recipient resides. It is estimated that it will require approximately 15 minutes to furnish this information to the recipient. The total reporting burden is estimated to be 250 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

Original clearance was received on the 2001 notice of proposed rulemaking. Subsequent notice of proposed rulemaking (NPRM) actions resulting in OMB concluding with as a file with comment and continued pending final rulemaking. At this time, the IRS is moving forward in publishing final rulemaking on this subject information collection and is requesting a reinstatement with changes of this previously approved collection granted under the NPRM. There is no burden change from the previous approval, only to incorporate the final rule.

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 regulations 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.