

## **SUPPORTING STATEMENT (LR-100-78)**

### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Section 901 of the Internal Revenue Code allows a taxpayer a tax credit for the amount of any income, war profits, or excess profits taxes it has paid or accrued during the taxable year. The attached final regulations contain foreign tax credit regulations that give taxpayers guidance as to what types of foreign taxes qualify as income, war profits, or excess profits taxes.

Section 1.901-2A of the regulations contains special rules that apply to taxpayers engaging in business transactions with the foreign government that is also taxing them. In general, such taxpayers have the burden of establishing what portion of a payment made pursuant to a foreign levy is actually tax and not compensation for an economic benefit received from the foreign government. One way in which a taxpayer may meet its burden of proof is by electing to apply the safe harbor formula contained in paragraph (e) of §1.901-2A. This formula divides the payment into an amount that is tax and an amount that is compensation for an economic benefit. A foreign tax credit is only allowed for the amount that is tax (assuming it meets the other requirements of the regulations). Pursuant to paragraph (d) of §1.901-2A, a taxpayer wishing to apply the safe harbor formula must file a statement with the Internal Revenue Service stating it has elected to apply the formula. In general the statement must be filed with the income tax return for the taxable year for which the election is made. The election also applies to all subsequent taxable years and cannot be revoked without the consent of the Commissioner.

### **2. USE OF DATA**

The Internal Revenue Service needs this statement in order that it may properly determine a taxpayer's tax liability.

### **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**

The Internal Revenue Service published a Notice of Proposed Rulemaking on April 5, 1983, and held a public hearing on June 23, 1983. The final regulations were adopted on October 12, 1983, after consideration of all these comments. The NPRM was submitted to OMB at the time of its publication.

In response to the **Federal Register Notice** dated March 19, 2013 (**78 FR 16920**), we received no comments during the comment period regarding LR-100-78.

**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**

Estimation of respondent reporting burden:

The burden was determined by approximating the amount of time required to prepare a statement that the taxpayer has elected to apply the safe harbor formula contained in paragraph (e) of §1.901-2A. We estimate that 100 respondents will each take .34 hours to complete the required statement. The burden for this requirement is 34 hours. The burden was also determined by approximating the amount of time required to apply for revocation of the election to apply the safe harbor formula. We estimate that 10 respondents will take .34 hours to complete the required statement to apply for revocation. The burden for this requirement is approximately 3 hours. The total burden for both requirements is 37 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 March 19, 2013, 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.