

**SUPPORTING STATEMENT  
TD 9644**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1402(a)(1) of the HCERA added section 1411 to a new chapter 2A of subtitle A (Income Taxes) of the Code effective for taxable years beginning after December 31, 2012. Section 1411 imposes a 3.8 percent tax on certain individuals, estates, and trusts.

This document contains final regulations under section 1411 of the Internal Revenue Code (Code). These regulations provide guidance on the general application of the Net Investment Income Tax and the computation of Net Investment Income.

The regulation's affect individuals, estates, and trusts whose incomes meet certain income thresholds.

2. USE OF DATA

This collection of information is necessary because it notifies the Service that a taxpayer has made an election pursuant to Reg. §1.1411-10(g).

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

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 December 5, 2012, the Treasury Department and the IRS published a notice of proposed rulemaking in the **Federal Register** (REG-130507-11; 77 FR 72612) relating to the Net Investment Income Tax. On January 31, 2013, corrections to the proposed regulations were published in the **Federal Register** (78 FR 6781). The Treasury Department and the IRS received numerous comments in response to the proposed regulations. All comments are available at [www.regulations.gov](http://www.regulations.gov) or upon request.

The Treasury Department and the IRS held a public hearing on the proposed regulations on April 2, 2013. In addition to the final regulations (TD 9644; 78 FR 72394), the Treasury Department and the IRS contemporaneously published a notice of proposed rulemaking in the **Federal Register** (REG-130843-13; 78 FR 72451) relating to the Net Investment Income Tax.

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 burden for the collection of information contained in these proposed regulations will be reflected in the burden on Form 8960 or another form that the IRS designates, which will request the information in the proposed regulations.

	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Burden</u>
Form 8960 (Individuals)	2,770,000	8.64 hrs.	23,932,800
Form 8960 (All others)	220,000	.61 hrs.	<u>134,200</u>
Total			<u>24,067,000</u>

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

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

Changes are a result of the finalization of the regulations and the creation of Form 8960.

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.