

**SUPPORTING STATEMENT
(Forms W-8BEN, W-8BEN-E,
W-8ECI, W-8EXP, W-8IMY, MOU-APPLICATION)
OMB # 1545-1621**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Regulations under Section 1441, 1442, and 1443 of the Internal Revenue Code have changed the manner in which foreign persons (individuals, businesses and other for-profit organizations, foreign governments, international organizations, partnerships, and tax-exempt organizations) must submit certifications to a withholding agent for reduction of, or exemption from, U.S. tax withholding.

In general, foreign persons are subject to U.S. tax at a 30% rate on income they received from U.S. sources that consists of interest, dividends, rents, premiums, annuities, compensation for services performed, or other fixed or determinable annual or periodical gains, profits, or income. Income that is effectively connected with the conduct of a trade or business within the United States is also subject to such withholding. This tax is imposed on the gross amount paid and is generally collected by way of withholding on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner of the income or to another person, such as an intermediary, agent, or partnership for the benefit of the beneficial owner.

Form W-8BEN is used for certain types of income to establish that the person is a foreign person, is the beneficial owner of the income for which Form W-8BEN is being provided and, if applicable, to claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty. Form W-8ECI is used to establish that the person is a foreign person, is the beneficial owner of the income for which Form W-8ECI is being provided, and to claim that the income is effectively connected with the conduct of a trade or business within the United States. Form W-8EXP is used by a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, or foreign private foundation. The form is used by such persons to establish foreign status, to claim that the person is the beneficial

owner of the income for which Form W-8EXP is given and, if applicable, to claim a reduced rate of, or exemption from, withholding. Form W-8IMY is provided to a withholding agent or payer by a foreign intermediary, foreign partnership, and certain U.S. branches to make representations regarding the status of beneficial owners or to transmit appropriate documentation to the withholding agent.

Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and/or W-8IMY must be given to the withholding agent. Generally, the withholding agent will be the person from whom the payment is received or who credits the account of the beneficial owner. The forms(s) must be given to the withholding agent before the income is paid or credited to the account. If the appropriate forms(s) is not provided, the withholding agent may have to withhold at a 30% rate (nonresident alien withholding) or 28% (backup withholding) rate.

The IRS EW-8 MOU Program, a collaborative process between the withholding agent and IRS, is open to all withholding agents. IRS works with withholding agents to develop electronic systems for beneficial owners to furnish Forms W-8 electronically and validate these forms through an automated process. The IRS EW-8 MOU Program provides withholding agents with the opportunity to coordinate the development and improvement of their EW-8 systems with the IRS and to obtain an EW-8 MOU. The goal of this process is to provide withholding agents with feedback concerning the sufficiency of their electronic system and provide withholding agents with assurances that their system meets the requirements of Treasury regulations. An EW-8 MOU is a document that details the extent of the IRS' approval of a specific EW-8 system.

2. USE OF DATA

The information will be used by the withholding agent to ascertain the status of the beneficial owner or beneficial owner's intermediary as a foreign person, and to apply correct withholding rates base on information provided on the form(s) and applicable statute and treaty. The information will be used by the IRS for compliance purposes to verify that a withholding agent or intermediary has received all necessary information to enable the correct withholding rate to be applied and has collected and

remitted the proper amount of withholding for a foreign person. The withholding agent may be liable for the tax if the proper amount is not withheld.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans at this time to offer electronic filing because of the low volume compared to the cost of electronic enabling.

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 8703.

In response to the **Federal Register** Notice dated October 24,

2013 (78 F.R. 63570), we received no comments during the comment period regarding Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, or W-8IMY.

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

No personal identifiable information (PIA) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden estimate is as follows:

	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Hours</u>
Form W-8BEN	2,900,000	7.18	20,822,000
Form W-8BEN-E	100,000	25.23	2,523,000
Form W-8ECI	180,000	9.13	1,643,400
Form W-8EXP	240	20.05	4,812
Form W-8IMY	400	25.23	10,092
E-W8MOU Program	<u>0</u>		<u>0</u>
	3,280,641		25,003,304

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 October 24, 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

The primary cost to the government consists of the cost printing Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY. We estimate that the cost of printing these forms is \$201,950.

15. REASONS FOR CHANGE IN BURDEN

On March 18, 2010, the Hiring Incentives to Restore Employment Act of 2010, Pub. L. 111-147 (H.R. 2847) (the Act) was enacted into law. Section 501(a) of the Act added chapter 4 (sections 1471-1474) to Subtitle A of the Code. Section 1471(a) generally requires a withholding agent to deduct and withhold a tax equal to 30 percent on any withholdable payment made to an FFI, unless the FFI has an agreement requiring such FFI to satisfy the obligations specified in section 1471(b). On January 28, 2013, the Treasury Department and IRS issued final regulations under chapter 4 (sections 1471-1474) in T.D. 9610 (78 FR 5874). The general requirements of an FFI Agreement are described in §1.1471-4 and provided the substantive requirements applicable to a participating FFI under the FFI agreement. Various changes were made to the forms including establishing new Form W-8BEN-E, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding, covered under this approval number to comply with the withholding, due diligence, reporting requirements of U.S. accounts (defined in §1.1471-1(b)(125)), and expanded affiliate group requirements of a participating FFI are described in §1.1471-4(a) through (e). Form W-8BEN-E allows foreign financial institutions (FFIs) paying U.S. source income or gross proceeds to the party providing the Form W-8BEN-E to document its account holders who are foreign entities, both for FATCA *purposes as well as for pre-FATCA withholding tax purposes*. Form W-8BEN-E will also be used by foreign entities that are receiving a payment of U.S. source fixed or determinable annual or periodical

income for which they are claiming a reduced rate of (or exemption from) withholding under an applicable income tax treaty.

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 the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsoleted by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, at their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.

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.