

SUPPORTING STATEMENT

TD 9610

Form 8956 & 8957

20416. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

On March 18, 2010, the Hiring Incentives to Restore Employment Act of 2010, Public Law 111–147 (the HIRE Act), added chapter 4 of Subtitle A (chapter 4), comprised of sections 1471 through 1474, to the Code. Chapter 4 generally requires U.S. withholding agents to withhold tax on certain payments to foreign financial institutions (FFIs) that do not agree to report certain information to the Internal Revenue Service (IRS) regarding their United States accounts (U.S. accounts), and on certain payments to certain nonfinancial foreign entities (NFFE) that do not provide information on their substantial United States owners (substantial U.S. owners) to withholding agents.

Since the enactment of chapter 4, the Department of the Treasury (Treasury Department) and the IRS have issued preliminary guidance on the implementation of chapter 4. See Notice 2010–60 (2010–37 I.R.B. 329), Notice 2011–34 (2011–19 I.R.B. 765), and Notice 2011–53 (2011–32 I.R.B. 124) (collectively, the FATCA Notices).

The FATCA Notices are available at IRS.gov.

20417. USE OF DATA

Form 8956: The information is to be used by a responsible officer of a foreign institution to apply for a foreign account tax compliance Act individual identification number as defined in IRC 1471(b)(2).

Form 8957: The information is to be used by a foreign financial institution to apply for status as a foreign financial institution as defined in IRC 1471(b)(2).

20418. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We intend to offer electronic filing on Form 8956 and 8957.

20419. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

20420. 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 have been held between IRS personnel and professional groups to discuss the new law and tax forms. During these meetings, comments were made regarding the need for proposed regulations to clarify the statute and discuss the issuance of new form(s) needed to administer the statute.

On February 15, 2012 (77 FR 9022), the Treasury Department and the IRS published a notice of proposed rulemaking (REG-121647-10) addressing chapter 4's due diligence, withholding, reporting, and associated requirements. On October 24, 2012, the Treasury Department and the IRS released Announcement 2012-42, which announced the intention to amend certain provisions of the proposed regulations in adopting the final regulations.

The Treasury Department and the IRS received numerous comments in response to the proposed regulations, and a public hearing on the proposed regulations was held on May 15, 2012. The comments received in writing and at the public hearing were carefully considered in developing the final regulations (TD 9610, Jan. 28, 2013 [78 F.R. 5874]). A summary of the comments, considerations, and final decisions are all included and a part of the final regulations, TD 9610, which is attached as a supplementary document in this submission.

In compliance with OMB guidelines, on June 9, 2014 (79 F.R. 33040), a notice was published in the Federal Register to solicit public comments on Forms 8956 and 8957. No comments were received in response to this notice.

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

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Foreign Account Tax Compliance Act - Foreign Finan., FATCA-FFIR” system and four Privacy Act System of Records notices (SORN) have been issued for this system under IRS: 42.017, International Enforcement Program Files; 42.021, Compliance Programs and Project Files; 24.030, Customer Account Data Engine Individual Master File; and 34.037, IRS Audit Trail and Security Records System.

The Department of Treasury PIAs can be found at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden estimate is as follows:

	<u>Responses</u>	<u>Response</u>	<u>Hours</u>
Form 8957	260,000	8 hrs., 7 min.	2,116,400
Form 8966	<u>4,636,800</u>	25 min.	<u>1,947,456</u>
Total	4,896,800		4,063,856

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated June 9, 2014, 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 responses from taxpayers on this subject. As a result, estimates of these cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists in setting up computer programs to process the information. The majority of the forms filed will be electronic. The printing costs will be negligible.

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution and overhead for the form is \$1,300,000.

15. REASONS FOR CHANGE IN BURDEN

There are no changes to the burden previously approved by OMB. This submission is for renewal purposes, only.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attached.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.