

SUPPORTING STATEMENT
OMB# 1545-1725
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.

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.

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

There are no small entities affected by this collection.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Consequences of less frequent collection on federal programs or policy activities, could result in noncompliance and tax evasions. Taxpayers would try to hide income and assets offshore. It would be easier for U.S. taxpayers to falsely claim to be nonresidents in order to avoid U. S. taxation on their deposit interest income.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

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. The proposed regulations were adopted as revised by TD 9584 (77 FR 23391; April 19, 2012).

We received no comments during the comment period in response to the Federal Register notice (80 FR 25360), dated May 04, 2015.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

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 personally identifiable information (PII) is collected.

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

There were no estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services provided to respondents.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no estimated annualized costs to the federal government.

15. REASONS FOR CHANGE IN BURDEN

There were no changes made to the burden previously approved by OMB. We are making this submission for renewal purposes only.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

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

There are no exceptions to the certification statement.

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.