

SUPPORTING STATEMENT
(LR-100-78) (TD 7918)
OMB Control Number 1545-0746

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

There are no small entities affected by this collection.

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

Less frequent collection of data would impede the Internal Revenue Service's ability to properly determine a taxpayer's tax liability.

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

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. In response to the *Federal Register* notice dated March 31, 2016 (**81 FR 18684**), we received no comments during the comment period regarding LR-100-78 (TD 7918).

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

There is no personally identifiable information collected.

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 110 respondents will each take .34 hours to complete the required statement. The burden for this requirement is 37.4 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 3.4 hours. The total burden for both requirements is 41 hours.

Respondents	Time Per Response	Total Burden
120	.34	41

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There is no estimated annual cost burden to the respondents.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the Federal government.

15. REASONS FOR CHANGE IN BURDEN

There is a change in burden, to reflect that the burden was adjusted to update previously incorrect reported burden.

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 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

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.