

**Supporting Statement**  
**TD 9734 (REG-120282-10) and Form 1042, Form 1042-S, and Form 1042-T**  
**Dividend Equivalents from Sources within the United States**  
**OMB Control Number 1545-0096**

1. **CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

On March 18, 2010, the HIRE Act, Pub. L. No. 111-147, 124 Stat. 71 (2010) was enacted. The HIRE Act added new § 871(m) to the Internal Revenue Code, which provides that certain dividend equivalent payments are treated as U.S.-source dividends that are FDAP payments. Sections 1441 and 1442 require payers of FDAP to nonresident aliens, foreign partnerships, and foreign corporations to deduct and withhold this tax. Withholding agents use Form 1042 to report tax withheld at source and deposited for foreign payees, if such withholdings are reported to the payee on Form 1042-S. Form 1042-S is an information return that withholding agents use to report certain income and tax withheld at the source to foreign payees and Form 1042-T is used to transmit Forms 1042-S to the IRS. This final regulation clarifies how withholding agents must determine the amount of a dividend equivalent and collect information regarding those payments made to foreign taxpayers. The information needed for this final regulation is similar to the information being collected with respect to other types of FDAP payments.

Regulations also provide rules that relate to a collection of information pursuant to Rev. Proc. 2014-39. These regulations provide that Rev. Proc. 2014-39 will be revised to accommodate qualified intermediaries who will be treated as qualified derivatives dealers (QDD). To become a QDD, a foreign person must amend or enter into a withholding agreement with the IRS, as described in Rev. Proc. 2014-39. A foreign person who becomes a QDD will be required to collect information and perform information reporting; this collection is voluntary for entities seeking the benefits of the QDD regime. The addition of the QDD is made in response to public comments. The burden associated with Rev. Proc. 2014-39, is reflected in OMB # 1545-1597.

With respect to section 1.871-15(p), any party to a section 871(m) transaction may request information regarding that transaction from another party to that transaction. There is no prescribed form required. Any statement required by section 1.871-15(p) may be provided in paper or electronic form. The rule allows taxpayers to share information in any reasonable manner. See 1.815-15(p)(3)(i) (providing that information may be provided “(A) By telephone, and confirmed in writing; (B) By written statement sent by first class mail to the address provided by the requesting party; (C) By electronic publication available to all persons entitled to request information; or (D) By any other method agreed to by the parties, and confirmed in writing.”).

2. **USE OF DATA**

The information will be used by the IRS to ensure compliance with the U.S. withholding system under the 1441 and 1442 regulations. The collection of information also will be used by withholding agents to determine the amount, if any, of U.S. withholding tax to collect and pay.

3. **USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

IRS publication, 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. Forms 1042, 1042-S, and 1042-T can be filled out and filed online.

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**

Any party to a section 871(m) transaction may request information regarding the transaction from another party to that transaction. The rule allows taxpayers to share information in any reasonable manner (1.815-15(o)(3)(i)). Providing that information may be provided "(A) By telephone, and confirmed in writing; (B) By written statement sent by first class mail to the address provided by the requesting party; (C) By electronic publication available to all persons entitled to request information; or (D) By any other method agreed to by the parties, and confirmed in writing."). This information is shared between parties and is not provided or collected by the IRS, so there would be no direct consequence to the federal government. This is strictly third party reporting to share information between parties associated with the transaction.

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**

These final and temporary regulations are based on a notice of proposed rulemaking (NPRM) published in the *Federal Register* on December 5, 2013 (78 FR 73079). That NPRM provided the public a 90-day period in which to review and provide public comments relating to any aspect of the proposed regulation. A public hearing was scheduled; because no one requested to speak, the hearing was cancelled. The collection relating to a QDD contained in the Temporary regulations is in response to public comments received with respect to the NPRM published on December 5, 2013. In addition, IRS and Treasury personnel periodically met with representatives from professional groups, trade associations, and financial institutions to discuss these rules. Final regulations and temporary regulations (TD 9734) were published in the *Federal Register* on September 18, 2015 (80 FR 56866).

In response to the *Federal Register* notice dated May 13, 2016 (81 FR 29954), we received no comments during the comment period regarding the collection of information from the regulation and forms.

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**

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the following systems:

“Business Master File (BMF)”

“Withholding & Refund ( W&R)”

“Payer Master File (PMF)”

“FATCA Withholding & Refund, FATCA W&R”

“International Compliance Management Model, ICMM”

Privacy Act System of Records notice (SORN) have been issued for these systems under:

IRS 24.046-Customer Account Data Engine Business Master File

IRS 2.017-International Enforcement Program File

IRS 2.021-Compliance Programs and Project Files

IRS 24.030-Customer Account Data Engine Individual Master File

IRS 34.037-IRS Audit Trail and Security Records System

## IRS 22.026-Form 1042 Name Directory

The Internal Revenue Service PIAs can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

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 for Form 1042, Form 1042-S, and Form 1042-T are as follows:

	<b><u>Number of Responses</u></b>	<b><u>Time per Response</u></b>	<b><u>Total Hours</u></b>
<b>Form 1042</b>	36,400	18.05	657,020
<b>Form 1042-S</b>	3,525,300	.58	2,044,674
<b>Form 1042-T</b>	19,500	.20	3,900
<b>REG-120282-10</b>	30,000	8.00	240,000
	<b>3,611,200</b>		<b>2,945,594</b>

With respect to the withholding agreements pursuant to Rev. Proc. 2014-39, we estimate that the QDD requirement will affect 1,000 respondents (this total includes new qualified intermediaries and existing qualified intermediaries amending an existing agreement to become a QDD), and is estimated to take 1 hour for a total of 1,000. This burden is currently being reflected in OMB #1545-1597.

### 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**

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution, and overhead for Forms 1042 and 1042-S is \$178,653. The additional cost of printing Form 1042-T is estimated at \$1,500.

### 15. **REASONS FOR CHANGE IN BURDEN**

There are no changes to the burden associated with this information collection.

We are making this submission for renewal purposes.

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**

See attached supplementary document.

18. **EXCEPTIONS TO THE CERTIFICATION STATEMENT**

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

**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.