

SUPPORTING STATEMENT

TD-8350 (Final) Requirements For Investments to Qualify under Section 936(d)(4) as Investments in Qualified Caribbean Basin Countries

OMB # 1545-1138

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) Section 936(d)(4) expands the definition of "qualified possession source investment income" by providing that an investment in a qualified financial institution will, subject to such conditions as the Secretary of the Treasury prescribes pursuant to regulations, be treated as used in Puerto Rico to the extent used by such financial institution for investment in accordance with the goals and purposes of the Caribbean Basin Economic Recovery Act (P.L. 98-67 (Aug. 5, 1983)), in active business assets or development projects in a qualified Caribbean Basin country. Income that is qualified possession source investment income is entitled to a quasi-tax exemption by reason of the U.S. possessions tax credit under section 936(a) and substantial tax exemptions in Puerto Rico. Section 936(d)(4)(C) places certification requirements on the recipient of the investment and the qualified financial institution; and recordkeeping requirements on the financial institution and the recipient of the investment funds to enable the Secretary to ensure that the requirements of section 936(d)(4) are being fulfilled. Sections 1.936-10(c)(12) and (13) enumerate these certification and continuing due diligence requirements.

2. USE OF DATA

The certification and recordkeeping requirements that sections 1.936-10(c)(12) and (13) place on the recipients of investments and the qualified financial institutions are used by the IRS to verify that the investment funds are being used properly and in accordance with the purposes of the Caribbean Basin Economic Recovery Act.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Because there are no reporting requirements associated with TD 8350, electronic filing is not possible. 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.

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

The collection of information requirement will not have a significant economic impact on a substantial number of small entities.

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

A less frequent collection will not enable the IRS to verify that the investment funds are being used properly and in accordance with the purposes of the Caribbean Basin Economic Recovery Act.

2. 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).

3. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

We received no comments during the comment period in response to the **Federal Register** notice (81 FR 81246), dated November 17, 2016.

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

No payment or gift has been provided to any respondents.

5. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

6. JUSTIFICATION OF SENSITIVE QUESTIONS

There is no personally identifiable information (PII) in this collection.

7. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.936-10(c)(12) provides that the certification responsibility placed on the recipient of the investment and the financial institution is satisfied if the financial institution submits a certificate to both the Assistant Commissioner (International) and to the Commissioner of Financial Institutions of Puerto Rico upon authorization of the

investment by the Commissioner of Financial Institutions and, in any event, prior to the first disbursement of the loan proceeds to the qualified recipient or to the financial intermediary (if any). Section 1.936-10(c)(13)(i) requires the recipient of the investment to submit annually to the qualified financial institution certain information concerning use of the loan proceeds. Section 1.936-10(c)(13)(ii) specifies the documents and information that the financial institution must maintain and have available for inspection by the Secretary or the Commissioner of Financial Institutions of Puerto Rico. The total burden for these requirements is estimated to be 1,500 hours.

Recordkeepers	50
Annual hours per recordkeeper	<u>30</u> hours
Total hours	1,500

8. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up costs associated with this collection.

9. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no annualized cost to the federal government.

10. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

11. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

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

12. 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.

13. 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.