

SUPPORTING STATEMENT
Internal Revenue Service
(TD 9212) Source of Compensation for Labor and Personal Services
OMB # 1545-1900

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The collections of information in these final regulations are in Treasury Regulation Sections 1.861-4(b)(2) (ii)(C)(1)(i), (b)(2)(ii)(D), and (b)(2)(ii)(D)(6). The information required in Sec. 1.861-4(b)(2) (ii)(C)(1)(i) will enable an individual, where appropriate, to use an alternative basis other than that described in Sec. 1.861-4(b)(2)(ii)(A) or (B) to determine the source of his or her compensation as an employee for labor or personal services performed partly within and partly without the United States. The information required in Sec. 1.861-4(b)(2)(ii)(D) and (D)(6) will enable an employee to source certain fringe benefits on a geographical basis. The collections of information will, likewise, allow the IRS to verify these determinations.

2. USE OF DATA

This information is necessary to determine the proper source of income which, in turn, is needed for the proper computation of the foreign tax credit or the determination of how much income is subject to United States Federal income tax. The information collected by the IRS will be used for audit and examination purposes.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing because this is a record keeping requirement. 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

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESS OR OTHER SMALL ENTITIES

There is no burden on small businesses or entities by this collection due to the inapplicability of the authorizing statute to this type of entity.

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

A less frequent collection of this information would prevent the IRS during an examination from determining the requirement for substantiation of the proper computation of the foreign tax credit. Failure to collect would mean taxpayer is denied a benefit and would hinder the IRS in meeting its mission.

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 THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

In response to the Federal Register notice (82 FR 13202), dated March 9, 2017, we received no comments during the comment period regarding TD 9212.

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

No payment of gift has been provided to respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collections of information in these final regulations are in Sec. 1.861-4(b)(2) (ii)(C)(1)(i), (b) (2)(ii)(D), and (b)(2)(ii)(D)(6). The information required in Sec. 1.861-4(b)(2) (ii)(C)(1)(i) will enable an individual, where appropriate, to use an alternative basis other than that described in Sec. 1.861-4(b)(2)(ii)(A) or (B) to determine the source of his or her compensation as an employee for labor or personal services performed partly within and partly without the United States. The information required in Sec. 1.861-4(b)(2)(ii)(D) and (D)(6) will enable an employee to source certain fringe benefits on a geographical basis. The collections of information will, likewise, allow the IRS to verify these determinations. It is estimated that 20,000 taxpayers annually will meet the requirements set forth therein. It is estimated that the average recordkeeping burden will be 30 minutes. Accordingly, the estimated annual recordkeeping burden is 10,000 hours.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC § 861	Alternative basis	20,000	1	20,000	.5	10,000
Totals				20,000		10,000

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There is no estimated annual cost burden to the respondent.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There are no known annualized costs to the federal government.

15. REASONS FOR CHANGES IN BURDEN

There is no change in the paperwork burden previously approved by OMB. This form is being submitted 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 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 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.