

SUPPORTING STATEMENT
OMB Control Number 1545-2263
Tax on Certain Foreign Procurement
(TD 9782) Tax on Certain Foreign Procurement
(Form W-14 Certificate of Foreign Contracting Party Receiving Federal
Procurement Payments)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Treasury Decision 9782 contains Treasury Regulations (REG 103281-11) under section 5000C of the Internal Revenue Code relating to the 2 percent tax on payments made by the U.S. government to foreign persons pursuant to certain contracts. The regulations affect U.S. government acquiring agencies and foreign persons providing certain goods or services to the U.S. government pursuant to a contract. This document also contains regulations under section 6114, with respect to foreign persons claiming an exemption from the tax under an income tax treaty.

The collection of information in the regulations is contained in a number of provisions including §§1.5000C-2, 1.5000C-3, and 1.5000C-4. The foreign party receiving the payments responds to these collections of information. They are required to verify the foreign status that received the Federal procurement payments subject to the section 5000C. The foreign party is allowed to obtain a benefit (to claim an exemption to, or a reduction in, withholding); and to facilitate tax compliance (to verify entitlement to an exemption).

The IRS intends that these information collection requirements will be satisfied primarily on existing chapter 3 withholding forms by U.S. government acquiring agencies, along with Form 1120-F, "U.S. Income Tax Return of a Foreign Corporation," and Form 1040NR, "U.S. Nonresident Alien Income Tax Return." However, in certain circumstances, foreign persons must collect certain information in order to demonstrate to an acquiring agency the appropriate amount to withhold, if any, on a Section 5000C Certificate (Form W-14).

A Form W-14, Certificate of Foreign Contracting Party Receiving Federal Procurement Payments, must be provided to the acquiring agency (U.S. government department, agency, independent establishment, or corporation) to:

- Establish that they are a foreign contracting party; and
- If applicable, claim an exemption from withholding based on an international agreement (such as a tax treaty); or

- Claim an exemption from withholding, in whole or in part, based on an international procurement agreement or because goods are produced, or services are performed in the United States.

A Form W-14 must be provided to the acquiring agency if a foreign contracting party has been paid a specified Federal procurement payment and the foreign contracting party is seeking to claim an exemption (in whole or in part) from the tax imposed by section 5000C. Form W-14 must be submitted when requested by the acquiring agency, whether or not an exemption (in whole or in part) is claimed from withholding under section 5000C.

2. USE OF DATA

The Internal Revenue Service will use this data required by Internal Revenue Code Section 5000C to establish that the foreign persons that are parties to specified Federal procurement contracts with the U.S. government entered into on and after January 2, 2011 are:

- Foreign contracting parties; and
- If applicable, can claim an exemption from withholding/tax imposed by section 5000C based on an international agreement (such as a tax treaty);or
- That an exemption (in whole or in part) from withholding can be claimed based on an international procurement agreement or because goods are produced, or services are performed in the United States.

The likely respondents are the U.S. government and foreign persons that enter into contracts with the U.S. government.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, regulations, published guidance, e.g., revenue rulings and revenue procedures, notices, letters, and letter rulings are to be electronically enabled on an “as practicable” basis in accordance with the IRS Reform and Restructuring Act of 1998.

The agency is making the form available and accepting Form W-14 electronically.

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. Form W-14

is similar to Form W-8 but the information provided in each form is very different. Thus, there is no duplication of collection of information.

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 because a limited number of foreign contracting parties that are small entities will be subject to the tax.

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

A less frequent collection would result in inappropriate withholding per Section 5000C to establish that the foreign persons that are parties to specified Federal procurement contracts with the U.S. government entered into on and after January 2, 2011.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH THE 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

In response to the Federal Register notice dated May 12, 2017 (82 FR 22186), we received no comments during the comment period regarding Form W-14.

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 “Business Master File (BMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs can be found at <http://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 estimate is as follows:

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC Sec. 5000C	Form W-14	2,000	1	2,000	5.92	11,840
Totals		2,000				11,840

There is no burden associated with TD 9782.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

15. REASONS FOR CHANGE 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 form sunsets as of the expiration date. Taxpayers are not likely to be aware that the IRS 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 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 the 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.