

Supporting Statement for Form SSA-21
Supplement to Claim of Person Outside the United States
20 CFR 422.505(b), 404.460, 404.463, and 42 CFR 407.27(c)
OMB No. 0960-0051

A. Justification

1. Introduction/Authoring Laws and Regulations

In Section 20 CFR 422.505(b) of the *Code of Federal Regulations (Code)*, Form SSA-21 is a related form used with applications for retirement, survivors, and disability insurance benefits. We collect information as evidence to establish the right to benefits under the authority of section 205 of the *Social Security Act (Act)*. We use Form SSA-21 to collect information about the citizenship and residency of claimants and beneficiaries who are, have been, or will be outside the United States. We use the citizenship and residency information we collect from a claimant or beneficiary who is not a U.S. citizen (alien) to determine if the individual is subject to the alien nonpayment provision under section 202(t) of the *Act*; as well as 20 CFR 404.460, and 20 CFR 404.463 of the *Code*. Section 202(t)(1) of the *Act* and 20 CFR 404.460 of the *Code* prohibit the payment of monthly benefits to aliens who were outside the United States for six consecutive calendar months. We will not resume payments suspended under this provision until the alien remains present in the United States for an entire calendar month.

Sections 202(t) of the *Act*, and 20 CFR 404.460 and 20 CFR 404.463 Subpart E of the *Code* also provide exceptions to the alien nonpayment provision in section 202(t)(1) of the *Act*. The information we collect on Form SSA-21 helps to determine if certain exceptions apply to the claimant or beneficiary completing the form.

Section 202(t)(11) of the *Act* requires certain alien dependent or survivor claimants, or beneficiaries, subject to the alien nonpayment provision, to meet an additional 5-year residency requirement. Form SSA-21 collects the information we use to determine if these dependent or survivor claimants or beneficiaries have enough U.S. residency to meet the 5-year residency requirement.

Section 1838(b) of the *Act* and 42 CFR 407.27(c) of the *Code* state individuals may give SSA written notice that they no longer wish to be enrolled for Supplementary Medical Insurance (SMI). Form SSA-21 informs claimants and beneficiaries who are required to complete the form that they can only use SMI benefits inside the United States. Beneficiaries already enrolled in SMI who complete Form SSA-21 when they leave the United States may use this form to cancel their SMI coverage.

We collect information about work outside the United States to make determinations under the authority of section 203 of the *Act*. We require information about citizenship, residency and alien status to determine whether we

must withhold nonresident alien tax as required under section 121 of *Public Law 98-21*, and sections 1441 and 871(a)(3) of the *Internal Revenue Code (IRC)*. The OMB approval effective 01/06/2015 included changes that qualified Form SSA-21 to be used as an acceptable substitute form for IRS Form W-8BEN according to 26 *CFR 1.1441-1(e)(4)(vi)*.

2. Description of Collection

SSA uses Form SSA-21 to make determinations about the eligibility for payment of benefits outside the United States as part of the application for benefits, and for continuance of payments after we establish entitlement to benefits. We also use the form to determine nonresident alien tax withholding status. We have developed policy specifying that non-U.S. citizens must complete Form SSA-21 in initial claims situations, and when reporting a domestic to foreign change of address. In addition, we require anyone requesting a special payment exception while living in an SSA Restricted country to complete Form SSA-21. The information collected on Form SSA-21 is voluntary for respondents. However, as stated in the Privacy Act Statement on this form, failing to provide the information “may prevent us from making an accurate and timely decision on any claim filed, or could result in the loss of benefits.”

Claimants and beneficiaries may complete the form by themselves; have help from an SSA employee; or request help from a Foreign Service Post employee acting on behalf of SSA. We collect the information through the Internet when a claimant completes the Internet (iClaim) application (OMB No. 0960-0618). We added the information we collect on Form SSA-21 that was not already included in the application process to the iClaim application beginning September 29, 2012.

We conduct this information collection on an as-needed basis. We require non-U.S. citizens to complete Form SSA-21 when applying for Title II benefits; when reporting a domestic to foreign change of address; and when requesting a special payment exception while in an SSA Restricted country. Only SSA employees collect this information. The respondents are claimants for Title II Social Security benefits, or individuals entitled to Title II Social Security benefits, who are, have been, or will be outside the United States for three months or longer.

3. Use of Information Technology to Collect the Information

SSA no longer stocks Form SSA-21 in paper form, but it is available in PDF fillable format on SSA’s website, and our internal website. SSA did not create a stand-alone electronic version of the Form SSA-21 because the current estimated number of respondents is less than the agency’s Government Paperwork Elimination Act (GPEA) plan cut-off of 50,000. However, SSA incorporated the information collection for the SSA-21 into the iClaim application. We no longer require claimants using the iClaim application to complete a paper form SSA-21, and we adjusted the burden hours for iClaim to accommodate these respondents.

Therefore, we do not count that burden under #12 of this IC (to avoid double-counting).

A claimant or beneficiary may complete the form electronically and then print it, or complete it manually after printing it; sign it; and deliver the completed form to a Social Security office either by mail or in person. We also accept signature proxy by attestation when completed through a personal interview with an SSA representative in person or by phone. We also accept completion of the standardized text (Form SSA-21 macros added to the MCS application) in lieu of the paper form. We estimate that approximately 95% of applicants who do not apply for benefits using the iClaim application use the MCS application during an interview with an SSA employee. This leaves 5% of applicants to complete and submit the form using the paper modality when filing a claim for benefits. All beneficiaries who complete Form SSA-21 in post-entitlement situations (when moving outside the United States) either complete the form electronically; print, and deliver to SSA by mail or in person; or complete the form through a phone or in-office interview with an SSA employees.

4. Why We Cannot Use Duplicate Information

The nature of the information we collect and the manner in which we collect it preclude duplication. SSA does not use another collection instrument to obtain similar data.

5. Minimizing Burden on Small Respondents

This collection does not affect small businesses or other small entities.

6. Consequence of Not Collecting Information or Collecting it Less Frequently

SSA must collect citizenship and residency information to make determinations under the alien nonpayment provisions in section 202(t) of the Act. Without this collection, we risk overpayment of benefits prohibited under section 202(t) of the Act. We changed our policy to eliminate this collection for U.S. citizens because we determined that while this form could be useful in some cases, the burden to all U.S. citizens outweighed the need to collect this information for those cases. We eliminated the need for claimants using the iClaim application to complete this form separately by adding the relevant questions from Form SSA-21 to the iClaim application. We maintain this method for collecting and recording this information from individuals where we have no other means for collection other than Form SSA-21. By providing standardized language for use in MCS, to collect only the information from Form SSA-21 that we do not already collect in the application process, we significantly reduced the burden on claimants. We also collect the information to make income tax withholding status determinations. We modified Form SSA-21 to meet the requirements of the IRC to allow us to use this form as an acceptable substitute form for IRS Form W-8BEN. We use Form SSA-21 in place of IRS Form W-8BEN to collect and document information used to determine if a tax treaty benefit applies to Social Security benefit payments. There are no technical or legal obstacles to burden

reduction.

7. Special Circumstances

There are no special circumstances that would cause SSA to conduct this information collection in a manner inconsistent with 5 *CFR* 1320.5.

8. Solicitation of Public Comment and Other Consultations with the Public

The 60-day advance Federal Register Notice published on August 29, 2017 at 82 FR 41085, and we received no public comments. The 30-day FRN published on November 22, 2017 at 82 FR 55707. If we receive any comments in response to this Notice, we will forward them to OMB.

9. Payment or Gifts to Respondents

SSA does not provide payments or gifts to the respondents.

10. Assurances of Confidentiality

SSA protects and holds confidential the information it collects in accordance with 42 *U.S.C.* 1306, 20 *CFR* 401 and 402, 5 *U.S.C.* 552 (Freedom of Information Act), 5 *U.S.C.* 552a (Privacy Act of 1974), and OMB Circular No. A-130.

11. Justification for Sensitive Questions

The information collection does not contain any questions of a sensitive nature.

12. Estimates of Public Reporting Burden

Modality of Collection	Number of Respondents	Frequency of Response	Average Burden Per Response (minutes)	Estimated Total Annual Burden (hours)
Paper version - U.S. Residents	510	1	14	119
Paper version - Residents of a Tax Treaty Country	2,751	1	9	413
Paper version - Nonresident aliens	1,835	1	8	245
Intranet version - (MCS) - U.S. Residents	1,325	1	11	243
Intranet version - (MCS) - Residents of a Tax Treaty Country	7,153	1	6	715
Intranet version - (MCS) - Nonresident aliens	4,769	1	5	397
Totals	18,343			2,132

The total burden for this ICR is **2,132** hours. We based these figures on current management information data. We did not calculate a separate cost burden.

13. Annual Cost to the Respondents (Other)

This collection does not impose a known cost burden to the respondents.

14. Annual Cost To Federal Government

The annual cost to the Federal Government is approximately \$213,879. This estimate accounts for costs from the following areas: (1) designing, printing, and distributing the form; (2) SSA employee (e.g., field office, 800 number, DDS staff) information collection and processing time; and (3) systems development, updating, and maintenance costs.

15. Program Changes or Adjustments to the Information Collection Request

The decrease in burden hours stems from a change in our policy to no longer require U.S. citizens to complete this form in claims or post-entitlement situations. In addition, based on current management data, we have fewer respondents needing to use Form SSA-21.

16. Plans for Publication Information Collection Results

SSA will not publish the results of the information collection.

17. Displaying the OMB Approval Expiration Date

SSA is not requesting an exception to the requirement to display the OMB approval expiration date.

18. Exceptions to Certification Statement

SSA is not requesting an exception to the certification requirements in 5 *CFR* 1320.9 and related provisions in 5 *CFR* 1320.8(b)(3).

B. Collections of Information Employing Statistical Methods

SSA does not use statistical methods for this information collection.