

**SUPPORTING STATEMENT**  
**Internal Revenue Service**  
**(Forms W-8BEN, W-8BEN-E,**  
**W-8ECI, W-8EXP, W-8IMY, MOU-APPLICATION)**  
**OMB Number 1545-1621**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Regulations under Section 1441, 1442, and 1443 of the Internal Revenue Code have changed the manner in which foreign persons (individuals, businesses and other for-profit organizations, foreign governments, international organizations, partnerships, and tax-exempt organizations) must submit certifications to a withholding agent for reduction of, or exemption from, U.S. tax withholding.

In general, foreign persons are subject to U.S. tax at a 30% rate on income they received from U.S. sources that consists of interest, dividends, rents, premiums, annuities, compensation for services performed, or other fixed or determinable annual or periodical gains, profits, or income. Income that is effectively connected with the conduct of a trade or business within the United States is also subject to such withholding. This tax is imposed on the gross amount paid and is generally collected by way of withholding on that amount. A payment is considered to have been made whether it is made directly to the beneficial owner of the income or to another person, such as an intermediary, agent, or partnership for the benefit of the beneficial owner.

Form W-8BEN is used for certain types of income to establish that the person is a foreign person, is the beneficial owner of the income for which Form W-8BEN is being provided and, if applicable, to claim a reduced rate of, or exemption from, withholding as a resident of a foreign country with which the United States has an income tax treaty. Form W-8BEN-E allows foreign financial institutions (FFIs) paying U.S. source income or gross proceeds to the party providing the Form W-8BEN-E to document its account holders who are foreign entities, both for FATCA *purposes as well as for pre-FATCA withholding tax purposes*. Form W-8BEN-E will also be used by foreign entities that are receiving a payment of U.S. source fixed or determinable annual or periodical income for which they are claiming a reduced rate of (or

exemption from) withholding under an applicable income tax treaty.

Form W-8ECI is used to establish that the person is a foreign person, is the beneficial owner of the income for which Form W-8ECI is being provided, and to claim that the income is effectively connected with the conduct of a trade or business within the United States. Form W-8EXP is used by a foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, or foreign private foundation. The form is used by such persons to establish foreign status, to claim that the person is the beneficial owner of the income for which Form W-8EXP is given and, if applicable, to claim a reduced rate of, or exemption from, withholding. Form W-8IMY is provided to a withholding agent or payer by a foreign intermediary, foreign partnership, and certain U.S. branches to make representations regarding the status of beneficial owners or to transmit appropriate documentation to the withholding agent.

Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and/or W-8IMY must be given to the withholding agent. Generally, the withholding agent will be the person from whom the payment is received or who credits the account of the beneficial owner. The forms(s) must be given to the withholding agent before the income is paid or credited to the account. If the appropriate forms(s) is not provided, the withholding agent may have to withhold at a 30% rate (nonresident alien withholding) or 28% (backup withholding) rate.

The IRS EW-8 MOU Program, a collaborative process between the withholding agent and IRS, is open to all withholding agents. IRS works with withholding agents to develop electronic systems for beneficial owners to furnish Forms W-8 electronically and validate these forms through an automated process. The IRS EW-8 MOU Program provides withholding agents with the opportunity to coordinate the development and improvement of their EW-8 systems with the IRS and to obtain an EW-8 MOU. The goal of this process is to provide withholding agents with feedback concerning the sufficiency of their electronic system and provide withholding agents with assurances that their system meets the requirements of Treasury regulations. An EW-8 MOU is a document that details the extent of the IRS' approval of a

specific EW-8 system.

2. USE OF DATA

The information will be used by the withholding agent to ascertain the status of the beneficial owner or beneficial owner's intermediary as a foreign person, and to apply correct withholding rates base on information provided on the form(s) and applicable statute and treaty. The information will be used by the IRS for compliance purposes to verify that a withholding agent or intermediary has received all necessary information to enable the correct withholding rate to be applied and has collected and remitted the proper amount of withholding for a foreign person. The withholding agent may be liable for the tax if the proper amount is not withheld.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS works with withholding agents to develop electronic systems for beneficial owners to furnish Forms W-8 electronically and validate these forms through an automated process.

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 BUSINESSES OR OTHER SMALL ENTITIES

Small businesses should not be disadvantaged as the form has been structured to request the least amount of information and still satisfy the requirements of the statute and the needs of the Service.

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

A less frequent collection will not enable the IRS to verify that a withholding agent or intermediary has received all necessary information to enable the correct withholding rate to be applied and has collected and remitted the proper amount of withholding for a foreign person. The withholding agent may be liable for the tax if the proper amount is not withheld.

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

In response to the Federal Register notice dated May 31, 2017, (82 F.R. 35578), we received comments during the comment period regarding Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, or W-8IMY.

IRS received a comment from IHS Markit in reference to EW-8 MOU Program. HIS thinks the IRS can achieve a greater efficiency by providing an alternative process for MOU's in which taxpayers are utilizing a vendor provided system by adding;

- Vendor Submission Procedure
- Systems Specific MOU
- Vendor Based Subscriber Information Management
- Qualified Electronic W-8 Systems List
- Streamlined Change in Circumstances Process

IRS received a comment from ONESOURCE AEOI Documentation Team in reference to EW-8 MOU Program. ONESOURCE AEOI thinks the IRS should provide six months from the date of the form release or the end of the year whichever is later to validate forms, even in draft, in their systems and clear the ambiguity on the as to the revisions and expiration of the grace period. ONESOURCE AEOI requests the jurat be added to the W-8/W-9. and would like a contact to discuss the MOU process.

IRS has received similar comments to these comments and suggestions and all of the recommendations are under current consideration.

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 "insert (PIA) Title(s)e.g. " Information Returns Master File (IRMF) " , "Informant Claims Examination (ICE)" System and Privacy Act System of Records Notices (SORN) has been issued for these systems under Treasury/IRS insert SORN number and title(s), e.g. 24.030-Customer Account Data Engine Individual Master File; Treas/IRS IRS 42.017 International Enforcement Program Information File, Treas/IRS 42.021 Compliance Programs and Projects Files. The Internal Revenue Service PIAs can be found at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>

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 §§ 1441, 1442,, and 1443	W-8BEN	2,900,000	1	2,900,000	7.18	20,822,000
IRC §§ 1441, 1442,, and 1443	W-8BEN-E	100,000	1	100,000	26.45	2,645,000
IRC §§ 1441, 1442,, and 1443	W-8ECI	180,000	1	180,000	9.13	1,643,400
IRC §§ 1441, 1442,, and 1443	W-8EXP	240	1	240	20.53	4,928
IRC §§ 1441, 1442,, and 1443	W-8IMY	400	1	400	25.88	10,352
IRC §§ 1441, 1442,, and 1443	E-W8MOU Program					
		3,180,640				25,125,680

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

### 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

The primary cost to the government consists of the cost printing Forms W-8BEN, W-8BEN-E, W-8ECI, W-8EXP, and W-8IMY. We estimate that the cost of printing these forms is \$201,950.

### 15. REASONS FOR CHANGE IN BURDEN

On page 5, Part II, for the Form W-8BEN-E, second bullet, text has been deleted, and checkboxes were added to identify whether the trustee is U.S. or foreign.

On page 2, Part II, for the Form W-8EXP, line 21 was added (a checkbox and a line entry for "Name of Sponsoring Entity").

On page 2, Part III, Qualified Intermediary, Form W-8IMY was revised to include three subsections. Also, a new bullet was added to page 3.

Under Part XIX the text of the second bullet had been modified, and a checkbox was been added to identify whether the trustee is U.S. or foreign

Editorial changes were also made through out Forms W-8-BENE, W-8EXP, and W-8IMY and other related forms.

The above changes will result in a program change increase of 122,376 hour with a new total burden of 25,125,680 hours.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	3,180,640	0	0	0	0	3,180,640
Annual Time Burden (Hr)	25,125,680	0	122,376	0	0	25,003,304

**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 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 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.