

SUPPORTING STATEMENT
Application for United States Residency Certification
OMB Number 1545-1817
(Form 8802)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

An entity must use Form 8802 to apply for United States Residency Certification. All requests for U.S. residency certification must be received on Form 8802, Application for United States Residency Certification. This application must be sent to the Philadelphia Campus. As proof of residency in the United States and of entitlement to the benefits of a tax treaty, U.S. treaty partner countries require a U.S. Government certification that you are a U.S. citizen, U.S. Corporation, U.S. partnership, or resident of the United States for purposes of taxation.

2. USE OF DATA

The IRS uses this data to certify that the person claiming treaty benefits is a resident of the United States for Federal tax purposes. The entity would use this application for United States Residency Certification. The entity would receive Form 6166 from the IRS. This form is then submitted to the foreign tax authority and the entity would receive the tax treaty rate of taxation.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing. Form 8802 is not electronically filled because Modernized e-file has not chosen to enable it for electronic filing.

The Modernized e-file or (MeF) System is the entirely paperless process that allows the Internal Revenue Service to receive and process tax returns and tax payments electronically. The IRS uses F8802 to certify the U.S. residency of the applicable taxpayers and ensure that the taxpayers are the beneficial owner claiming benefits under a tax treaty. The MeF platform is not the ideal solution for this particular form since it is not a tax return or a filing extension. The MeF is used by third-party transmitters to package and send up to 100 individual/business tax return and extension products at a time to the IRS via the Registered User Portal (RUP). MeF is not used to send individual forms directly to the IRS for handling.

The mission of the Agency is tax law compliance and enforcement, while helping taxpayers understand their obligations under the law. Therefore, tax return products that impact the largest group of tax filers receive priority over all other tax products for electronic filing capability.

The process of giving a tax product electronic filing capability is a substantial

undertaking and requires a host of internal and external stakeholders as well as funding. Once the decision has been made to allow a tax product to be filed electronically, the IRS will need to coordinate with IT Applications Development (AD), Accounts Management Systems (AMS), Submission Processing (SP) and partner with Tax Forms and Publications to develop this electronic solution. Some of the high-level deliverables include, but are not limited to, the creation of business and system requirements for the tax product in question, those requirements are then used to generate schemas, those schemas are then given to Agency developers to program our legacy systems. Another piece of this process is the required project management to ensure the process stays on track and then we will work in step with the private tax software firms to give them the required data points in time to update and revise their platforms. In addition to the priority being given to tax returns, there is the reality of limited Agency funding and resources. At this time, given the limited resources, the Agency does not plan to develop the electronic filing option for IRS FORM 8802.

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

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

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

Form 8802 is used to request Form 6166, a letter of U.S. residency certification for purposes of claiming benefits under an income tax treaty or VAT exemption. Consequences of less frequent collection on this program will prevent the substantiation that U.S. taxes were paid for purposes of claiming a foreign tax credit.

1. 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).

2. 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 January 29, 2018, (83 FR 4124), we received comments during the comment period regarding Form 8802.

The IRS received three comments, in regards to Form 8802. The comments were:

From: NBCUniversal, Mr. James Andrews, Tax Counsel, NBCUniversal, LLC (James.Andrews@nbcuni.com)

Response: Dear Mr. Andrews, thank you for your comments on Form 8802, in which you provided five suggestions for the form and one for the instructions. We appreciate the time that you took to provide your comments. We are not revising the Form 8802 for 2018. However, we will retain your comments and consider them when we next revise Form 8802. We are revising the Instructions to Form 8802 for 2018, and will consider whether any of your requested changes can be addressed in the instructions.

From: Brian E. Foont, General Counsel, GlobeTax (Brian_Foont@GlobeTax.com)

Response: Dear Mr. Foont, thank you for your comments related to Form 8802 regarding the user fee and time to process the Form 8802 for purposes of receiving a Form 6166. We appreciate the time that you took to provide your comments. The issues you discuss in your letter cannot be resolved merely by changes to the Form 8802 and instructions. The user fee is established independently of the Tax Forms and Publications Division, which develops the Form 8802. The processing of Form 8802 is performed by the Form 8802 Certification Unit located in Philadelphia, PA, which also operates independently of the Tax Forms and Publications Division.

Nevertheless, we will take your comments into consideration when we next revise the Form 8802 and instructions. We are not revising Form 8802 for 2018; however, we will retain your comments and consider them when we next revise Form 8802. We are revising the Instructions for Form 8802 for 2018, and will consider whether any of your comments can be addressed in the 2018 Instructions for Form 8802.

From: The Association of Global Custodians, Robin Truesdale, Baker & McKenzie, LLP

Response: Dear Mr. Truesdale, thank you for your comments related to Form 8802 regarding the time to process the form for purposes of receiving a Form 6166, the rejection of applications, improving communications, and establishing an electronic application and payment portal. We appreciate the time that you took to provide your comments.

The issues you discuss in your letter cannot be resolved merely by changes to the Form 8802 and instructions. The processing of Form 8802 is performed by the Form 8802 Certification Unit located in Philadelphia, PA, which operates independently of the Tax Forms and Publications Division. All communications with the applicants also originate with the Form 8802 Certification Unit.

The November 2018 revision of the Form 8802 and instructions was necessitated by the increase in Form 8802 user fee for nonindividuals from \$85 to \$185. Although we considered your comments in that revision, we were unable to incorporate any of your recommendations as they relate primarily to the processing activities performed by the Form 8802 Certification Unit, which is beyond our purview. Nevertheless, we will retain your comments for incorporation into any future revisions of the Form 8802 or Instructions for Form 8802 initiated to improve the processing of Form 8802.

Thank you again for your comments

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

No payment or gift has been provided to any respondents.

4. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

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

5. 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 PIA's 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.

6. ESTIMATED BURDEN OF INFORMATION COLLECTION

The Form 8802 burden estimate is as follows:

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
CFR 3106	Estates and Trusts	39040	1	39040	3.63	141,715
CFR 3106	Employee Benefit Plans	42293	1	42293	3.63	153,524
CFR 3106	Exempt Organizations	48799	1	48799	3.63	177,141
Totals		130,132		130,132		472,380

7. 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.

8. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>	<u>Printing and Distribution</u>	<u>Government Cost Estimate per Product</u>
Form	\$ 12,910		\$ 12,910
Form and Instructions	\$ 5,958		\$ 5,958
Grand Total	0		0
Table costs are based on 2016 actuals obtained from IRS Chief Financial Office and Media and Publications			
* New product costs will be included in the next collection update.			

9. REASONS FOR CHANGE IN BURDEN

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

10. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

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

11. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

The IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations 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.

12. 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.