

**Supporting Statement  
Internal Revenue Service  
Form 8233  
Exemption From Withholding on Compensation for Independent  
(and Certain Dependent) Personal Services of a  
Nonresident Alien Individual  
OMB 1545-0795**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Section 1441 of the Internal Revenue Code requires 30 percent income tax withholding on compensation for independent personal services. Sections 1441, 3401, and 3402 require withholding at either 30 percent or graduated rates on compensation for dependent personal services. Public Law 115-97 section 11041 suspended the deduction for personal exemption and nonresident aliens can no longer claim an exemption on withholding based on the daily personal exemption amount. However, nonresident alien individuals may be exempt from withholding because of a tax treaty.

Form 8233 is used by nonresident alien individuals to claim a tax treaty exemption from withholding on some or all compensation paid for independent personal services (self-employment), dependent personal services (wages), or personal services income and noncompensatory scholarship or fellowship income from the same withholding agent. In all cases, the form is completed by the nonresident alien individual claiming exemption and presented to the withholding agent for review. If the withholding agent accepts Form 8233, the withholding agent certifies on the same form and forwards it to the Director, Office of International District Operations (Assistant Commissioner (International)).

**2. USE OF DATA**

Form 8233 is used to determine the validity of the exemption of withholding claim. It is used both by the withholding agent to make an initial finding as to whether the exemption is justified, and then by the IRS to verify that the withholding agent's determination is correct. If the exemption from withholding is not validated, the IRS will notify the withholding agent, who must begin withholding the tax.

**3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

IRS publication, 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. IRS has no plans at this time to offer electronic filing because of the low volume compared to the cost of electronic enabling.

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**

There is minimal to no burden on small businesses or entities by this collection due to the inapplicability of the authorizing statute under sections 1441, 3401, and 3402 to this type of entity.

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

A less frequent collection would not allow IRS to make the determination that the withholding exemption claim is valid and therefore not allow the IRS to meet 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 OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 8233.

In response to the *Federal Register* notice dated July 30, 2019 (84 FR 37013), we received no comments during the comment period regarding Form 8233.

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 “International National Standard Application System (INTL NSA) and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 34.037 – IRS Audit Trail and Security Records System; IRS 42.001 – Exam Administrative Files; IRS 42.021 – Compliance Returns and Project Files. The Internal Revenue Service PIA’s can be found at <https://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**

Form 8233 is used to determine the validity of the exemption of withholding claim. It is used both by the withholding agent to make an initial finding as to whether the exemption is justified, and then by the IRS to verify that the withholding agent’s determination is correct.

Section 1441 requires 30% income tax withholding on compensation for independent personal services.

Sections 3401 and 3402 require withholding, sometimes at 30% and sometimes at graduated rates, on compensation for dependent personal services.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
§ 1.1441, 3401, and 3402	Form 8233	75,617	1	75,617	8.95	676,773
Totals				75,617		676,773

We have reviewed the following regulations and have determined that the reporting requirements contained in them are entirely reflected on the form(s). The justification appearing in item 1 of the supporting statement applies both to these regulations and to the form(s). Please continue to assign OMB number 1545-0795 to these regulations.

1.1441-2	1.1441-5	1.1462-1
1.1441-3	1.1441-6	1.1465-1
1.1441-3(e)12	1.1441-7	1.871-6
1.1441-4	1.1461-1	301.7605-1
1.1441-4(b)	1.1461-2	301.7701-16
1.1441-4(b)2	1.1461-3	

**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**

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution, and overhead for Form 8824 and instruction is \$13, 670.

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.

<b>Product</b>	<b>Aggregate Cost per Product (factor applied)</b>	<b>Printing and Distribution</b>	<b>Government Cost Estimate per Product</b>
Form 8233	\$10,936	\$0	\$10,936
Instructions for 8233	\$2,734	\$0	\$2,734
<b>Grand Total</b>			<b>\$13,670</b>
Table costs are based on 2018 actuals obtained from IRS Chief Financial Office and Media and Publications			
* New product costs will be included in the next collection update.			

**15. REASONS FOR CHANGE IN BURDEN**

The change in burden previously approved by OMB resulted from Section 11041 of PL 115-97 which suspends the deduction for personal exemptions through tax years beginning before January 1, 2026. As a result, the current version of the Form 8233 has been changed to remove four lines and add two other lines from the previously approved version. These changes due to agency discretion result in an increase of 7,562 hours, for a total burden 676,773 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	75,617	0	0	0	0	75,617
Annual Time Burden (Hr.)	676,773	0	7562	0	0	669,211

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

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

**1. 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 and/or form sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

**2. EXCEPTION 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.