

1SUPPORTING STATEMENT
Internal Revenue Service
(TD 8813) Residence of Trusts and Estates-7701
OMB # 1545-1600

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1161 of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788 (1997), provides that a trust that was in existence on August 20, 1996 (other than a trust treated as owned by the grantor under subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986) and that was treated as a United States person on August 19, 1996, may elect to continue to be treated as a United States person notwithstanding § 7701(a)(30)(E) of the Code. The election will require the Internal Revenue Service to collect information.

Section 301.7701-7(f) of the Income Tax Regulations generally required the election to be filed by the due date of the trust's return for the 1998 taxable year, plus extension. In addition, if the election is not filed within the required time period, the trustee may provide a written statement to the district director requesting an extension of the time limit if reasonable cause is shown. However, relief is not ordinarily available if the statute of limitations for the trust's 1997 taxable year has expired. The regulations also provide that the election to remain a domestic trust may only be revoked with the consent of the Commissioner.

Section 301.7701-7(d)(2) of the Income Tax Regulations allows trusts that want to continue to be treated as a foreign trust or a domestic trust, as the case may be, to correct inadvertent changes to the trust within 12 months of the change to retain the pre-change status as domestic or foreign. The trust may submit a written statement to the district director requesting an extension of the 12-month time period to correct certain inadvertent changes to the trust if reasonable cause is shown.

2. USE OF DATA

The taxpayers must submit information in order to make the election for the trust to remain a United States person. The information will be used by the Internal Revenue Service (IRS) to determine if a trust is a domestic trust or a foreign trust.

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. There is no plan to offer electronic filing for this collection due to the low volume of filers.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaption from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The collections of information in these regulations will not have a significant economic impact on a substantial number of small entities. The estimated average burden per trust in complying with the collection of information in § 301.7701-7(d)(2)(ii) and (f) is minimal (30 minutes). In addition each trust will only have to file the election statement to remain a domestic trust once. The rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

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

The information will be used by the IRS to determine if a trust is a domestic trust or a foreign trust. If this information is collected less frequently it would compromise the Agency's ability to enforce tax compliance. Tax compliance is a vital part of the government's ability to meet its' mission and serve the public.

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 April 28, 2020 (85 FR 23600), we received no comments during the comment period regarding TD 8813.

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 return information are confidential as required by 26 U.S.C. 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)" and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 22.062 – Electronic Filing Records; IRS 24.030 – Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 - CADE Business Master File (BMF); IRS 34.037 - IRS Audit Trail and Security Records System. 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

We estimate that 200 trusts will submit a statement requesting an extension of time to file the election statement to the district director and that it will take approximately 30 minutes to complete the statement. The burden for this requirement is 100 hours.

We estimate that 20 trusts per year will provide the written statement to the district director requesting an extension of the 12-month time period to correct certain inadvertent changes to the trust and that it will require 30 minutes to prepare the written statement per trust. Therefore, the estimated total annual burden is 10 hours.

We estimate that two trusts per year will request permission to revoke the election to remain a domestic trust and that it will require two hours to prepare the request. Therefore the estimated total annual burden is four hours.

The total burden for this regulation is 114 hours.

The burden for filing Forms 1041 (1545-0092) and 1040NR (1545-0074) is included in the burden estimate for those forms.

Code Section	Description	# Respondents	# Responses Per Respondent	# Annual Responses	Hours Per Response	Total Burden
301.7701-7(f)	Statement of Extension of time to file	200	1	200	.5	100
301.7701-7(d) (2)	Extension of the 12-month time period to correct certain inadvertent changes	20	1	20	.5	10
301.7701-7(f)	Permission to revoke the election	2	1	2	2	4
		222		222		114

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

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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 to the paperwork burden previously approved by OMB. IRS is making this submission for renewal purposes.

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

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation 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 for this collection.

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.