

SUPPORTING STATEMENT
Internal Revenue Service
Provisional Foreign Tax Credit Agreement
OMB # 1545-XXXX

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 901(a) allows a taxpayer to claim a foreign tax credit for foreign income taxes paid or accrued in a taxable year, depending on taxpayer's method of accounting for such taxes. Section 461(f) (flush language), §1.461-2(a)(2)(i), and proposed §1.905-1(d)(3) provide that a foreign income tax that is contested does not accrue and is not creditable until the contest is resolved. However, proposed §1.905-1(d)(4) allows taxpayers to make an election to claim a provisional foreign tax credit for contested taxes to the extent that the taxpayer has paid the contested tax to the foreign country. As a condition for making this election, the taxpayer must enter into a provisional foreign tax credit agreement, in which the taxpayer gives the IRS information regarding the contested tax and agrees to comply with the conditions of the election, including waiving the statute of limitations on assessment by the IRS with respect to the contested taxes for a period of three years from the year in which taxpayer notifies the IRS of the resolution of the contest. See proposed §1.905-1(d)(4)(ii).

2. USE OF DATA

The data will be used by the IRS to audit whether a contested foreign income tax for which taxpayer has claimed a provisional foreign tax credit is ultimately creditable. In particular, the IRS will monitor and assess whether taxpayer meets the requirement to exhaust all effective and practical remedies to minimize its foreign income tax liability with respect to the contested tax.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS intends to offer electronic filing to the extent it is practicable.

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 is not expected to have a significant economic impact on a substantial number of small entities. The collection of information affects U.S. persons that have foreign operations, incur foreign income taxes,

and disputes the foreign income tax liability with the foreign country. Entities potentially affected by this collection of information are generally not small entities because of the resources and investment necessary to conduct foreign operations and to contest a tax liability with a foreign country.

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

A less frequent collection of the information will prevent the IRS from being able to determine the taxpayer's compliance and/or reporting with the requirements in sections 901 and 905 of the Code, and thereby causing the inability of 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

The proposed regulations (REG-101657-20) will contain a request for comment, including specifically with respect to this collection of information.

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

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

Estimated total annual reporting burden: 3,000 hours
 Estimated average annual burden per respondent: 2 hours
 Estimated number of respondents: 1,500
 Estimated frequency of responses: annually

Section	# Respondents	# Responses Per Respondent	# Annual Responses	Hours Per Response	Total Annual Burden
IRC 901/905	1,500	1	1,500	2	3,000
TOTALS	1,500		1,500		3,000

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

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

These proposed regulations contain collections of information that are not on existing IRS forms. The IRS is making this submission to request new OMB approval.

Annual Responses and Burden with Changes:

	FY 2021	Program	Program	Change Due to	Change Due	FY 2020
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	Requested	Change Due to New Statute	Change Due to Agency Discretion	Adjustment in Agency Estimate	to Potential Violation of the PRA	Previously Approved
Annual Number of Responses for this IC	1,500	1,5000	0	0	0	0
Annual IC Time Burden (Hour)	3,000	3,000	0	0	0	0

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

The agency 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 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 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 if 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.