

SUPPORTING STATEMENT
Internal Revenue Service
(Forms W-8BEN, W-8BEN-E,
W-8ECI, W-8EXP, W-8IMY)
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.

Treasury Decision 9926 contains the final regulations that provide guidance related to the withholding of tax and information reporting with respect to certain dispositions of interests in partnerships engaged in a trade or business within the United States. The final regulations affect certain foreign persons that recognize gain or loss from the sale or exchange of an interest in a partnership that is engaged in a trade or business within the United States, and persons that acquire those interests. The final regulations also affect partnerships that, directly or indirectly, have foreign persons as partners.

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 based 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 February 19, 2021 (86 FR 10001), IRS received no comments during the comment period regarding these Forms.

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 “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 PIAs 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

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	2,970,000	1	2,970,000	7.42	22,037,400
IRC §§ 1441, 1442,, and 1443	W-8BEN-E	170,000	1	170,000	26.93	4,578,100
IRC §§ 1441, 1442,, and 1443	W-8ECI	180,000	1	180,000	10.22	1,839,600
IRC §§ 1441, 1442,, and 1443	W-8EXP	240	1	240	20.53	4,928
IRC §§ 1441, 1442,, and 1443	W-8IMY	70,400	1	70,400	29.85	2,101,440
	Totals:	3,390,640				30,561,468

The following regulations impose no additional burden. Please continue to assign OMB number 1545-1621 to these regulations:

1.1446(f)-1	1.1446(f)-2	1.1446(f)-3	1.1446(f)-4	1.1446(f)-5
1.1446(f)-6	1.1446(f)-7	1.864(c)(8)-1	1.864(c)(8)-2	

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 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 startup expenses, operating and maintenance expenses, and

distribution of the product that collects the information.

The government computes cost using a multi-step process. 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.

Product	Aggregate Cost per Product (factor applied)		Printing and Distribution		Government Cost Estimate per Product
Form BEN	13,032	+		=	13,032
Instr. BEN	4,146	+		=	4,146
Form BENE	10,936				10,936
Instr. BENE	10,024				10,024
Form ECI	13,032	+		=	13,032
Instr. ECI	2,734				2,734
Form EXP	14,216				14,216
Instr. EXP	3,554				3,554
Form IMY	14,216				14,216
Instr. IMY	4,146				4,146
Grand Total	90,036				90,036

Table costs are based on 2020 actuals obtained from IRS Chief Financial Office and Media and Publications

15. REASONS FOR CHANGE IN BURDEN

Form W-8BEN

This form has been updated to incorporate the use of this form by an individual who is the transferor of an interest in a partnership subject to withholding on the amount realized from the transfer. The provisions of the section 1446(f) regulations relating to withholding and reporting on transfers of interests in partnerships that are not publicly traded partnerships (PTPs), generally, apply to transfers occurring after January 29, 2021. Withholding on transfers of interest in PTPs and the revisions included in the section 1446(f) regulations relating to withholding on PTP distributions under section 1446(a)

apply to transfers and distributions that occur on or after January 1, 2023. Therefore, the following changes have been made:

- In Part I, converting line 6 into 6a and 6b,
 - In Part III, Certification, adding additional text to line (c)
 - In Part III adding a check box with a certification of capacity to sign for the person signing the form.
- Form W-8BEN-E**
- In Part I, line 9, new line 9c "Check if FTIN Not legally required" was added.
 - In Part III, line 14b we added a new type of limitation on benefits provisions that may be included in and applicable tax treaty, "No LOB article in treaty."
 - In Part XXX, the certification of capacity to sign for the entity identified on line 1 moved to directly above the signature line.

Form W-8EIC

Under recently issued final regulations for section 1446(f) (T.D. 9226 available in at <https://www.irs.gov/pub/irs-drop/td-9226.pdf>) dealers in securities, as defined in section 475(c)(1), are eligible to claim an exception from withholding on transfers of interests in publicly traded partnership (PTP). Therefore, we are making the following changes:

- Converting line 8 into 2 lines:
- Line 8a - Foreign tax identifying number (FTIN)
- Line 8b - Check if FTIN not legally required
- Line 12 is being added with a checkbox to identify transfers of interests in a publicly traded partnership (PTP) by dealers in securities eligible to claim an exception from the withholding required under section 1446(f).

Form W-8IMY

Changes in TD 9926 released on November 2020 and published in the Federal Register on November 30, 2020, have been incorporated where applicable.

The following changes were made:

- Part I, line 9 is divided in lines 9a and 9b.
- Part III, line 14 item (iii), text is modified.
- Part III, line 15 title is revised. Line 15 subsection a through g also revised and added subsection h and i.
- Part III, line 16a modified.
- Part IV, lines 17a, c, and d modified. New line e added.
- Under Part V lines, 18a, b, and c modified. New lines d, e, f, added.
- Part VI, line 19a, b, c, modified. New lines d, e,f added.
- Part VIII, line 21b modified. Lines c, d, and e added.

	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	3,390,640	0	210,000	0	0	3,180,640
		0		0	0	
Annual Time Burden (Hr)	30,561,468	0	1,270,088	0	0	29,291,380
		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

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