

**SUPPORTING STATEMENT**  
**Internal Revenue Service**  
Provisional Foreign Tax Credit Agreement  
OMB # 1545-2296

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Sections 901 and 905 allow 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. However, regardless of the year in which the credit is allowed based on taxpayer's method of accounting, the foreign tax credit is allowed only to the extent the foreign income taxes are ultimately both owed and actually remitted to the foreign country. For accrual method taxpayers, section 461(f) (flush language), §1.461-2(a)(2)(i), and §1.905-1(d)(3) provide that a foreign income tax liability that is contested does not accrue and is not creditable until the contest is resolved. For cash method taxpayers, a foreign income tax liability that is contested is not a reasonable approximation of the taxpayer's final foreign income tax liability and, thus, under §1.901-2(e)(2)(i), is not considered an amount of tax paid for purposes of section 901 until the contest is resolved.

However, §§1.905-1(c)(3) and 1.905-1(d)(4) allow taxpayers to make an election to claim a provisional foreign tax credit for a contested foreign income tax liability to the extent that the taxpayer has remitted 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 foreign income tax liability and agrees to comply with the conditions of the election, including agreeing not to assert the statute of limitations on assessment as a defense to assessment of taxes and interest by the IRS with respect to the contested tax for a period of three years from the year in which taxpayer notifies the IRS of the resolution of the contest. See §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. This collection of information only applies if the taxpayer elects to claim a provisional foreign tax credit for contested foreign income taxes.

**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) published on November 12, 2020 (85 FR 72078) contained a request for comment, including specifically with respect to this collection of information. No comments were received.

**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: 22,800 hours  
Estimated average annual burden per respondent: 2 hours  
Estimated number of respondents: 11,400  
Estimated frequency of responses: annually

<b>Section</b>	<b># Respondents</b>	<b># Responses Per Respondent</b>	<b># Annual Responses</b>	<b>Hours Per Response</b>	<b>Total Annual Burden</b>
IRC 901/905	11,400	1	11,400	2	22,800
<b>TOTALS</b>	11,400		11,400		22,800

**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**

This is a request for a new OMB control number for collections of information in new regulations that are not on existing IRS forms. The number of potentially affected taxpayers increased relative to the burden estimate in the proposed regulations because the final regulations expand the availability of the election to taxpayers claiming foreign tax credits on the cash basis.

Annual Responses and Burden with Changes:

	FY 2021 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	FY 2020 Previously Approved
Annual Number of Responses for this IC	11,400	11,400	0	0	0	0
Annual IC Time Burden (Hour)	22,800	22,800	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.