

Supporting Statement
Internal Revenue Service (IRS)
Form 8804-C - Certificate of Partner-Level Items to Reduce Section 1446 Withholding
OMB Control Number 1545-1934

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

A partnership with effectively connected taxable income (ECTI) allocable under Internal Revenue Code (IRC) section 704 to a foreign partner must pay a withholding tax under IRC section 1446 on that partner's allocable share of ECTI. Treasury Regulations section 1.1446-6 provide when a partnership may consider certain deductions and losses of a foreign partner to reduce or eliminate the partnership's obligation to pay withholding tax under IRC section 1446 on effectively connected taxable income allocable under IRC section 704 to such partner.

Form 8804-C is used by a foreign partner who chooses to provide to a partnership a Certification under Treasury Regulations section 1.1446-6 to reduce or eliminate the partnership's withholding tax obligation under IRC section 1446 on the partner's allocable share of ECTI from the partnership. The foreign partner will use Form 8804-C to certify to the partnership that either it has partner-level deductions and losses that can reduce the required IRC section 1446 tax on its ECTI or that its investment in the partnership is its only activity giving rise to effectively connected income, gain, loss or deduction. The foreign partner will also use Form 8804-C to update information previously certified the partnership for the same taxable year.

2. USE OF DATA

The information collected by the IRS will be used for audit and examination purposes and in determining whether credits and/or refunds should be issued.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS has no plans at this time to offer electronic filing because of the low volume respondents.

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

The collection of information requirement will not have a significant economic impact on small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL

PROGRAMS OR POLICY ACTIVITIES

A less frequent collection of this information would not allow the IRS to audit and examine the purpose and to determine whether the partnership calculated the correct amount of installment payments of IRC section 1446 tax, and should a refund be issued.

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 9, 2024 (89 FR 24892), we received no comments during the comment period regarding Form 8804C.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift will be 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 related to 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

IRC section 1446 requires partnerships and partners to disclose information and keep records. Treasury Regulations section 1.1446-6 allows foreign partners to certify certain items that allow the partnership to reduce its section 1446 withholding on a voluntary

basis. Foreign partners use Form 8804-C to provide this certification.

Burden estimates is as follows:

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC § 1446	Form 8804-C	1,000	1	1,000	18.70	18,700
Total		1,000		1,000		18,700

The following regulations impose no additional burden. Please continue to assign OMB number 1545-1934 to these regulations.:

1.1446-6

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up or maintenance costs for this collection. The collection does not require respondents to obtain specialized equipment or professional services outside of normal business practices.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The estimated annualized cost to the federal government is based on a model that considers the following three 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. These costs do not include any activities such as taxpayer assistance and enforcement.

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 Federal Government estimated annualized cost per product.

The federal government estimated annualized cost is as follows:

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>		<u>Printing and Distribution</u>		<u>Government Cost Estimate per Product</u>
Form 8804-C	\$29,249	+	0	=	\$29,249
Instructions 8804-C	\$22,982				\$22,982
Grand Total	\$52,231	+	0	=	\$52,231

Table costs are based on 2023 actuals obtained from IRS Chief Financial Office and Media and Publications

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. However, the burden associated with TD 9394 was previously incorporated in Form 8804-C and its instructions. This correction reduces the annual responses by one and the annual burden hours by one due to Agency Estimates.

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 IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form and regulation expires 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.