

**SUPPORTING STATEMENT
(REG-120509-06 [TD 9465 – final])**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 882(c) provides for the allocation of expenses of foreign residents to income effectively connected with a trade or business within the United States under section 864(c). Current final regulations under §1.882-5 provide a three-step formula for determining the amount of interest expense that foreign corporations may treat as allocable to income effectively connected with their trades or businesses within the United States.

This document contains final regulations under section 882(c) of the Internal Revenue Code (Code) concerning the determination of the interest expense deduction of foreign corporations engaged in a trade or business within the United States. These final regulations conform the interest expense rules to recent U.S. Income Tax Treaty agreements and adopt other changes to improve compliance.

2. USE OF DATA

The data will be used only by regulated foreign banks that are engaged in a trade or business within the United States and will be used for the purpose of computing the excess interest component of the allocable interest expense under the elective adjusted U.S. book liability method in §1.882-5. The data will fix with certainty the allowable interest rate a foreign bank may use to compute this portion of their interest expense allocation. The collection of information will be used as a final verification procedure by the IRS and remove this issue from controversy during the audit process.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, 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.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

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

Not applicable.

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

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

On August 17, 2006, the Treasury Department and the IRS published TD 9281 (71 FR 47443-01, 2006-2 CB 517) (the temporary regulations) under section 882(c) of the Internal Revenue Code regarding the determination of a foreign corporation's interest expense allocable to income effectively connected with the conduct of a trade or business within the United States. On the same day, a notice of proposed rulemaking (REG-120509-06, 71 FR 47459, 2006-2 CB 570) was published by cross-reference to the temporary regulations in the **Federal Register**. Final regulations TD 9465 (74 FR 49315), was published on September 28, 2009.

We received no comments during the comment period in response to our Federal Register notice dated January 19, 2010 (75 FR 2932).

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

Not applicable.

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

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

We estimate the total number of respondents for this collection to be 75, with a total annual burden of 35 hours.

Estimates of annualized cost to respondents for the hour burden shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated January 19, 2010, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in burden. We are making this submission for renewal purposes only.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe 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 ON OMB FORM 83-I

Not applicable.

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.