

SUPPORTING STATEMENT
Revenue Procedure 2000-12

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

On October 6, 1997, the IRS released final regulations under §§1441 et seq. that contain significant modifications of the procedures for withholding on payments of U.S. source income to foreign persons and for reporting information about these payments to the IRS. The regulations provide for new rules for payments made to foreign intermediaries, such as nominees, custodians, and agents. The regulations permit foreign intermediaries that become "qualified intermediaries" (QI) to certify to a U.S. withholding agent that the beneficial owner of income is a foreign person and, if applicable, that the owner is entitled to a reduced rate of withholding either under the Code or a tax treaty. These procedures are, in part, a response to the comments made by foreign financial institutions that the current U.S. withholding tax regime sometimes requires the disclosure of confidential taxpayer information to competitors. To become a QI, a foreign person must enter into a withholding agreement with the IRS. The withholding agreement generally would prescribe the QI's compliance requirements, as well as applicable refund and verification procedures. Section 1.1441-1(e)(5) outlines the QI procedures, including the necessary provisions of a withholding agreement. The revenue procedure provides information about the application process to become a QI, and further elaboration on the terms of the requisite agreement.

2. METHOD OF COLLECTION AND USE OF DATA

The information will be used by the IRS to ensure compliance with the U.S. withholding system under the 1441 regulations (especially proper entitlement to treaty benefits).

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

Revenue Procedure 98-27 was published in the **Internal Revenue Bulletin** on April 13, 1998 (1998-15 IRB 15). Revenue Procedure 2000-12 was published in the **Internal Revenue Bulletin** on January 24, 2000 (2000-4 IRB 387). Revenue Procedure 2000-12 supercedes and obsoletes Revenue Procedure 98-27.

Revenue Procedure 2000-12 modified by Announcement 2000-50, Revenue Procedure 2003-64, Revenue Procedure 2004-21, and Revenue Procedure 2005-77.

Revenue Procedure 2000-12 was published in the Internal Revenue Bulletin on January 24, 2000 (2000-4 IRB 387). Announcement 2000-50 was published in the Internal Revenue Bulletin on May 8, 2000 (2000-19 I.R.B.). Revenue Procedure 2003-64 was published in the Internal Revenue on August 11,

2003 (2003-32 I.R.B.). Revenue Procedure 2004-21 was published in the Internal Revenue Bulletin on April 5, 2004 (2004-14 I.R.B.). Revenue Procedure 2005-77 was published in the Internal Revenue Bulletin on December 19, 2005 (2005-51 I.R.B.).

We received no comments during the comment period in response to the Federal Register Notice dated July 6, 2010 (75 FR 38872).

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

Not Applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not Applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 3.02 requires a written application requesting various items of information about the applicant. We estimate that approximately 3,000 persons will submit applications, and that it will take approximately 1 hour, 20 minutes to complete each application on the average. **The total time estimate is 4,000 hours.**

Section 4 sets forth the text of a withholding agreement which includes the QI's obligations to obtain beneficial owner statements or documentation and report (or otherwise make available) beneficial owner information to the IRS under the agreement. Most of the collections of information contained in the revenue procedure will be reflected on the QI's Form W-8, Form 1042 and Form 1042S (where necessary to be filed), and the accompanying statements to these forms. However, there are some instances where the collections of information are not included, or provided for, in one of the previously-mentioned forms. These collections of information are as

follows:

Section 6.01 of the agreement requires a QI to provide any identifying information (e.g., name, address, or TIN) it may have regarding a U.S. payee that is required to, but does not, provide a Form 1099. We estimate that the QIs will have to provide this information for approximately 6,500 payees and that it will take approximately .25 hours to complete each submission of information. **The total time estimate is 1,625 hours.**

Section 5.03 of the agreement requires a QI to obtain certain certifications and/or representations from non-individual payees claiming treaty benefits. We estimate that 88,379 non-individuals payees will have to provide this information to the QIs, and that each occurrence would take approximately an average of .50 hours. **The total time estimate is 44,190 hours.**

Section 5.12 of the agreement requires a QI to maintain a record of the documentation received and reviewed for purposes of satisfying the terms of its withholding agreement. We estimate that the QIs will have approximately 1,000,000 occurrences for record retention and that it will take approximately .25 hours per occurrence. **The total time estimate is 250,000 hours.**

Section 9.01 of the agreement requires a QI (who does not assume primary withholding responsibility) to provide sufficient information to a withholding agent so that the withholding agent can make adjustments for any over- and underwithholding. We estimate that there will be approximately 100 QIs in this situation and that it will take approximately 12 hours per QI to provide this information. **The total time estimate is 1,200 hours.**

Section 11.02 of the agreement requires a QI to give notice of termination to the IRS if it wishes to terminate the agreement. We estimate that approximately 12 QIs will submit this notification, and that it will take approximately .25 hours. **The total time estimate is 3 hours.**

TOTAL BURDEN: 301,018 hours

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

12. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** Notice dated **July 6, 2010 (75 FR 38872)**, 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 the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COSTS TO THE FEDERAL GOVERNMENT

Not Applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

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 revenue procedure 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.