

Internal Revenue Service
SUPPORTING STATEMENT
OMB 1545-1484
TD 8881

General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The collection of information for foreign persons that receive payments subject to withholding under sections 1441, 1442, 1443, or 6114 of the Internal Revenue Code is in 1441-l(e), 1.1441-4(a)(2), 1.1441-4(b)(1) and (2), 1.1441-4(c),(d), and (e), 1.1441-5(b)(2)(ii), 1.1441-5(c)(1), 1.1441-6(b) and (c), 1.1441-8(b), 1.1441-9(b), 1.1461-1(b) and (c), 301.6114-1, 301.6402-3(e), and 31.3401(a)(6)-1(e). This information is used to claim foreign person status and, in appropriate cases, to claim residence in a country with which the United States has an income tax treaty in effect, so that withholding at a reduced rate of tax may be obtained at source.

The collection of information requirement for withholding agents is in §1.1461-l and 31.3401(a)(6)-l(e). This information is used by withholding agents to report to the IRS income paid to foreign persons that is subject to withholding under sections 1441, 1442, and 1443.

Section 301.6114-1 requires that a foreign taxpayer claiming a reduced amount of withholding tax under the provisions of an income tax treaty must disclose its reliance upon a treaty provision by filing Form 8833 with its U.S. income tax return.

The likely respondents and recordkeepers are individuals, businesses and other organizations that make payments to nonresident alien individuals and foreign corporations.

2. USE OF DATA

This information will be used to verify taxpayer return information as part of exchange of information agreements with treaty partners under obligations imposed by income tax treaties to which the United States is a party.

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. Because there are no reporting requirements associated with TD 8881, electronic filing is not possible.

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

There is no burden on small businesses or entities by this collection due to the inapplicability of the authorizing statute to this type of entity.

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

With a less frequent collection the IRS will not be able to verify taxpayer return information as part of exchange of information agreements with treaty partners under obligations imposed by income tax treaties to which the United States is a party.

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

A notice of proposed rulemaking was published in the Federal Register on April 15, 1996 (61 FR 17614). A public hearing was held on July 24, 1996. The final regulations (TD 8881), were published in the Federal Register on May 22, 2000 (65 FR 32152).

We received no comments during the comment period in response to the Federal Register notice dated October 17, 2017 (82 FR 48314).

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

No gifts or payments are being 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

No PII is being collected by this information collection.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden for the reporting requirements contained in sections 1.1441-1(e), 1.1441-4(a)(2), 1.1441-4(b)(1) and (2), 1.1441-4(c), (d), and (e), 1.1441-5(b)(2)(ii), 1.1441-5(c)(1), 1.1441-6(b) and (c), 1.1441-8(b), 1.1441-9(b), 1.1461-1(b) and (c), 301.6114-1, 301.6402-3(e), and 31.3401(a)(6)-1(e) is reflected in the burdens of Forms W-8BEN, W-8ECI, W-8EXP, W-8IMY, 1042, 1042S, 8233, 8833, and the income tax return of a foreign person serving as a claim for refund.

Section 1.1461-1 provides the reporting requirements for withholding agents on payments of

income subject to withholding under sections 1441, 1442 and 1443. The burden of the reporting requirements under section 1.1461-1 is reflected in the burden of Forms 1042 and 1042S.

The information collection requirements and burden estimate associated with OMB # 1545-1484 ((Final) REG-242282-97 (formerly Intl-62-90, Intl-32-93, Intl-52-86, and Intl-52-94) General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign), are captured using Forms 1042 and 1042S, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons under OMB # 1545-0096 and W-8BEN, W-8ECI, W-8EXP, W-8IMY, Information returns under OMB # 1545-1621.

No reporting burden is assigned to this Collection (OMB # 1545-1484) for TD 8881.

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

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

There are no plans for tabulation, statistical analysis and publication.

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

There are no exceptions.

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.