



VIA ELECTRONIC SUBMISSION

Andres Garcia  
Internal Revenue Service, Room 6526  
1111 Constitution Avenue NW  
Washington, DC 20224

November 4th, 2024

**Re: Federal Register [2024-19918](#); Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to U.S. Income Tax Return Forms for Individual Taxpayers; OMB No. [1545-0074](#)**

Dear Mr. Garcia,

Democrats Abroad appreciates the opportunity to comment on the Information Collection Request (“ICR”) submitted by the Internal Revenue Service (the “Agency”) for renewal of Form 1040 and attached forms. As the largest Americans abroad organization in the world, with 200,000 U.S. citizen members living outside the United States, we can provide firsthand insight into the burden of preparing the U.S. Income Tax Return for Individual Taxpayers (“Information Collection”).

International taxpayers are recognized as an underserved community by the Internal Revenue Service<sup>1</sup> and its watchdog, the Taxpayer Advocate Service.<sup>2</sup> Our own research confirms this, finding that our community is both underserved and also subject to a higher tax compliance burden than placed on resident U.S. citizens.<sup>3</sup>

We, and others, have repeatedly highlighted to the Agency that U.S. citizens living outside the country — compared to citizens resident in the U.S. — spend much longer, and pay much more on tax preparation services, to file their individual tax return.<sup>4</sup> Reducing burden analysis to only a simple estimated average masks from OMB a deeply problematic paperwork burden complicated in many cases because the tax-filer lives abroad. Further, the IRS provides no support to international taxpayers, not even programs for the most vulnerable, such as for low-income Americans or the elderly that are available to residents of the United States.

Despite this excessive burden, 54% of tax returns filed from abroad have no tax liability, predominantly due to higher taxes paid in our country of residence.<sup>5</sup> The unusually high burden pushes many low-income and middle class Americans abroad to one of two extremes: either paying excessively high fees to specialized international tax professionals due to complexity, or being pushed out of tax compliance if the complexity of their return exceeds what they can reasonably pay a professional for.

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<sup>1</sup> [IRS Taxpayer First Act Report to Congress, Page 63](#)

<sup>2</sup> [Taxpayer Advocate Service, 2023 Most Serious Problem #9](#)

<sup>3</sup> [Once Uncomfortable, Now Suffocating: A 2022 Update on Tax and Financial Access Issues of Americans Abroad, Pg. 13-14](#)

<sup>4</sup> [Once Uncomfortable, Now Suffocating: A 2022 Update on Tax and Financial Access Issues of Americans Abroad, Pg. 2](#)

<sup>5</sup> [IRS Tax Year 2021 “Other” Statistics](#) (Download)

Public comments to the State Department recently highlighted a causal relationship between the burden of this particular Information Collection and loss of U.S. citizenship.<sup>6</sup>

**We can identify no other Information Collection from the federal government whose compliance burden leads to citizens facing such extreme choices.**

Our submission, in the following attached appendices, examines this:

- Appendix A outlines in detail many problems posed by this Information Collection, framed against the questions posed in the Federal Register notice.
- Appendix B aggregates current and historical IRS estimates of the hours to complete many additional forms that international taxpayers are typically required to file.
- Appendix C provides common scenarios for international taxpayers and the cumulative burden of the additional forms.

The scope of changes needed to remedy this situation extends beyond what is reasonable to expect from a routine Paperwork Reduction Act renewal. The first step, however, is for the Agency to acknowledge that taxpayers living abroad live with the consequences of an excessive paperwork burden.

**We believe that, within the context of the Paperwork Reduction Act, the following steps are appropriate:**

1. **Include burden estimates by specific demographic groups**, particularly for known underserved communities.
2. **Include individual burden estimates** for forms that may be attached to the 1040.
3. **Consult with organizations that submit Paperwork Reduction Act comments and undertake rulemaking** to address identified opportunities for burden reduction.

*Further detail on these steps is provided in Appendix D below.*

Democrats Abroad is eager to work with the IRS to improve the quality, utility, and clarity of information to be collected, but this requires meaningful commitment to paperwork reduction by the federal government.

Reasonable paperwork burdens are the cornerstone of a Fair and Just Tax System, a right under the Taxpayer Bill of Rights. We hope that this will be kept in mind when the Agency reviews and acts on the input that it receives from the public.

Sincerely,

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<sup>6</sup> [Comments on "Schedule of Fees for Consular Services: Administrative Processing of Request for Certificate of Loss of Nationality Fee"](#)

## Appendix A: Specific Issues

With respect to Form 1040 and its associated forms, we raise the following relative to the questions posed in the Federal Register notice:

**Accuracy of Burden Estimate:** The Agency presents only an “estimated average burden” and does not report the range of time and costs for different taxpayers. The average time and costs for taxpayers abroad are much higher due to the excessively burdensome individual tax returns that must be filed merely for living abroad.

- The Agency’s estimate of burden “averages out” inordinately high time and financial burdens while optimistically mentioning that “many taxpayers experience lower than average burden.” It neglects to discuss underserved communities that experience multiples of the estimated average burden of 13 hours, 6 minutes.
- The omission of burden estimates for international taxpayers (and other underserved taxpayer demographics) poses a particular issue because certain burdensome forms typically attached to an overseas American’s 1040 have estimates exceeding 48 hours of work *per form*,<sup>7</sup> while the OMB filings for each of these forms assert that the stand-alone burden estimate does not apply to individuals because their burden is accounted for in this control number for individual tax returns (OMB No. 1545-0074).
- At no point does the Agency clearly present to OMB the substantial numbers of taxpayers who experience burdens that are multiples of the general estimate, nor is the specific total individual filer burden of forms such as 8621 (OMB No. 1545-1002) ever estimated or disclosed. This should occur in *either* the general OMB No. 1545-0074, the individual tax return process or in form-specific processes. Presently, there is little transparency around how many individuals file each form.

In Appendix B, we outline the burdens for a number of forms commonly required for overseas tax returns, highlighting how their estimated burdens substantially increase or even eclipse the “estimated average burden.”

**Necessity of Information Collection:** Taxpayers abroad are subjected to additional Information Collection burdens that are wildly disproportionate to their incomes, capabilities, and any taxes due.

- Many international filers are paying taxes in the higher-tax jurisdiction where they live and owe no U.S. tax. Thus 54% of tax returns filed from abroad in 2021 yielded zero revenue for the IRS, while the average was 19% for the country as a whole. This is a disproportionate burden placed on citizens abroad as well as on the Agency due to the unique citizenship-based tax system used by the United States.

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<sup>7</sup> e.g. Form 8621, OMB No. 1545-1002 or Form 5471, OMB No. 1545-0123

- Despite the fact that the majority of international filers owe no tax, the average cost to file a tax return from abroad is nearly ten times more than for domestic taxpayers, \$2,000 for international taxpayers versus \$220 for domestic filers.<sup>8</sup> This is because, to prove that little to no tax is rightfully owed to the U.S., international filers often pay very large fees to accountants and tax preparers who specialize in international filings. This cost is a direct result of the additional forms required for normal overseas living situations.
- Common necessary financial experiences, such as having a non-U.S. bank account (local for us), or contributing to a non-U.S. pension (which is sometimes required by law in the country of residence,) and other benign financial situations for U.S. citizens residing outside the United States can trigger filing obligations for Forms 3520, 5471, and 8621, each of which have extraordinarily high burdens that exceed the estimated average burden of the Individual Return collection. Domestic filers are not subject to these burdens for equivalent standard day-to-day financial activities. While much of the complication comes from Congress passing laws that do not consider international taxpayers when legislation is drafted, the IRS could do a much better job of reducing the filing burden within the statutory requirements.
- Taxpayers abroad, in addition to their standard 1040 form, are additionally subject to a number of lower burden forms, namely Forms 1116, 2555, and 8938, that in aggregate produce substantial additional paperwork burden and cost.
- There is little regard for the fact that the cost of complying with this Information Collection can be a substantial fraction of an overseas U.S. citizen's income and that the ultimate tax liability is often *zero* or *de minimis*. We have received many reports from our members confirming that they've spent a whole month's salary just on tax prep services to prove they owe no U.S. tax because they already paid tax in their country of residence.

In Appendix C, using common overseas filing situations, we illustrate the additional burdens that are poorly captured in the average burden estimate.

**Necessity of Information Collection:** Many forms in this Information Collection often do not affect the computation of taxes, provide little to no utility to the Agency, and appear to exist solely to collect penalty revenue from errors in completing the Information Collection.<sup>9</sup>

- A specific criticism of Form 3520, attached to this Information Collection, is that penalties of “25% of the gift value” are exacted for failure to report gifts from family members that are *not even subject to tax in the first place*.
- The IRS<sup>10</sup>, TIGTA<sup>11</sup>, and GAO<sup>12</sup> have repeatedly expressed that the IRS lacks the resources to adequately make use of information received under Form 8938 which duplicates information automatically collected from foreign governments and Foreign Financial Institutions under

<sup>8</sup> [Taxpayer Advocate Service, 2022 Most Serious Problem #10 Overseas Taxpayers, Page 171, Citation 45](#)

<sup>9</sup> [NTA 2023 Most Serious Problem #8: The IRS's Approach to International Information Return Penalties is Draconian and Inefficient](#)

<sup>10</sup> [Testimony from IRS Commissioner Rettig to House Ways and Means Committee, March 17, 2022](#)

<sup>11</sup> [Additional Actions are Needed to Address Non-Filing and Non-Reporting Compliance under FATCA, April 2022](#)

<sup>12</sup> [GAO-19-180: Actions Needed to Enhance Compliance Efforts, Eliminate Overlapping Requirements, and Mitigate Burdens on U.S. Persons Abroad](#)

intergovernmental agreements. It additionally duplicates FinCEN Form 114, which a number of commentators have expressed concern about in the past.<sup>13</sup>

**Minimization of Burden:** The Agency makes little to no attempt to inform taxpayers abroad of their unusual and significant obligations in this Information Collection, in some cases presenting information that contains serious omissions leading to financial penalties.

- The limited attempts the IRS makes to inform taxpayers abroad of their unusual and significant compliance obligations contain dangerous omissions that result in more significant burdens for taxpayers and potential failure-to-file penalties. The IRS has actively refused recommendations to better inform and support taxpayers abroad in understanding their obligations with respect to this Information Collection.<sup>14</sup>
- The only apparent effort to increase public awareness appears in fine print on Page 52 of a U.S. passport directing individuals to the IRS website, where they can read Publication 54.
- Publication 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad, is supposed to be the quintessential guide for taxpayers abroad, yet it is fifty one pages in length, incomprehensible to the average taxpayer, and dangerously omits to mention international-specific obligations related to gifts (Form 3520), foreign pensions (Forms 3520, 8621, and 8833), and small businesses (Form 5471). All of these forms have hefty penalties attached to them, and yet the IRS fails to discuss their existence in the most relevant publication.
- Consulates and Embassies make no effort to inform U.S. citizens resident abroad of tax-filing deadlines or even of the *existence* of IRS filing obligations. Democrats Abroad met with State Department officials on September 12 this year to discuss the difficulties U.S. citizens abroad face in meeting their tax-filing obligation. It was suggested to include a business-sized card in passport renewals (similar to a reminder to vote notice included in 2023 passport renewals). State department officials responded that they can't do that due to cost and that it would increase time to process passports. Ultimately, all suggestions for the State Department to assist on the matter were deferred to the IRS.
- The IRS has been asked by the Taxpayer Advocacy Panel<sup>15</sup> and National Taxpayer Advocate<sup>16</sup> to reinstate the tax attaché program to better support overseas tax filers in completing this Information Collection. This is in addition to requests from foreign governments<sup>17</sup> concerned with the burden placed on U.S. citizens living within their borders and from advocacy organizations such as Democrats Abroad.<sup>18</sup> The IRS has glossed over the need to reinstate this program.<sup>19</sup>

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<sup>13</sup> See [ICR 202403-1506-001](#) for public comments. Democrats Abroad comments to [FinCEN](#) and [OMB](#).

<sup>14</sup> See rejected recommendations from every annual Taxpayer Advocacy Panel report: <https://www.improveirs.org/tap-annual-report-archive/>

<sup>15</sup> [Taxpayer Advocacy Panel 2023 Annual Report, Issue 63760](#)

<sup>16</sup> Most recently: [2023 Most Serious Problem #9, pg. 123](#). Originally: [2015 Most Serious Problem #7](#)

<sup>17</sup> [EU Parliament Fact-Finding Mission, meeting notes with IRS Deputy Commissioner O'Donnell, page 16](#)

<sup>18</sup> [Democrats Abroad May 2024 Mini Tax Door Knock Report](#)

<sup>19</sup> [Taxpayer Advocate Service, 2023 MSP 9: Compliance Challenges for Taxpayers Abroad, Recommendation #9-3](#)

**Minimization of Burden:** The Agency routinely ignores recommendations from the National Taxpayer Advocate about counterproductive enforcement strategies, the need to make specific efforts with respect to taxpayers abroad, and how to reduce burden.

Numerous and repeated recommendations from the National Taxpayer Advocate continue to be unimplemented, resulting in a steadily worsening situation for taxpayers abroad subject to this Information Collection. Recommendations relate to redundant Information Collection,<sup>20 21 22 23</sup> lack of restraint in assessing penalties related to this Information Collection,<sup>24 25</sup> and the need to rationalize overall burden and complexity relative to individual incomes and resources.<sup>26</sup>

**Use of Technology:** Many common overseas situations disallow use of e-filing by individuals, and the Agency has failed to require the Free File Alliance to make their software international-friendly or to include taxpayers abroad in its Direct File program despite recommendations from the Taxpayer Advocacy Panel<sup>27</sup> and a letter from 57 prominent Members of Congress.<sup>28</sup>

- The Free File Alliance provides online self-prep tax software to enable low-income taxpayers to file for free, yet most require a U.S. phone number making them inaccessible for taxpayers abroad who only have a non-U.S. phone number. Many also do not support the forms required by taxpayers abroad.<sup>29</sup>
- Many situations, such as needing to file Forms 3520, 3520-A, or 8621, disqualify taxpayers abroad from making use of e-filing, instead requiring riskier and more burdensome paper filing.<sup>30 31</sup> Similarly, a Nonresident Alien spouse may be disqualifying depending on tax preparers, financial situations, and tax preparation software.

<sup>20</sup> [NTA 2022 Purple Book Recommendation #8](#)

<sup>21</sup> [NTA 2021 Purple Book Recommendation #9](#)

<sup>22</sup> [NTA 2020 Purple Book Recommendation #11](#)

<sup>23</sup> [NTA 2019 Purple Book Recommendation #12](#) (PDF Page 30 / Book Page 25)

<sup>24</sup> [NTA 2021 Purple Book Recommendation #35](#)

<sup>25</sup> [NTA 2023 Most Serious Problem #8: The IRS's Approach to International Information Return Penalties is Draconian and Inefficient](#)

<sup>26</sup> [NTA 2023 Most Serious Problem #9: Compliance Challenges for Taxpayers Abroad](#)

<sup>27</sup> Referral 70912 Prioritize simple returns for international taxpayers to use Direct File for Filing Season 2025

<sup>28</sup> [Letter from Members of Congress to IRS Commissioner on expansion of Direct File for Americans Abroad. October 23, 2024](#)

<sup>29</sup> [2024 Free Online U.S. Tax Preparation Software Options for Americans Abroad](#)

<sup>30</sup> [Transcription errors](#) are cited by the Taxpayer Advocate Service as a common source of return processing delays and unwarranted compliance actions.

<sup>31</sup> While some tax preparation software claims to support e-filing of Form 8621, the complexity of the form is beyond the software's capabilities to be able to correctly prepare and submit the form, forcing people to complete or correct it by hand and paper file. In other cases, a software suite dedicated to filing Form 8621 is used and the form is manually inserted into a paper filing in a way that would not be possible if the return was e-filed.

**Minimization of Burden:** The Agency refuses to address major areas of regulatory ambiguity that impact this Information Collection. This shifts compliance burdens to the public by causing taxpayers to erroneously complete unnecessary paperwork while introducing more opportunities for filers to make mistakes in completing the Information Collection.

- When asked for clear guidance on which forms are applicable to common non-U.S. pensions and retirement accounts, the Agency claimed that it would pose an unreasonable burden for it to issue such guidance.<sup>32</sup>
- The refusal to issue such clear guidance results in taxpayers having to seek professional opinions that are *duplicative, speculative, and uncertain*, substantially amplifying paperwork compliance costs for international filers. Clearer regulatory guidance would centralize and reduce overall burdens.<sup>33</sup>
- Out of an abundance of caution, when trying to guess how the IRS wishes for a foreign situation to be reported, taxpayers routinely incur additional paperwork burdens by erroneously filing unnecessary forms at considerable expense.
- We have seen cases of the IRS penalizing taxpayers *a full year of income*<sup>34</sup> for incorrectly reporting the very products for which the IRS says it is too burdensome for it to determine and communicate the filing obligations for.

An Information Collection imposed on the public should not require individuals to hire professionals to make an educated guess about which forms should be submitted, nor should life-altering penalties be in the picture for non-willful violations that occur when unsophisticated taxpayers make good-faith efforts to comply with remarkably complicated obligations.

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<sup>32</sup> As discussed on a call between Democrats Abroad and IRS officials regarding proposed regulations [RIN 1545-B104](#): NPRM for Transactions With Foreign Trusts and Information Reporting on Transactions With Foreign Trusts and Large Foreign Gifts on June 12, 2024.

<sup>33</sup> As recommended by GAO in the [Workplace Retirement Accounts report](#), January 2018, Recommendation 4, pg. 54

<sup>34</sup> [Comment from "US citizen and tax payer. Anonymous" for proposed IRS regulations](#)

## Appendix B: Per-Form Burdens

In this section, we outline forms commonly filed by taxpayers abroad, ranked from highest to lowest burden. Burden estimates for non-individual, non-business filers are used due to the lack of per-form burden estimates in the omnibus OMB No. 1545-0074.

Form	IRS Burden Estimate for non-individuals	Who Files	Commentary by Democrats Abroad
3520: Foreign Trusts and Gifts	54.35 hours per response <sup>35</sup>	Individuals receiving a gift from a non-U.S. person or transacting with a non-U.S. trust	No tax is due based on this extraordinarily complicated form and filing obligations are triggered by common and benign situations: <ul style="list-style-type: none"> <li>- Gifts from a non-U.S. spouse</li> <li>- Having a non-U.S. pension</li> </ul>
5471: Controlled Foreign Corporations	“Varies based on individual circumstances” Previously: 49.70 hours <sup>36</sup>	Individuals owning a small business abroad	Following the Tax Cuts & Jobs Act of 2017, many small business owners abroad were forced to close or sell their small businesses due to the excessive burden posed by this particular form.  This is claimed to be accounted for in the omnibus control numbers for individuals and businesses.
8621: Passive Foreign Investment Company	48.99 hours per response <sup>37</sup>	Individuals with non-U.S. based mutual funds or ETFs	Individuals living outside the United States may be unable to buy U.S. based investment funds due to local regulations.  These funds can be held in retirement accounts that are obligatory under local laws.  Where the account is not qualified under a tax treaty, or where an individual has moved countries, it is commonplace for there to exist <i>multiple</i> Form 8621 filing obligations for a given tax year.
8833: Treaty-Based Return Position Disclosure	6.38 hours per response <sup>38</sup>	Individuals disclosing a treaty position, commonly related to retirement accounts	Professional tax advice is commonly required for routine treaty positions due to the lack of understandable literature for taxpayers abroad explaining the tax treaties.

<sup>35</sup> [ICR 202302-1545-008](#)

<sup>36</sup> This form lacks any recent OMB burden estimates; this is the estimate from [ICR 201309-1545-021](#) in 2013.

<sup>37</sup> [ICR 202203-1545-003](#)

<sup>38</sup> [ICR 202405-1545-006](#)



1116: Foreign Tax Credit	6.05 hours per response <sup>39</sup>	Individuals claiming the foreign tax credit	<p>This form is commonly used when individuals live in countries with higher tax burdens than the United States.</p> <p>The complexity of basketing and correctly classifying foreign taxes results in taxpayers requiring professional tax advice.</p>
2555: Foreign Earned Income Exclusion	4.89 hours per response <sup>40</sup>	Individuals seeking a simpler alternative to Form 1116 or living in a jurisdiction with lower earned income tax rates.	
8938: Specified Foreign Financial Assets	4.72 hours per response <sup>41</sup>	Individuals with more than \$200,000 in assets abroad	This form is duplicative with information provided by foreign governments (FATCA IGAs) and FinCEN Form 114.

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<sup>39</sup> [ICR 202112-1545-011](#)

<sup>40</sup> This form lacks any recent OMB burden estimates; this is the estimate from [ICR 200406-1545-034](#) in 2006.

<sup>41</sup> [ICR 202110-1545-017](#)

## Appendix C: Common Filing Scenarios Illustrated

To illustrate a number of common filing scenarios and the *additional burden* posed by international forms, on top of the standard 1040 and associated schedules:

<b>Persona:</b> “A U.S. citizen that lives in Australia and is receiving an Australian pension.”		
<b>Form</b>	<b>Count</b>	<b>Hours</b>
1116: Foreign Tax Credit	2x: One for the ordinary income basket and one for the passive income basket	12.1
3520: Foreign Trusts	1x	54.35
8833: Treaty Position Disclosure	1x	6.38
8938: Specified Foreign Financial Assets	1x	4.72
<b>Total</b>		77.55 hours + standard return

<b>Persona:</b> “A U.S. citizen who worked in the Netherlands for a number of years and subsequently moved to Belgium, losing treaty recognition of his Dutch pension in the process.”		
<b>Form</b>	<b>Count</b>	<b>Hours</b>
1116: Foreign Tax Credit	2x: One for the ordinary income basket and one for the passive income basket	12.1
8621: Passive Foreign Investment Company	5x: One for each mutual fund in his pension, assuming the pension consists of five funds.	244.95
8833: Treaty Position Disclosure	1x	6.38
8938: Specified Foreign Financial Assets	1x	4.72
<b>Total</b>		268.15 hours + standard return

<b>Persona:</b> “A U.S. citizen who runs a small business in Costa Rica, taking home the equivalent of \$27,500 per year. She has no meaningful savings or investments.”		
Form	Count	Hours
1116: Foreign Tax Credit	1x	6.05
5471: Controlled Foreign Corporation	1x	49.70
<b>Total</b>		55.75 hours + standard return

In all of these highly ordinary and benign situations, taxpayers are left with paperwork burdens that are *many* multiples that of the “standard return” estimated by the Agency in the ICR. The reduction to only a simple estimated average masks a deeply problematic paperwork burden that is hidden from OMB.

Low-income, elderly, and other filing support available to domestic taxpayers is denied for taxpayers abroad, despite the higher burdens. Democrats Abroad has received comments from aging taxpayers who are concerned that as they slow down and the risk of dementia sets in, they will be unable to maintain compliance and avoid making mistakes that they will be penalized dearly for.

## Appendix D: Recommended Steps and Rationale

What	Why	Where / When
<p>Include per-demographic burden estimates, particularly for known underserved communities.</p> <p>Clearly identify the agency and public burden relative to any revenue that is generated by the Information Collection.</p>	<p>Highlight cases where paperwork burdens produce high costs and little utility to the government.</p> <p>Identify communities with disproportionately higher/lower paperwork burdens.</p>	<p>Omnibus ICR processes (like 1545-0074, this one)</p>
<p>Include total individual burden estimates, by form, for forms that may be attached to the 1040, noting that many of the Information Collection Requests (ICRs) for forms like 8621 specifically exclude estimates of burden on individuals because it is “accounted for” in 1545-0074.</p>	<p>Highlight areas that are in need of regulatory or statutory improvement and to provide priority for paperwork reduction efforts.</p>	<p>Individual ICR processes like 1545-1002 (as the source of burden estimate)</p> <p>As a table/appendix to omnibus ICR processes (like 1545-0074, this one)</p>
<p>Consult with organizations that submit PRA comments and undertake rulemaking to provide targeted regulatory relief to address identified burdens and opportunities.</p>	<p>Little to no reduction in paperwork burdens is observable, despite clear recommendations in numerous PRA comments directed at the Department of the Treasury and its agencies.</p>	<p>After concluding ICR processes for specific IRS and Treasury forms.</p>