

SUPPORTING STATEMENT

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 815 of the American Jobs Creation Act of 2004, P.L. 108-357, 118 Stat. 1418, (the Act) amended section 6111 of the Internal Revenue Code to state that a material advisor with respect to a reportable transaction must make a return setting forth certain information as described by the Secretary. Section 6707 provides penalties for failing to comply with the disclosure requirements of section 6111. The Act amended section 6707 to increase the penalties. These proposed regulations provide guidance for material advisors to determine whether they have a disclosure obligation under section 6111. Prior to the Act, section 6111 required promoters of tax shelters to register the tax shelters. The rules were significantly different than the rules in the new statute.

2. USE OF DATA

The information will be used to improve compliance with the tax laws by giving the Treasury Department earlier notification than it generally receives under present law of transactions that may not comport with the tax laws.

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

This notice of proposed rulemaking was published on November 2, 2006, in the Federal Register to provided the public a 90-day period in which to review and provide public comments relating to any aspect of the proposed regulation. A public hearing was held on March 20, 2007, with respect to this NPRM for any person who has submitted written comments requests to speak. Final regulations were completed and released on August 3, 2007, in the Federal register (72 F.R. 43146).

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

Section 301.6111-1(a) will require material advisors with respect to reportable transactions to file a disclosure statement. Section 301.6111-1(d)(1) and (e) provide the procedures for disclosing. Disclosure will be made on Form 8264A which is not published yet. We estimate that there will be no more than 500 persons annually disclosing on Form 8264A. The burden for this

requirement will be reflected on Form 8264A.

Section 301.6111-1(g) will allow a person to indicate that Form 8264A is being filed on a protective basis if the person is uncertain whether a transaction is subject to the disclosure requirements of these regulations. We estimate that no more than 300 persons annually will file Form 8264 on a protective basis. The burden for this requirement will be reflected on Form 8264A.

Section 301.6111-1(d)(2) will require material advisors to provide participants in reportable transactions with the reportable transaction number. We estimate that no more than 2000 persons will receive the reportable transaction number and that the burden will be 5 minutes for each person, for a total burden of 166.66 hours.

Section 301.6111-1(f) will provide that material advisors may sign a designation agreement so that only one material advisor discloses the transaction. We estimate that no more than 100 persons will sign a designation agreement and that the burden will be 30 minutes for each person, for a total burden of 50 hours.

The total burden for the regulation, other than the burden that will be reflected on Form 8264A, is 216.66 hours.

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

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

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

16. Not applicable.

17. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

18. 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 regulations sunset 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.

19. 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.