

**SUPPORTING STATEMENT  
Notice 2006-xx**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 401(a)(35) was added to the Internal Revenue Code by section 901 of the Pension Protection Act of 2006 (PPA'06) and provides that, in order for a defined contribution plan (other than certain employee stock ownership plans) to remain qualified, these plans must provide applicable individuals with the right to divest the employer securities in their accounts and reinvest those amounts in certain diversified investments. In addition, section 507 of PPA'06 requires a plan to provide applicable individuals with a notice describing the new diversification rights under the law (which is effective for plan years beginning after December 31, 2006). The attached notice contains model notices that an employer may use to implement the new statutory provisions of sections 901 and 507 of PPA'06.

2. USE OF DATA

The data will be used to implement the new qualification requirements contained in section 901 of PPA'06.

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

The attached notice contains model notices that small businesses and other small entities may use to comply with the statute, and thereby, provides a method of avoiding the expense of seeking outside help.

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 THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Not applicable.

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Not applicable.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden in this notice is in Part IV.F. and is patterned after the Department of Labor's findings for clerical time found in proposed regulations on Default Investment Alternatives under a Participant Directed Individual Account Plan at 71 **Fed. Reg.** 56815 (Sept. 27, 2006). The estimated burden per respondent is from 1 minute to 3 hours with the average burden of  $\frac{3}{4}$ 's of an hour on 418,000 respondents for a total estimated burden of 313,500 hours annually.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO TAXPAYERS

Estimates of the annualized cost to respondents for the hour burdens shown above are not available at this time. These various burdens do not necessarily represent a net additional burden to taxpayers, since compliance with the notice, if followed, will negate the need for the individual taxpayers to incur the expense of having legal counsel draft from scratch the notices contained in the published guidance. In addition, compliance with the published guidance may avoid potentially costly and protracted litigation.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

The requested information is needed pursuant to a Congressional directive in sections 507 and 901 of the Pension Protection Act of 2006, Pub. L. No. 109-280, as enacted on August 18, 2006.

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 would cause confusion by leading taxpayers to believe that the notice sunsets as of the expiration date. Taxpayers may not 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.

19. REASONS FOR EMERGENCY REQUEST

Sections 507 and 901 of the Pension Protection Act of 2006, as enacted on August 18, 2006 and as effective for plan years beginning after December 31, 2006, require certain employers to give notice to their employee-participants of those employers defined contribution plans of the ability to divest their accounts of employer securities. Section 901 of the PPA'06 makes this a qualification requirement. While it is possible for the Service to provide model notices that may be used by almost all affected employers, the dissemination of these notices creates a paperwork burden on these employers. An emergency request for a valid OMB control number is necessitated in this instance as a result of the short time period between the date of enactment of the statutory provision and its effective date as well as after taking into consideration the time needed by the Service and the Treasury to identify the issues and provide meaningful responses.

**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 the 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.