

1 SUPPORTING STATEMENT (LR-77-86)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 5h.5 provides temporary income, estate and gift and employment tax regulations relating to elections made under the Tax Reform Act of 1986. This section deals primarily with those elections with respect to which immediate interim guidance is necessary. These regulations enable taxpayers to take advantage of various benefits provided by the Code.

2. USE OF DATA

The information contained in these regulations will be used to determine the requirements with respect to various elections made under the Tax Reform Act of 1986.

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

We have been unable to reduce burden for small businesses.

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**

The temporary regulations were published in the Federal Register on February 5, 1987 (52 FR 3623).

In response to the **Federal Register** notice dated **March 14, 2007 (72 FR 11934)**, we received no comments during the comment period regarding LR-77-86.

**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 5h.5 (a) of this regulation sets forth general rules for the time and manner of making various elections under the Tax Reform Act of 1986 (The Act). Section 5h.5 (a)(3) provides that the elections specified in section 5h.5 (a)(1) are made by attaching a statement to the tax return (or amended return) for the taxable year in which the election is made. The burden estimate for each provision is set forth below and is identified as to Internal Revenue Code (Code) section and Act section.

Section 201(a) of the Act provides for an election under Code section 168(b)(5) to depreciate property using the straight line method of recovery. We estimate that approximately 2,000 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 500 hours.

Section 201(a) of the Act provides for an election under Code section

168(f)(1) to exclude property from ACRS. We estimate that approximately 3,000 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 750 hours.

Section 201(a) of the Act provides for an election under Code section 168(g)(7) to use the alternative depreciation system. We estimate that 1,000 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 250 hours.

Sections 201(a) and 1802(a) of the Act provide for an election under Code sections 168(h)(6)(F)(ii) and 168(j) respectively to treat gain as unrelated business taxable income under Code section 511. We estimate that 10,000 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 2,500 hours.

Section 203(a)(1)(B) of the Act provides for an uncodified election to apply Act section 201. We estimate that 50 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 13 hours.

Section 204(e) of the Act provides for an uncodified election to have Act section 201 apply or not apply to certain property affected by a flood which occurred 11-3 through 11-7, 1985. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 243(a) of the Act provides for an uncodified election to begin the amortization period for bus operating authorities on a certain date. We estimate that 100 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 25 hours.

Section 243(b) of the Act provides for an uncodified election to begin the amortization period for freight forwarders on a certain date. We estimate that 75 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 19 hours.

Sections 243(a) and (b) provide for an uncodified election to allocate a portion of the cost basis of an acquired corporation to the basis of a bus operating authority or a freight forwarder. We estimate that 25 elections will be made per year and that it will take approximately .25

hours to complete. The total burden for this election is 6 hours.

Section 252(a) of the Act provides for an election under Code section 12(f)(1) concerning the low income housing credit period. We estimate that 5,000 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 1,250 hours.

Section 252(a) of the Act provides for an election under Code section 42(g)(1) concerning low income housing projects satisfying either the 20-50 or the 40-60 occupancy test. We estimate that 3,000 elections will be made per year and that it will take approximately .25 hours to complete. Total burden for this election is 750 hours.

Section 252(a) of the Act provides for an election under Code section 42(i)(2) to reduce basis by outstanding balance of Federal loan subsidy. We estimate that 2,000 elections will be made per year and that it will take approximately .25 hours to complete. The total burden of this election is 500 hours.

Section 252(a) of the Act provides for an election under Code section 42(j)(5) to have certain partnerships treated as eligible for the low income housing credit. We estimate that 1,500 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 375 hours.

Section 311(d)(2) of the Act provides for an uncodified election to revoke a prior election under Code section 631(a). We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 411(b)(1) of the Act provides for an election under Code section 263(i) to include intangible drilling and development costs of foreign wells in adjusted basis. We estimate that 200 elections will be made and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 411(b)(2) of the Act provides for an election under Code section 616(d) to include development costs of foreign mines in adjusted basis. We estimate that 200 elections will be made and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 411(b)(2) of the Act provides for an election under Code

section 617(h) to include predevelopment costs of foreign mines in adjusted basis. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this section is 50 hours.

Section 501(a) of the Act provides for an election under Code section 469(j)(9) to increase basis by the amount of disallowed credit for purposes of determining gain or loss from a disposition of passive activity property. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 614(b) of the Act provides for an election under Code section 1059(c)(4) to use the fair market value of stock to determine whether a dividend is extraordinary. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 621(a) of the Act provides for an election under Code section 382(l)(5)(H) to apply the rules of section 382(l)(5) to an old loss corporation involved in a Title 11 case. We estimate that 10 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 3 hours.

Section 644(d) of the Act provides for an election under Code section 216(b)(3) to allocate reasonably the taxes and interest with respect to a dwelling unit in a cooperative housing corporation. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 646 of the act provides for an uncodified election to treat a certain entity as a trust. We estimate that 5 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 1 hour.

Section 651 of the Act provides for an election under Code section 4982(e)(4) for regulated investment companies to use certain taxable years for computing capital gain net income under section 4982. We estimate that 40 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 10 hours.

Section 701(a) of the Act provides for an election under Code section

56(f)(3)(B) to have the amount of net income equal earnings and profit. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 801(a) of the Act provides for an election under Code section 448 to treat all members of an affiliated group as one taxpayer. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 801(d)(2) of the Act provides for an election under Code section 448 to continue using the cash method of accounting. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 802 of the Act provides for an election under Code section 474 to use the simplified dollar-value LIFO method. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 803(a) of the Act provides for an election under Code section 263A(d)(3) to not apply rules of section 263A to certain costs of farmers. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 806(e)(2)(C) provides for an uncodified election to include in income the net income resulting from a required accounting period change in a short taxable year of a partnership or S corporation. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

The conference report to section 806(e) of the Act provides for an uncodified election to reduce the income for a short taxable year of certain partnerships and S corporations by an unamortized adjustment amount. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. Total burden for this election is 50 hours.

Section 811(a) of the Act provides for an election under Code section 453C(b)(2)(B)(i) to compute adjusted basis using the depreciation

deduction under Code section 312(k). We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 811(a) of the Act provides for an election under Code section 453C(e)(4) to not apply the proportionate disallowance rule to obligations arising from sales of timeshares and unimproved residential lots. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 901(a) of the Act provides for an election under Code section 585(c)(3)(B)(ii) to recapture a portion of the bad debt reserve. We estimate that 400 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 100 hours.

Section 901(a) of the Act provides for an election under Code section 585(c)(4) to use the "cut-off" method to recapture bad debt reserves. We estimate that 300 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 75 hours.

Section 905(a) of the Act provides for an election under Code section 165(l)(5) to treat losses on deposits in certain bankrupt financial institutions as casualty losses. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 905(c) of the Act provides for an election under Code section 451(f) to apply Code section 451(f). We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1301(b) of the Act provides for an election under Code section 141(b)(9) to treat a portion of an issue as a qualified 501(c)(3) bond. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1301(b) of the Act provides for an election under Code section 142(d)(1) for issuers of tax-exempt bonds to satisfy either the 20-50 or the 40-60 occupancy test. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1301(b) of the Act provides for an election under Code section 142(d)(4)(B) for issuers of tax-exempt bonds to treat projects as deep rent skewed projects. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1301(b) of the Act provides for an election under Code section 143(k)(9)(A) to treat limited equity cooperative housing as residential rental property. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1301(b) of the act provides for an election under Code section 145(d) for issuers of tax-exempt bonds to not apply section 145. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1301(b) of the Act provides for an election under Code section 147(b)(4) for issuers of qualified 501(c)(3) bonds to apply the requirements of Code section 147(b)(1). We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1431(a) of the Act provides for an election under Code section 2632(b)(3) to not allocate the generation skipping transfer exemption to a direct skip transfer. We estimate that 50,000 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 12,500 hours.

Section 1431(a) of the Act provides for an election under Code section 2652(a)(3) to have a qualified terminable interest property election not apply for purposes of the generation skipping transfer tax. We estimate that 25,000 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 6,250 hours.

Section 1704(b) of the Act provides for an uncodified election to revoke an election made under section 1402(e). We estimate that 5,000 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 1,250 hours.

Section 1801(a) of the act provides for an election under Code section

168(i) (as in effect before 10-22-86) to make finance leasing rules inapplicable to property. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1804 (e)(4) of the Act provides for an uncodified election for a certain parent of an affiliated group to apply amendments made by the Tax Reform Act of 1984. We estimate that 5 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 1 hour.

Section 1807(a)(7) provides for an election under Code section 468B to treat certain payments as made to a designated settlement fund. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1801(e)(2) provides for an election under Code section 48(b) (2) for lessees and lessors to not apply the rule of section 48 (b)(2). We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1810(1)(4) of the Act provides for an election under Code section 7701(b) to be treated as a resident alien. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1879(p)(1) of the Act provides for an election under Code section 83(c)(3) to treat certain stock acquired upon the exercise of nonqualified stock options as subject to a substantial risk of forfeiture. We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

Section 1882(c) of the Act provides for an election under Code section 3121(w)(2) to revoke an election under 3121(w). We estimate that 200 elections will be made per year and that it will take approximately .25 hours to complete. The total burden for this election is 50 hours.

The total burden imposed by the above elections is 28,678 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

As suggested by OMB, our **Federal Register** notice dated **March 14, 2007 (72 FR 11934)**, 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 COST 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 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 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.