

## SUPPORTING STATEMENT

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This regulation relates to the earned income credit (EIC) eligibility requirements in 26 U.S.C. 32(k)(2). Under § 1.32-3, a taxpayer who has been denied the EIC, in whole or in part, as a result of the deficiency procedures is ineligible to claim the credit in a subsequent year until the taxpayer demonstrates eligibility for the credit. To demonstrate eligibility, the taxpayer must file with Form 1040 a properly completed Form 8862, demonstrating eligibility for the credit. A taxpayer fails to demonstrate eligibility if the form is incomplete or any item on the form is incorrect or inconsistent with any item on the return. In addition to filing Form 8862, the taxpayer must otherwise be eligible for the credit. If the taxpayer fails to satisfy these requirements, the Service can treat the failure as a math error under 26 U.S.C. 6213(g)(2)(J). Once the taxpayer demonstrates eligibility, the taxpayer will not be required to submit Form 8862 for subsequent years unless the EIC is again denied as a result of the deficiency procedures. The regulations apply to taxpayers claiming the EIC for taxable years beginning after December 31, 1997, where the taxpayer's EIC claim was denied for a taxable year beginning after December 31, 1996.

### 2. USE OF DATA

The information will be used by the Service to help determine whether a taxpayer is eligible to claim the EIC.

### 3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. IRS publication, 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

A notice of proposed rulemaking (63 FR 34615) was published simultaneously with temporary regulations (63 FR 34594) in the **Federal Register** on June 25, 1998. A public hearing is scheduled for October 21, 1998. This regulation went final on June 25, 2001 (66 FR 33636).

We received no comments during the comment period in response to the **Federal Register** notice (72 FR 29039), dated May 23, 2007.

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Under section 1.32-3, a taxpayer who has been denied the EIC, in whole or in part, as a result of the deficiency procedures is ineligible to claim the credit in a subsequent year until the taxpayer demonstrates eligibility for the credit. To demonstrate eligibility, the taxpayer must file with Form 1040 a properly completed Form 8862 demonstrating eligibility for the credit. The burden for this requirement is reflected in the burden of Form 8862.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** notice dated **May 23, 2007**, 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.