

## SUPPORTING STATEMENT

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6166 of the Internal Revenue Code (the Code) generally provides that an estate that meets all of the requirements of the statute may elect to pay the estate tax attributable to the decedent's interest in a closely held business in installments over a period of up to 14 years. Section 6166(k) makes a cross-reference to section 6165 indicating that the IRS may require a bond to secure the government's interest in collecting the estate tax to be paid in installments. Section 6324A allows the executor to elect to provide a special lien in lieu of a bond under section 6165. Prior to the Tax Court's opinion in Estate of Roski v. Commissioner, 128 T.C. 113 (2007), the IRS required estates to provide a bond or lien in all cases where an estate elected to pay the estate tax in installments under section 6166. The Tax Court's opinion in Estate of Roski, requires the IRS to make a case-by-case determination as to whether an estate must provide a bond or a lien to pay the estate tax in installments. The IRS has changed its procedures to reflect the court's ruling in Estate of Roski. It now makes case-by-case determinations. Once the IRS decides the estate must provide a bond or a lien, it will notify the estate and forward to the executor Form 13925 as a courtesy should the executor elect to provide the section 6324A special lien.

Section 6324A(c) states that in order to make the election, the executor must submit a lien agreement signed by all of the persons having an interest in the property upon which the lien will attach. Regulation section 301.6324A-1(b)(1) lists what information must be listed in the lien agreement for it to qualify. Form 13925 lists the information required in Regulation section 301.6324A-1(b)(1) and was drafted to help taxpayers file liens that will be valid under section 6324A and the regulations. The executor will not be required to file Form 13925 to make the election under section 6324A, rather, he/she is free to provide their own lien agreement that is in compliance with the regulations (OMB number 1545-0757).

### 2. USE OF DATA

The data is required by regulation section 301.6324A-1(b)(1) (OMB number 1545-0757) and will be used by the IRS to secure its interest in the estate tax that is paid in installments under section 6166. The IRS will monitor the property that is collateral for the section 6324A special lien, and require additional security should the value of the property decrease to less than the value of the outstanding tax during the deferral period. The IRS is able to require additional security under IRC section 6324A(d)(5).

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

IRS Publications, Regulations, Notices and Letters are to be electronically enabled as practicable in accordance with the IRS Reform and Restructuring Act of 1998. At this time, electronically enabling the Form 13925 is not practicable. Approximately 275 – 500 estates elect to pay the estate tax in installments each year. The IRS is currently monitoring 3,500 estates that have made the election under section 6166. Because the IRS has not yet implemented the new procedures it must follow as a result of the adverse opinion in Estate of Roski, the IRS is unsure how many estates will be required to provide a bond or lien each year. Due to the uncertainty of the number of estates that may use this form, the IRS has not implemented electronic filing for this program.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible. For example, any valuation information previously submitted to the IRS either with a return or during examination with respect to the property used as collateral will not be requested again from the taxpayer. The IRS, however, will need to require current valuation information with respect to the collateral annually to ensure that the government's interest in collecting the estate tax to be paid in installments is secure.

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the

American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 13925.

We will publish a notice in the Federal Register in the near future to solicit public comments on this form.

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

For taxpayers making the election under section 6166 and having to provide financial information, the likely respondents are executors or administrators of the estate. The IRS believes that the majority of the information required on Form 13925 will be obtained from the estate's Form 706. The estimated number of respondents that may be completing Form 13925 is 275 – 500 annually. The estimated hour burden for preparing the Form 13925 is one hour, which includes time to glean information from Form 706 and the current appraisal or valuation documentation. Respondents that file the form will be required to provide valuation information annually each year thereafter until the estate tax is collected in full. The estimated hour burden for submitting annual valuation documentation is one hour, which is the amount of time it will take to submit the valuation documentation to the IRS.

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

15. REASONS FOR CHANGE IN BURDEN

Not applicable. This is a new collection.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

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.

EMERGENCY REQUEST

Recently passed legislation makes it imperative that this form be made available to the public as soon as possible. We respectfully ask that this collection be granted emergency clearance.