

SUPPORTING STATEMENT

TD 9328

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This document sets forth an elective safe harbor that permits dealers in securities and dealers in commodities to elect to use the values of positions reported on certain financial statements as the fair market values of those positions for purposes of section 475 of the Internal Revenue Code (Code). This safe harbor is intended to reduce the compliance burden on taxpayers and to improve the administrability of the valuation requirement of section 475 for the IRS.

2. USE OF DATA

The information will be used by IRS agents in conducting audits of these taxpayers for purposes of section 475 valuations. The agents will need to verify that the values reported for eligible positions for tax purposes were the same values used for financial reporting purposes.

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 whenever possible. The purpose of this regulation is to reduce complexity of valuations under section 475 by accepting financial statement reporting values for tax reporting purposes. Taxpayers may use the same values for book and tax purposes if they meet all the requirements of the safe harbor.

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 (REG-100420-03) was published in the Federal Register on May 24, 2005 (70 FR 29663). At that time the public was given a 90 day period in which to review and refer comments relating to any aspect of the proposed regulations. A public hearing was held on September 15, 2005. The IRS received written and electronic comments responding to the NPRM. After consideration of all comments, the proposed regulations are adopted as amended by this Treasury decision. The amendments are discussed in the preamble. Final regulations were published in the Federal Register on June 12, 2007(72 FR 32172).

We received no comments during the comment period in response to the Federal Register (73 FR 6561), notice dated February 4, 2008.

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALTY OF RESPONSES

Generally, tax returns and tax 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

A taxpayer must attach to its return for the first year

covered by the election a statement that it is making the election and a list or description of the financial statement to be treated as its applicable financial statement. Section 1.475(a)-4(f) requires the taxpayer to attach this information to the tax return. If a taxpayer elects this safe harbor, the taxpayer must comply with recordkeeping and reporting requirements. A taxpayer must also maintain and provide to the Service, if requested, all books and records underlying its financial statement and statements reconciling book and tax reporting. Section 1.475(a)-4(k) sets forth the recordkeeping and production requirements. Estimates of annual reporting and recordkeeping burden vary from 2 to 6 hours per respondent. The estimated number of respondents is 12,308. The estimated total annual hours for the reporting and recordkeeping is 49,232, which is based upon an average of the estimated hours per respondent times the number of respondents.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated February 4, 2008, 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 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.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: the following paragraph applies to all of the collection 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.