

**SUPPORTING STATEMENT  
(CO-45-91)**

• **CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Section 382 (1) (5) is intended to provide relief from the application of the section 382 limitation for bankruptcy reorganizations in which the pre-change shareholders and qualified creditors maintain a substantial continuing interest in the loss corporation. Under section 382 (1) (5) (E), only certain kinds of indebtedness may be counted toward the stock ownership requirements that must be met in order to qualify for the benefits of section 382 (1) (5). The regulations provide a special rule for determining whether certain indebtedness is qualified indebtedness and elections to apply the final regulations retroactively and revoke a prior section 382 (1) (6) election.

• **USE OF DATA**

The reporting requirements are to be performed by the loss corporation and beneficial holders of indebtedness of the loss corporation. The information will be used to determine whether indebtedness is qualified under section 382 (1) (5) (E) and whether the loss corporation elects to apply the regulations retroactively or revoke a prior section 382 (1) (6) election.

• **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.

• **EFFORTS TO IDENTIFY DUPLICATION**

We have attempted to eliminate duplication within the agency wherever possible.

• **METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

Not applicable.

• **CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Not applicable.

• **SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE**

**INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

Not applicable.

**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 was published in the Federal Register on May 10, 1993 (**58 FR 27498**). A public hearing was held on July 10, 1993. Also, we received written comments on the proposed regulations. Final regulations were published in the Federal Register on March 18, 1994.

In response to the **Federal Register Notice** dated **July 24, 2008 (73 FR 43284)**, we received no comments during the comment period.

**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**

Burden estimations:

Section 1.382-9 (d) (2) (iii) requires the loss corporation to determine that debt that it treats as qualified debt has been owned for the requisite period by the same beneficial owner who owns the debt immediately before the ownership change. To make this determination, the loss corporation may rely on a statement by a beneficial owner regarding the amount of the beneficial owner has owned the debt. The loss corporation may also rely on a statement by a beneficial owner of the debt that states it is not subject to the special rule of section 1.382-9(d) (14) concerning debt that is a large portion of the creditor's assets. It is estimated that 600 respondents will make 1 response each, which is estimated to take 10 minutes to 1 hour, depending on individual circumstances, with an estimated average of 15 minutes to prepare, for a total estimated reporting burden of 150 hours.

Section 1.382-9(d) (6) (ii) requires a loss corporation to file an election, and an amended return if appropriate, if the loss corporation wants to apply the final regulations to transactions that occurred before the final regulations were filed and if the loss corporation wants to revoke a prior section 382 (1) (6) election. It is estimated that 50 respondents will make 1 response each, which is estimated to take 10 minutes to 2 hours, depending on individual circumstances, with an estimated average of 1 hour to prepare, for a total estimated reporting burden of 50 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 **July 24, 2008 (73 FR 43284)**, 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 for renewal purposes only.

**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.