

**SUPPORTING STATEMENT
(REG-103043-05)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6112 requires organizers and sellers of potentially abusive tax shelters to maintain lists of participants. Section 6708 provides penalties for failing to maintain the list under section 6112.

These regulations provide guidance concerning the persons that must maintain such lists and the items of information that must be included on the lists.

2. USE OF DATA

The information will be used to improve compliance with the tax laws by giving the Treasury Department earlier notification of transactions that may not comport with the tax laws.

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

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 (67 FR 64842) was published in the **Federal Register** simultaneously with temporary regulation (67 FR 64807) on October 22, 2002.

Another notice of proposed rulemaking (65 FR 11271) was published in the **Federal Register** simultaneously with temporary regulations (65 FR 11211) on March 2, 2000. Other notices of proposed rulemaking were issued in August 2000, August 2001, and June 2002. The final regulation was published in the **Federal Register** on August 3, 2007 (72 FR 43154).

In response to the **Federal Register Notice** dated **August 28, 2008 (73 FR 50855)**, we received no comments during the comment period regarding REG-103043-05.

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 301.6112-1T(e) provides guidance as to which investors must be included on the list, enumerates the items that must be included in the list, and provides a procedure for asserting a claim of privilege. We estimate that this burden will be 100 hours per respondent due to the time it takes to gather the required information. Accordingly, we estimate that 500 persons annually will be required to maintain lists and that the burden will be 100 hours per person, for a total burden of 50,000 hours.

Section 301.6112-1T(i) provides a procedure that permits a person to request a ruling if the person is uncertain whether a transaction constitutes a potentially abusive tax shelter for which a list must be maintained. We estimate that there will be no more than one person annually requesting a ruling and the burden for requesting a ruling is reflected in Rev. Proc. 2002-1 "Letter rulings, determination letters, and information letters issued by the Associate Chief Counsel (Domestic), Associate Chief Counsel (Employee Benefits

and Exempt Organizations), Associate Chief Counsel (Enforcement Litigation), and Associate Chief Counsel (International)”, 2002-1 I.R.B.1.

The total burden for these regulations is 50,000 hours.

Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register Notice** dated **August 28, 2008 (73 FR 50855)**, 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 ANNUAL 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 REQUIREMENT OF 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, or 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 pertaining 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 return information are confidential as required by 26 U.S.C. §6103