

**SUPPORTING STATEMENT
(REG-140029-07)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The proposed regulation provides guidance under subsection 170(f)(11) regarding substantiation and reporting requirements for charitable contributions, which was added by the Jobs Act of 2004 and amended by the Pension Protection Act of 2006 (PPA). The proposed regulation also provides guidance under subsection 170(f)(17) regarding recordkeeping requirements to substantiate cash, check, or other monetary gifts, which was added by the PPA.

2. USE OF DATA

The information collected under § 170(f)(11) will be used by taxpayers to substantiate claimed charitable contribution deductions in excess of \$500; some of the information will be required to be included with the taxpayer's tax return. The information collected under § 170(f)(17) will be used by taxpayers to substantiate claimed charitable contributions of cash, check, or other monetary gifts; the information must be maintained by taxpayers but will not be required to be included with the taxpayer's return.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

4. EFFORTS TO IDENTIFY DUPLICATION

Duplication of taxpayer efforts was eliminated by allowing taxpayers to satisfy different requirements with one document.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Burden on small entities were minimized by allowing flexibility in definitions of certain terms.

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

Since submission to OMB, however, comments on the collections of information (specifically including whether the proposed collections of information are necessary, the accuracy of the estimated burden, how to enhance the quality, utility, and clarity of the information to be collected, and estimates of costs to provide information) have been requested (73 F.R. 153, p. 45909 (Aug. 7, 2008)) but none have been received.

In response to the **Federal Register Notice** dated **November 20, 2008 (73 FR 70416)**, we received no comments during the comment period regarding Regulation 140029-07.

9. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Number of respondents--201,920 C corporations, individuals, personal service corporations, and closely held corporations;

Frequency of response--annually;

Annual hour burden--226,419;

Explanation of how burden was estimated—

Jobs Act:

Not more than 40,000 C corporations reported charitable contributions in excess of \$5,000 in 2002. We are unable to identify how many of those C corporations are personal service corporations or closely held corporations.

Approximately 6285 individuals and corporations reported charitable contributions in excess of \$500,000 in 2002.

The response time for subchapter C corporations that are not personal service corporations or closely held corporations is estimated to be between 3 hours and 5 hours (to obtain the qualified appraisal and include the required information with the donor's return on which the deduction is claimed), with 4 hours being the average response time. The response time (to attach an appraisal to a return) for individuals, personal service corporations, and closely held corporations are estimated to be between 5 minutes and 25 minutes, with 15 minutes being the average response time.

The estimated burden on donors for the Jobs Act requirements is estimated to be 160,000 hours for C corporations that are not personal service corporations or closely held corporations (40,000 x 4 hours), and 1,571 hours for individuals, personal service corporations, and closely held corporations (6,285 x 15 minutes=1,571 hours). The total estimated burden for compliance with this requirement is 161,571 hours.

Pension Protection Act:

Cash contributions (1.170A-15):

Under PPA, cash contributions regardless of amount require bank record or receipt, increasing recordkeeping requirements for cash contributions under \$250. All taxpayers are required to obtain CWA for contributions of \$250 or more, so PPA rules for cash contributions do not increase burden for contributions of \$250 or more.

In 2005, 187,224 individual returns reported cash contributions under \$5,000 on Schedule A. We estimate the number of taxpayers filing Schedule A and reporting cash contributions under \$250 to be not more than 50,000. The number of corporations reporting total contributions under \$250 in 2005 was 105,635. We are unable to identify how many of those contributions were for cash contributions. Therefore, we estimate the total number of taxpayers burdened by the requirement is not more than 155,635 (50,000 + 105,635) taxpayers. The response time for obtaining a receipt or bank record for a contribution of less than \$250 is estimated to be between 3 and 7 minutes, with an average of 5 minutes. The total estimated burden on individual and corporate donors for compliance with this requirement is 64,848 hours (155,635 x 5 minutes = 64,848 hours).

The substantiation and reporting requirements (1.170A-16), the PPA qualified appraisal/appraiser provisions (1.170A-17), and the requirements for used clothing and household items (1.170A-18) do not add any additional time burden to taxpayers.

The total estimated burden is 226,419 (161,571 + 64,848) hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register Notice** dated **November 20, 2008 (73 FR 70416)**, 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 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 these cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

Subsection 170(f)(17), added by the PPA, established a new recordkeeping requirement for taxpayers claiming a charitable contribution deduction for cash, check, or other monetary gift. Prior to the change in the law, taxpayers could rely on self-created written records; however, after the change in the law, taxpayers must maintain a bank record or written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution. Because taxpayers can no longer rely on self-created written records, the addition of (f)(17) increased taxpayers' burden. The overall burden hours were increased to 226,419.

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.