

## **SUPPORTING STATEMENT**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

The collection of information the revenue procedure requires is necessary to enforce the provisions of section 6707A(e). Furthermore, the collection of information is necessary to make investors or potential investors aware of a person's participation in certain reportable transactions that led to penalties under the Internal Revenue Code.

**2. USE OF DATA**

The IRS will use the information to penalize any person that fails to disclose with the SEC the requirement to pay the penalties as required by section 6707A(e) and this revenue procedure.

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

There are no plans to provide electronic filing because the revenue procedure requires reporting on Forms 10-K filed with the SEC, and the SEC controls the rules regarding the manner of filing of the Form 10-K.

**4. EFFORTS TO IDENTIFY DUPLICATION**

There is a single reporting requirement for each penalty subject to the revenue procedure's reporting requirements.

**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

We have consulted with employees of the SEC on the contents of the revenue procedure. This Rev. Proc. 2005-51 was published in the Internal Revenue Bulletin (2005-33 I.R.B. 296), on August 15, 2005.

In response to the Federal Register notice (73 FR 73387), dated December 2, 2008, we received no comments during the comment period regarding Revenue Procedure 2005-51.

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

By statute, the responses are to be made public.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Rev. Proc. 2005-51: To comply with Revenue Procedure 2005-51, a person who files SEC Form 10-K, Annual Report Pursuant to Section 13 or 15(d), either separately or consolidated with another person, must disclose in Item 3 (Legal Proceedings) of their Form 10-K the requirement to pay any penalty specified in section 2.05 of the revenue procedure. It is estimated that the above requirements will affect 859 taxpayers per year, with a burden of approximately 0.25 to 0.75 hour per respondent, with an average of 0.5 hour, for an annual burden of 430 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

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

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. This form is being submitted 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 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 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.