

SUPPORTING STATEMENT
(REG-110311-98)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6111 of the Internal Revenue Code states that certain tax shelters must be registered with the IRS. Section 6707 provides penalties for failing to comply with the registration requirements of section 6111.

Section 1028 of the Taxpayer Relief Act of 1997 (the Act) added confidential corporate tax shelters as a type of tax shelter that must be registered under section 6111. Section 1028(e)(1) of the Act provides that the registration requirements of section 6111 and the penalty requirements of section 6707 apply to confidential corporate tax shelters in which interests are offered to potential participants after the IRS issues guidance on the registration requirements. These regulations provide the guidance necessary to activate the registration requirements of section 6111 and the penalty provisions of 6707 for confidential corporate tax shelters.

2. USE OF DATA

The information will be used to improve compliance with the tax laws by giving the Treasury Department earlier notification than it generally receives under present law of transactions that may not comport with the tax laws.

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

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 64840) was published in the **Federal Register** simultaneously with temporary regulations (67 FR 64799) on October 22, 2002.

Another notice of proposed rulemaking 65 FR 11272 was published simultaneously with temporary regulation (65 FR 11215) in the **Federal Register** on March 2, 2000. Other notices of proposed rulemaking were issued in August 2000, August 2001, and June 2002. Final regulations were published in the Federal register (68 FR 10161), on March 4, 2003.

In response to the Federal Register notice, dated January 15, 2009 (74 FR 2654), we received no comments during the comment period regarding REG-110311-98 (Final).

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 301.6111-2(b)(5) provides a procedure that permits a person to request a ruling if the person is uncertain whether a transaction is subject to the registration requirements of these regulations. 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. 2000-1 “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)”,

2000-1 I.R.B.4 .

Section 301.6111-2(b)(6) also allows a person to indicate that Form 8264 to being filed on a protective basis if the person is uncertain whether a transaction is subject to the registration requirements of these regulations. We estimate that no more than one person annually will file Form 8264 on a protective basis. The burden for this requirement will be reflected on Form 8264.

Section 301.6111-2(f)(1)(ii)(A) provides guidance on when the registration of a confidential corporate tax shelter that is also a section 6111(c) shelter will be considered timely. We estimate that no more than 2 persons annually will be registering transactions that are both confidential corporate tax shelters and section 6111(c) shelters. The burden for this requirement will be reflected on Form 8264.

Section 301.6111-2(f)(2)(i) and (ii) provides the procedures for registering. We estimate that no more than 25 persons annually will register transactions as confidential corporate tax shelters. The burden for this requirement will be reflected on Form 8264.

Section 301.6111-2(f)(3) provides a procedure for asserting a claim of privilege by attaching a statement to the Form 8264. We estimate that 5 persons annually will attach a statement claiming privilege. The burden for this requirement will be reflected on Form 8264.

Section 301.6111-2(h)(2)(ii) provides that if a person discusses participation in a transaction where all promoters are foreign persons, the person need not register the transaction if the person obtains from the promoters a statement that the shelter has been registered and a copy of the registration. We estimate that no more than 2 persons will obtain the statement and that the burden will be 15 minutes for each person, for a total burden of 30 minutes..

Section 301.6111-2(h)(2)(iii) provides that a person may obtain and rely on a statement from a promoter that at least one of the promoters is a U.S. person. We estimate that no more than 2 persons will obtain the statement and that the burden will be 15 minutes for each person, for a total burden of 30 minutes.

The total burden for the regulation, other than the burden that will be reflected on Form 8264, is 1 hour.

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 January 15, 2009 (74 FR 2654), 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 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 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.