

SUPPORTING STATEMENT (IA-17-90)

CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6050H was added to the Code to encourage compliance with the tax laws relating to the deductibility of mortgage interest, and authorizes the Secretary to require the reporting of certain information relating to payments of mortgage interest. Subsequent to the issuance of 26 C.F.R. 1.6050H-1, providing guidance for the information reporting of interest (other than points) under this statutory provision, Congress amended section 6050H(b) to require taxpayers subject to the mortgage interest reporting requirement to separately state on Form 1098 (provided to the Internal Revenue Service) the amount of points and the amount of interest (other than points) received during the taxable year on a single mortgage and to provide to the payor of the points a separate statement setting forth the information being reported to the Service. The regulations supplement the existing regulations by providing taxpayers with guidance regarding this statutorily mandated reporting requirement.

In addition, the regulations allow taxpayers who are subject to the information reporting requirement of section 6050H to voluntarily enter into a written agreement designating pursuant to which a third party will assume the information reporting requirement otherwise imposed on the designating party. Taxpayers subject to the reporting requirements of section 6050H and the regulations who choose to designate another person to fulfill this information reporting requirement are required by the regulations to retain a copy of the written designation agreement for a period of four years. Retention of this agreement is necessary for the Internal Revenue Service to determine which person has the information reporting requirement and thus is subject to applicable statutory penalties in the event of noncompliance. This written agreement does not have to be provided to the Internal Revenue Service.

Finally, the regulations provide that a recipient of mortgage points, in determining whether the points are being paid in connection with the payor's purchase of a principal residence, may rely on a signed, written statement from the payor stating that the points are being paid in connection with the purchase of a principal residence. This statement does not have to be provided by the reporting party to the Internal Revenue Service. Obtaining such a statement is entirely voluntary.

USE OF DATA

The information required to be reported by the regulations will be reported to the Service on Form 1098, Mortgage Interest Statement. The information will also be reported to the homeowner-mortgagor that pays such points to the reporting party. The data will be used by the Service and the payor of record to determine if the payor of record may claim a deduction from gross income for an amount paid as points on a residential

mortgage. The reporting of information described in the regulations is statutorily mandated.

• **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.

• **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**

We have been unable to reduce the burden for small businesses.

• **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**

The notice of proposed rulemaking was published in the **Federal Register** on December 31, 1992 (57 FR 62526). No public hearing was requested or held. The final regulations were published in the **Federal Register** on December 8, 1994 (59 FR 63248). In response to the **Federal Register Notice** dated **February 20, 2009 (74 FR 7955)**, we received no comments during the comment period regarding IA-17-90 (final).

• **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

• **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

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

• **JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

• **ESTIMATED BURDEN OF INFORMATION COLLECTION**

The collection of information is in section 1.6050H-1(b) and section 1.6050H-2(b) of the regulations. Under these provisions, the reporting requirement is satisfied by including the additional information on a Form 1098 filed with the Service and on a copy of Form 1098 (or a substitute Form 1098) furnished to the payor of record. The burden for filing Form 1098 and the copy of Form 1098 (or substitute Form 1098) is already reflected in the burden estimates for Form 1098.

Section 1.6050H-1(f)(1)(iv) of the regulations provides that in determining whether the payment of points is properly reported on Form 1098 as having been paid for the acquisition of the payor's principal residence, the reporting party may, but is not required to, obtain a signed written statement from the payor stating that the dwelling will be used as a principal residence. It is estimated that 31,348 lenders will be affected, and that each lender will receive and record 20 written statements. Obtaining and recording each document will require approximately 0.1 hour, for a total estimated reporting burden of 62,696 hours.

Section 1.6050H-2(d)(3) of the regulations provides that a recipient of mortgage points that must be reported in accordance with section 6050H of the Code and the regulations may voluntarily enter into a written designation agreement with a qualified third party pursuant to which the third party will assume the responsibility for complying with the reporting obligation. The designating party under such a voluntary designation agreement will be required to retain a copy of the written designation agreement for four years. Retention of this record is required for the Internal Revenue Service to verify that the reporting responsibility was properly delegated to a third party. It is estimated that 6,296 respondents will each prepare 100 designation agreements annually, and that each agreement will require approximately 0.25 hours to prepare, for a total estimated reporting burden of 157,400 hours. It is estimated that 6,296 designating parties will spend 0.1 hour retaining a copy of 100 designation agreements, for a total estimated recordkeeping burden of 62,960 hours.

The total burden for all of the above requirements is 283,056 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

• **ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our **Federal Register Notice** dated **February 20, 2009 (74 FR 7955)**, 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 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.