

# **SUPPORTING STATEMENT (Revenue Procedure 2009-14)**

## **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

This revenue procedure describes a program for Pre-filing Agreements (PFA), under which certain large business taxpayers may request examination and resolution of specific issues relating to tax returns. This program enables both taxpayers and the Internal Revenue Service (IRS) to resolve, before the filing of a tax return, the treatment of issues otherwise likely to be disputed in post-filing audits. Through a cooperative effort, the program is intended to reduce costs, burden, and delays encountered in post-filing examinations.

The PFA solicits certain large business taxpayers to submit an application described in section 4 of the revenue procedure. The application will describe one or more issues the taxpayer would like to resolve prior to the filing of their next tax return. The IRS will examine, in cooperation with the taxpayer, the issue(s) proposed by the taxpayer for resolution. This process of examination may require requests for additional information from the taxpayer as described in section 6 of the revenue procedure. If the taxpayer and the IRS reach agreement on the resolution of the issue, the taxpayer and the IRS will enter into a special closing agreement termed a Pre-filing Agreement. The taxpayer will then file its return in accord with the PFA. As described in section 10, the taxpayer will maintain a copy of the PFA and supporting documents.

## **2. USE OF DATA**

The information collected during the examination of the issue proposed by the taxpayer will be used to support an agreed resolution of the issue and ultimately a PFA. Any PFA and supporting documents maintained by taxpayers will be used by the IRS for tax administration purposes.

## **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**

Notice 2000-12 was published in the **Internal Revenue Bulletin** on February 28, 2000 (2000-9 IRB 727). In Notice 2000-12, the Service announced a pilot program, under which taxpayers could request examination and resolution of specific issues relating to returns they expected between September and December 2000. The purpose of the pilot program was to determine if taxpayers and Service personnel could resolve, prior to the time for filing the taxpayers' returns, issues that were likely to be disputed in post-filing audits.

Revenue Procedure 2005-12 was published in the **Internal Revenue Bulletin** on January 10, 2005(2005-2 IRB 311). This revenue procedure finalized the pre-filing agreement.

Revenue Procedure 2007-17 was published in the **Internal Revenue Bulletin** on January 22, 2007 (2007-4 IRB 368). This revenue procedure provides guidance that continues the existing Pre-Filing Agreement (PFA) program with only minor changes related to the processing of PFAs. Rev. Proc. 2005-12 superseded.

Revenue Procedure 2009-14 was published in the **Internal Revenue Bulletin** on January 21, 2009 (2009-3 IRB 324). This revenue procedure outlines the procedures for resolving issues through pre-filing examinations. Rev. Proc. 2007-17 superseded.

In response to the **Federal Register Notice** dated **March 12, 2009 (74 FR 10806)**, we received no comments during the comment period regarding Rev. Proc. 2009-14.

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

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**

The recordkeeping requirements under section 14 will be used for tax administration. The collections of information under sections 4 and 6 are voluntary.

Once a PFA is entered, the recordkeeping requirements under section 14 are mandatory. The likely respondents are businesses or other for-profit institutions. The estimated total annual reporting and/or recordkeeping burden is 13,134 hours.

The estimated annual burden per respondent varies from 5 hours to 1,092 hours, depending on whether a taxpayer applying to the PFA program is accepted into the program. The estimated annual burden per respondent for taxpayers who apply to the PFA program and are accepted is 1,092 hours. The estimated annual burden per respondent for taxpayers who apply to the PFA program and are not accepted is 5 hours. The estimated number of taxpayers who apply to the PFA program and are accepted is 12. The estimated number of taxpayers who apply to the PFA program and are not accepted is 6.

The estimated total number of applicants and/or recordkeepers is 18.

The estimated annual frequency of responses is on occasion.

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

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our **Federal Register Notice** dated **March 12, 2009 (74 FR 10806)**, 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 COSTS TO THE FEDERAL GOVERNMENT**

Not applicable.

**15. REASONS FOR CHANGE IN BURDEN**

Due to revision of the revenue procedure and the agency discretion of experimenting with the previous numbers; the burden hours decreased by 36,081. The total burden hours are now 13,134.

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 notice 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 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 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 section 6103 of the Code.