

## **SUPPORTING STATEMENT**

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

This revenue ruling specifies the criteria to be met in order to automatically reduce an employee's compensation by a certain amount and have that amount contributed as an elective deferral to an employer's section 403(b) plan.

### **2. USE OF DATA**

The plan amendment requirement will help ensure that section 403(b) plans continue to satisfy the requirements of the statute and applicable regulations.

The notice requirement is required by the income tax regulations to inform plan participants of their rights under the plan.

### **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**

While the practice described in the revenue ruling may have initially been adopted by large employers, the issuance of the revenue ruling recognizes the burden on small businesses in the adoption and maintenance of section 403(b) plans and provides guidance on how that burden is minimized.

The guidance provided in this revenue ruling should lessen the amount of time that would otherwise be needed if an employer decided to adopt an automatic enrollment feature described in the revenue ruling.

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**

Revenue Ruling 2000-35 was published in the Internal Revenue Bulletin on July 31, 2000, 2000-31 IRB 138.

We received no comments during the comment period, in response to the Federal Register notice (74 FR 38088), dated July 30, 2009.

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

Not applicable.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Submissions for private letter rulings and technical advice under this revenue ruling may be considered tax returns and tax return information that are confidential as required by 26 USC 6103. In general, certain matters relating to taxability and deductibility are disclosable under 26 USC 6110.

11. **JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

12. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

The revenue ruling involves the collection of two types of

information.

The fifth, seventh and eighth paragraphs in the section headed "FACTS" and the tenth paragraph in the section headed "LAW AND ANALYSIS" describes a notice that must be given to employees at the time of hire, at the time of plan amendment, and annually thereafter. The notice informs employees that unless they make an affirmative election to have a different amount (including no amount) withheld from their compensation a certain amount will automatically be withheld and deposited on their behalf to the employer's section 403(b) plan.

We estimate that **100 plans** will annually provide the notice described above. The estimated annual burden per **respondent is 1 hour, for a total estimated annual burden of 100 hours.**

The third paragraph in the section headed "FACTS" describes a plan amendment to take advantage of the guidance provided by this revenue ruling.

We estimate that **100 plans** will annually take such action. The estimated annual burden per respondent is 45 minutes for a total estimated annual burden of **75 hours.**

100 burden hours+ 75 burden hours= 175 burden hours  
100 responses+100 responses=200 responses

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**

As suggested by OMB, our Federal Register notice dated July 30, 2009 (74 FR 38088), 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 would cause confusion by leading taxpayers to believe that the revenue ruling sunsets as of the expiration date. Taxpayers may not be aware that, if needed, 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.

**OMB EXPIRATION DATE**

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.