

SUPPORTING STATEMENT  
(REG-246249-96)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

**Regulations under § 6041**

Section 6041 of the Internal Revenue Code requires all persons engaged in a trade or business who make certain payments in the course of such trade or business to another person of \$600 or more in a taxable year to file an information return. The regulations contain three changes to the implementing rules in §1.6041-1:

(1) A person who makes a payment on behalf of another person and who exercises significant management and oversight functions in connection with, or who has a significant economic interest in, a payment is the payor who must file the information return.

(2) A payment made jointly to two or more payees may be reportable to one payee even though the payment is not reportable to another payee. For example, when a payment in consideration for services is made payable to joint payees, one of whom is the service provider and one of whom is the person who received the services, an information return may be required showing the payment to the service provider even if an information return is not required showing the payment to the other payee.

(3) The amount to be reported as paid to a payee is the gross amount of the payment or payments before fees, commissions, expenses, or other amounts owed by the payee to any person have been deducted.

Reports under §6041 are generally made on Form 1099-MISC.

**Regulations under § 6045**

Section 6045 requires a broker to file an information return reporting the amount of the gross proceeds of a sale. Under §5f.6045-1(c) of the Income Tax Regulations no return of information is required for a sale to an "exempt recipient," which includes an investment adviser. In a "cash on delivery" or similar transaction, only the broker that receives the gross proceeds against delivery of the securities sold is required to report a sale, unless the broker's customer is another broker who is an exempt recipient. In that case, only the second-party broker is required to report. As a result, in "cash on delivery" transactions involving an investment

adviser, the investment adviser instead of the broker who receives the gross proceeds must file the information return. The proposed regulations omit investment advisers from the list of exempt recipients. As a result, the broker who receives the gross proceeds in “cash on delivery” transactions generally will be required to file an information return whether or not an investment adviser is involved. The regulations also merge §5f.6045-1 into §1.6045-1. Reports under §6045 are made on Form 1099-B.

2. USE OF DATA

The IRS requires this information to determine if taxpayers have properly reported amounts received as income or properly deducted expenses paid. The information will be used to match amounts reported on Form 1099 with amounts reported as income or taken as deductions by taxpayers.

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 whenever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER 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

The notice of proposed rulemaking was published in the **Federal Register** on October 17, 2000 (65 FR 61292). A public hearing was held on February 7, 2001. The final regulation was published in the **Federal Register** on July 26, 2002 (67 FR 48754).

We received no comments during the comment period in response to the **Federal Register** notice dated October 22, 2009 (74 FR 54626).

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 6041 of the Internal Revenue Code requires all persons engaged in a trade or business who make certain payments in the course of that trade or business of \$600 or more in a taxable year to report the amount of the payments and the name and address of the recipients. Section 1.6041-1 of the Income Tax Regulations requires this report or information return to be made annually on Form 1099. Respondents are required to maintain records of such information as is necessary to complete Form 1099. The regulations amend §1.6041-1 to clarify the rules for determining (1) the party to a transaction who must file the information return, (2) the party who must be named as the payee on the information return, and (3) the amount that must be reported on the information return. The estimate of the reporting burden in §1.6041-1 will be reflected in the burden of Form 1099-MISC.

Section 6045 requires a broker to file an information return showing the name and address of the broker's customer and the amount of the gross proceeds of a sale. Section 1.6045-1 of the Income Tax Regulations requires this report or information return to be made annually on Form 1099. Respondents are required to maintain records of such information as is necessary to complete Form 1099. The regulations merge §1.6045-

1 and §5f.6045-1 of the Income Tax Regulations and amend the rules currently in §5f.6045-1 to shift the obligation to report the proceeds of certain sales of securities involving an investment adviser from the investment adviser to another broker. The estimate of the reporting burden in proposed §1.6045-1 will be reflected in the burden of Form 1099-B.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** notice dated October 22, 2009, 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 IRS 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.