

U.S. Department of Treasury  
Internal Revenue Service

Supporting Statement

**OMB Control Number 1545-2079**

Disclosure Requirements With Respect to Prohibited Tax Shelter Transactions  
(REG-142039-06; REG-139268-06/TD 9334)

Summary of Action

BACKGROUND: On July 6, 2007, IRS published final and temporary regulations implementing requirements of the Tax Increase Prevention and Reconciliation Act of 2005 (TD 9334) in the *Federal Register* (72 FR 36871); as well as the corresponding notice of proposed rulemaking cross-referencing those temporary regulations (REG-142039-06; REG-139268-06) published in the same issue.

The OMB provided pre-approval for this new collection of information on June 5, 2007, which was subsequently activated December 27, 2008.

CURRENT ACTION: At this time, the IRS is issuing a final rule and removing temporary regulations established in 2007, with no changes to the burden currently approved.

We are submitting this ICR action to OMB as a revision, which would allow us to identify this rule under the “associated rulemaking information” section of ROCIS. This option is not available via a non-material, non-substantive change because this rulemaking section is “grayed-out” and unavailable.

To acutely identify this rulemaking action and incorporate it into this ICR, we are submitting this request as a revision.

**TIPRA REGULATIONS  
SUPPORTING STATEMENT  
1545-2079  
(REG-142039-06;REG-139268-06/ TD 9334)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The collection of information in the attached regulations is required by section 6011(g) of the Internal Revenue Code (“Code”), as amended by the Tax Increase Prevention and Reconciliation Act of 2005 (“TIPRA”). This collection of information is part of the statutory excise tax and disclosure regime aimed at stemming tax-exempt entity involvement in certain potentially abusive tax avoidance transactions (referred to in the statute as “prohibited tax shelter transactions”). The purpose of this collection of information is to inform tax-exempt entities that they may be parties to prohibited tax shelter transactions and that they may have a tax liability under section 4965 of the Code and a disclosure obligation under section 6033(a)(2) of the Code.

2. USE OF DATA

The information required in these regulations will be used by tax-exempt entities to determine whether they are parties to prohibited tax shelter transactions and whether they have a tax liability under section 4965 of the Code and a disclosure obligation under section 6033(a)(2) of the Code.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because section 6011(g) requires disclosure from one party to the transaction to another, rather than to the Internal Revenue Service (“IRS”).

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

The information required to be disclosed under section 6011(g) is a subset of information required to be collected for purposes of completing and filing Form 8886, Reportable Transaction Disclosure Statement. The collection of information for purposes of Form 8886 has been approved under OMB number 1545-1800. The additional burden created by the disclosure requirement under section 6011(g) and the collection of information requirement in these regulations is expected to be minimal.

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments.

The IRS solicited comments for this collection of information in the notice of proposed rulemaking dated July 6, 2007, at 72 FR 36927. There were no comments received that were associated with the burden.

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Not applicable. The information required to be provided under section 6011(g) is not collected by the IRS.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information in these regulations is in § 301.6011(g)-1. The likely respondents are individuals and businesses that participate in prohibited tax shelter transactions to which tax-exempt entities are also parties.

The estimated frequency of responses is one time per transaction. Designation agreements among respondents are permitted to minimize the total number of responses.

Books or records about a collection of information must be retained as long as their content may become material in administering any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C § 6103.

The collection of information in these regulations is a subset of information that is required to be collected in order to file Form 8886, Reportable Transaction Disclosure Statement. Because of this overlap, the estimated total annual reporting burden for the collection of information in these regulations is based on the estimated annual reporting burden for Form 8886 (approved under OMB number 1545-1800). The estimated annual reporting burden for Form 8886 per filer is as follows:

Recordkeeping.....6 hr., 13 min.  
 Learning about the law or the form.....4 hr. 28 min.  
 Preparing, copying, assembling, and sending the form  
 to the IRS.....4 hr. 46 min.

Based on these numbers, the estimated annual burden of complying with the collection of information requirement in these regulations per respondent will not exceed 15 hr., 27 min, and is likely to be substantially less. The estimated number of respondents is between 1250 and 6500.

Accordingly, the total annual burden for this collection of information requirement will not exceed 98,500 hours.

No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Annual Burden
6,500	1	6,500	15.15	98,500

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Because the information required to be collected by these regulations is already required to be collected for purposes of Form 8886, no additional capital or startup expenditures are likely to be needed. Assuming that an average hourly cost of labor with the skill set necessary to comply with the disclosure requirement of section 6011(g) is \$25 (based on the average hourly earnings of accountants in the National Compensation Survey, <http://www.bls.gov/ncs/ocs/sp/ncbl0831.pdf>), the estimated annual burden of complying with the collection of information requirement in these regulations per respondent will not exceed \$375, and is likely to be substantially less. This labor can be provided in-house or purchased from the outside. Given that the total number of respondents is not expected to exceed 6500, the total annual cost of complying with this collection of information requirement will not exceed \$2,437,500.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the estimated burden currently approved. This revision is due to the issuance of final regulations and removal of temporary regulations issued in 2007 (72 FR 36871).

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

Not applicable.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

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.