

**SUPPORTING STATEMENT  
(REG-125638-01)**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

The collection is necessary to support claim of a deduction under section 263(a) of the Internal Revenue Code. The information required to be retained by taxpayers will constitute sufficient documentation for purposes of substantiating a deduction. The collection is contained in §1.263(a)-5(f).

**2. USE OF DATA**

The information will be used by the Internal Revenue Service during audits of taxpayers claiming a deduction for success based fees.

**3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

IRS publication, 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**

An advance notice of proposed rulemaking was published in the Federal Register on January 24, 2002 (67 FR 3461). A notice of proposed rulemaking was published in the Federal Register on December 19, 2002 (67 FR 77701). A public hearing was held on April 22, 2003. A recordkeeping requirement was added to the final regulations. The final regulations were published in the Federal Register on January 5, 2004 (69 FR 436).

In response to the **Federal Register Notice** dated **December February 4, 2010 (75 FR 5872)**, we received no comments during the comment period regarding REG-125638-01.

**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 1.263(a)-5(f) verifies the proper allocation of certain amounts paid in the process of investigating or otherwise pursuing certain transactions involving the acquisition of a trade or business. Taxpayers must maintain documentation to support a claimed deduction. The IRS estimates that the annual number of record-keepers will be 3,000 and that it will take 1 hour to keep records. The estimated total annual recordkeeping burden will be 3,000 hours.

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 **December February 4, 2010 (75 FR 5872)**, 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 regulations sunset 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.