

**Supporting Statement  
(NOT-152783-09 and Notice 97-66)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Notice 97-66 requires collections of information in two circumstances. First, the Notice provides a method for fulfilling the statement requirement of 26 U.S.C. §871(h)(5). In addition the Notice provides an available election to defer the applicability of the final securities lending regulations, TD 8735, 52 FR 53498, October 14, 1997, to substitute payments made after December 31, 1997.

On March 18, 2010, the Hiring Incentives to Restore Employment Act, Pub. L. No. 111-147, 124 Stat. 71 (2010) (“HIRE Act”) was enacted. Section 541 of the HIRE Act added new § 871(l) to the Internal Revenue Code (the “Code”), which provides that certain dividend equivalent payments are treated as U.S.-source dividends, effective for payments made on or after the date that is 180 days after the date of enactment. The term “dividend equivalent” is defined for this purpose to include “any substitute dividend made pursuant to a securities lending or sale-repurchase transaction that (directly or indirectly) is contingent upon, or determined by reference to, the payment of a dividend from sources within the United States.” § 871(l)(2)(A). Section 871(l)(6) authorizes the Secretary to reduce tax with respect to a chain of dividend equivalents “but only to the extent that the taxpayer can establish that such tax has been paid with respect to another dividend equivalent in such chain, or is not otherwise due, or as the Secretary determines is appropriate to address the role of financial intermediaries in such chain.”

This document (NOT-152783-09), provides administrative relief in the form of transition rules that will apply during the time beginning on the effective date of new § 871(l) until regulations are issued. The transition rules provide that the maximum aggregate U.S. gross-basis tax due, if any, with respect to a series of Securities Lending Transactions and any related dividend payment is the amount determined by the tax rate paid by the foreign taxpayer (other than in the case of a Qualified Securities Lender that is obligated to make an offsetting substitute dividend payment) bearing the highest rate of U.S. gross-basis tax in the series. Accordingly, the aggregate U.S. gross-basis taxes paid in such transactions generally should not exceed the 30 percent statutory rate applicable to U.S.-source dividends paid to foreign persons.

2. USE OF DATA

The collection of information will be use by withholding agents to determine whether a substitute dividend payment may be made without collecting and depositing additional and excessive U.S. withholding tax.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission.

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 97-66 was published in the **Internal Revenue Bulletin** on December 1, 1997 (1997-48 IRB 8). NOT-152783-09 will solicit comments from the general public.

In response to the Federal Register Notice dated January 19, 2010 (75 F.R. 2931), we received no comments during the comment period regarding Notice 97-66.

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

The collections of information contained in Notice 97-66 are in Sections 2 and 6. The information is required to qualify substitute interest payments as portfolio interest and to defer, on election by the taxpayer, the effective date of this Notice and the final securities lending regulations (T.D. 8735, 62 FR 53498) for substitute payments made after December 31, 1997. The information will be used for the same purpose described in the preceding sentence. The collections of information are required to obtain a benefit. The likely respondents are businesses or other for-profit institutions.

The estimated total annual reporting and/or recordkeeping burden is 61,750 hours. The estimated annual burden per respondent/recordkeeper varies from 1 minute to 15 minutes, depending on individual circumstances, with an estimated average of 10 minutes. The estimated number of respondents and/or recordkeepers is 377,500.

The estimated frequency of responses (used for reporting requirements only) is once.

Part III.C of Notice 152783-09 permits certain securities lenders in a securities lending transaction to provide a withholding agent with an annual certification indicating that it substantially complies the definition of a Qualified Securities Lender (as defined in Part II.A.i of the Notice) and that it will withhold and remit or pay the proper amount of U.S. gross-basis tax with respect to substitute dividend payments it makes or receives. We estimate that this requirement will affect 6,000 respondents per year, and take 0.167 hours each for a total of 1000 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** notice dated January 10, 2010, 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

NOT-152783-09 will result in the modification of Notice 97-66 described in Part I is effective for amounts paid on or after the date it is published and before September 14, 2010. The transition rules described in Part III of NOT-152783-09 are effective for amounts paid on or after September 14, 2010.

The modifications made by NOT-152783-09 will result in an increase of 6,000 estimated responses and a total estimated burden increase of 1,000 hours.

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 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.

19. EMERGENCY SUBMISSION

This submission requests emergency review because § 871(l) of the Code is effective beginning September 14, 2010. We believe that taxpayers and withholding agents need sufficient time to make the operational changes necessary to comply with § 871(l) of the Code and the provisions of this Notice.