

SUPPORTING STATEMENT

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 127(a) of the Internal Revenue Code of 1986 (Code) provides that the gross income of any employee does not include amounts paid or expenses incurred by an employer if furnished to the employee pursuant to a qualified educational assistance program. Section 127(b) sets forth the requirements which must be met in order for a program to be a qualified educational assistance program. Among these requirements, section 127(b)(1) requires that a program be a separate written plan of the employer. Treas. Reg. § 1.127-2(b) restates this requirement. No advance approval of the plan is required. Treas. Reg. § 1.127-2(a). Employees must be notified of the availability and terms of the program. Section 127(b)(6) and Treas. Reg. § 1.127-2(g). Pursuant to section 6001, substantiation may be required to verify that employees are entitled to exclude the value of such benefits from their gross incomes. Treas. Reg. § 1.127-2(I).

2. USE OF DATA

The information would be used by the Service pursuant to an examination in order to determine whether the program qualifies under section 127.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. 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

We have been unable to further reduce the burden of small businesses.

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

These regulations were published in the Federal Register initially as a Notice of Proposed Rulemaking on 11-23-81 at 46 FR 57325 which provided the general public a 60-day period in which to review and provide public comments upon any aspect of the proposed regulations. A public hearing was held with respect to these regulations on 3-24-82. Final regulations were published on 7-6-83 at 48 FR 31015 after consideration of all comments.

We received no comments during the comment period in response to the Federal Register notice (74 FR 60029), dated November 19, 2009.

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

Employers maintaining educational assistance programs must set forth the terms of the program in a separate written

plan. Section 127(b)(1) and Treas. Reg. § 1.127-2(b). Employees may be required to substantiate eligibility to receive benefits. Section 6001 and Treas. Reg. § 1.127-2(i). Under § 1.127-2(b), it is estimated that 200 respondents will be required to make one response at 1 hour each resulting in 200 hours of reporting burden. Under § 1.127-2(i), it is estimated that 5,000 recordkeepers will each spend .083 hours resulting in 415 hours of recordkeeping burden. The total burden is 615 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 November 19, 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 regulation 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 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.