

**SUPPORTING STATEMENT
Notice 2006-109**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Sections 1231 and 1244 of the Pension Protection Act of 2006 (PPA '06), enacted on August 17, 2006, added section 4966 to the Internal Revenue Code, and amended sections 4942(g)(4) and 4945(d)(4)(A) to the Code. New Code section 4966 imposes a new excise tax on a sponsoring organization that maintains donor advised funds for certain distributions to individuals from the funds, including for disaster relief grants or educational grants. The amendments to sections 4942 and 4945 impose excise taxes on private foundations that make grants to 501(c)(3) organizations classified as supporting organizations under certain circumstances. Prior to PPA 06', although private foundations were subject to excise taxes on non-qualifying distributions and on taxable expenditures, grants to these certain supporting organizations were not subject to those requirements.

Section 1231 is effective for taxable years beginning after date of enactment. Section 1244 applies to distributions and expenditures made after date of enactment. The attached document entitled *Interim Guidance Regarding Supporting Organizations and Donor Advised Funds* ("Notice" provides relief with respect to the applicability of new excise taxes imposed on private foundations and sponsoring organizations by sections 1231 and 1244 of PPA 06'.

2. USE OF DATA

Section 3.01 of the Notice provides private foundation with options in collecting information to assist in determining whether grants to certain supporting organizations are qualifying distributions and are not be taxable expenditures. Collecting such information will provide private foundations with relief from the new excise taxes imposed under amended sections 4942 and 4945 of the Code.

Sections 5.01 and 5.02 of the Notice provides relief from excise taxes imposed under new section 4966 of the Code. A sponsoring organization of certain donor advised funds will not be subject to the new taxes for distributions from employer-sponsored disaster relief funds or for distributions of certain educational grants if the organization collects and maintains the required documentation. The Notice clarifies that existing documentation requirements for employer-sponsored relief programs and educational grants apply to these funds.

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 by the organizations subject to these requirements, and within the agency, wherever possible. To that extent, we are utilizing existing documentation requirements to the extent 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 THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

This notice was published in the Internal Revenue Bulletin on December 18, 2006 (2006-51 I.R.B. 1121).

We received no comments during the comment period in response to the Federal Register notice dated May 20, 2010 (75 FR 28329).

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

We estimate that there are 80,000 private foundations, and that 64,000 private foundations will avail themselves of the relief provided in Section 3.01 of the Notice. The time to gather such information is based on the documents and data collected for Schedule D, *Section 509(a)(3) Supporting Organizations*, of the Form 1023, *Application for Recognition of Exemption*, as well as well-known current due diligence practices of private foundations when making grants, and is estimated to be an average of 9 hours, 48 minutes for each foundation. The total estimated burden for 64,000 private foundations is 606,270 hours annually.

We estimate that there are 1,000 sponsoring organizations of donor advised funds and that 800 of them will avail themselves of the relief provided in Section 5 of the Notice. The time to gather such information is based on the data required in Schedule H, *Organizations Providing Scholarships, Fellowships, Educational Loans, or Other Educational Grants to Individuals and Private Foundations Requesting Advance Approval of Individual Grant Procedures*, of the Form 1023, and is estimated to be an average of 7 hours, 53 minutes for each organization. The total estimated burden for 800 organizations is 6,024 hours annually.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO TAXPAYERS

As suggested by OMB, our Federal Register notice dated May 20, 2010 (75 FR 28329), requested 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 applicable.

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 would cause confusion by leading taxpayers to believe that the notice sunsets as of the expiration date. Taxpayers may not 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 the 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.