

## SUPPORTING STATEMENT

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Emergency approval of a collection of information is requested by the Commissioner of Internal Revenue under 44 U.S.C § 3507(j)(1) for Form-8946. Form-8946 is created as one of several "Information Collection Instruments" for an already approved collection under OMB 1545-2176 guided by the Notice of Proposed Rulemaking REG-134235-08 (attached as a Supplementary Document). In order to obtain a Preparer Tax Identification Number (PTIN), a person must establish their identity. Most individuals applying for a PTIN have a social security number, and will provide that number as part of the application process. However, Paid Preparers that are nonresident aliens and cannot get a social security number will need to establish their identity prior to getting a PTIN. These Paid Preparers will use Form-8946 as a vehicle for establishing their identity in lieu of providing a social security number.

The Form-8946 is primarily created as the Information Collection Instrument for the collection of information under REG-134235-08. The purpose is to address the problem of the Internal Revenue Service's inability to accurately identify all tax return preparers and more significantly the problem of inaccurate identification of tax returns and claims for refund of tax.

New regulations specifically require tax return preparers to apply for and regularly renew a PTIN at the time and in the manner the IRS prescribes, including the payment of a user fee. IRS regulations provide that tax return preparers must, as prescribed by the IRS in forms, instructions, or other guidance, furnish a preparer tax identification number (PTIN) on tax returns and claims for refund of tax. Tax return preparers will be required to use a PTIN on tax returns and claims for refund filed after December 31, 2010. Current regulations allow tax return preparers to furnish either their social security number or a PTIN as the preparer's identifying number on tax returns and claims for refund. The option to use more than one identifying number, and the fact that not all tax return preparers reliably use the same identifying number (i.e., a tax return preparer may use an SSN on some tax returns and claims for refund, and use a PTIN on other tax returns and refund claims), inhibits the IRS's accurate identification of tax return preparers and the tax returns and claims for refund they prepare.

As explained below, all of the requirements 44 U.S.C. § 3507(j)(1)(A)(i), (5 CFR Part 1320 § 1320.13) for Emergency Processing are satisfied. The collection of information falls within both prongs of section 3507(j)(1)(A)(i).

*First, as required by section 3507(j)(1)(A)(i), the collection of information is needed prior to the expiration of the normal clearance period (approximately January 2010).*

The IRS conducted an extensive review in 2009 of paid tax return preparers and tax return preparation. The review concluded that obtaining more complete and accurate information on individual tax return preparers and improved IRS oversight of tax return preparers and their preparation of tax returns and claims for refund is necessary for effective tax administration. See IRS Publication 4832 *Return Preparer Review* (Dec. 2009).

Establishing a requirement that tax return preparers obtain and consistently use a single identifying number issued by the IRS is fundamental to better oversight of tax return preparers. It is also the requisite first step to: (1) prescribing procedures for tax return preparers to register with the IRS, including procedures for personal and business tax-compliance checks of tax return preparers; (2) authorizing registered tax return preparers to represent taxpayers before the IRS (and be subject to the rules of practice in Circular 230).

***While REG-13423508 is authorization to collect the information to allow the IRS to complete its development and implementation of systems for tax return preparers to apply for and be issued a PTIN, Form-8946 is one of several instruments by which to collect the information. The operational date for a new system to apply for a PTIN and register as a***

**tax return preparer is September 1, 2010. Completion must be sufficiently in advance of the proposed effective date to allow a PTIN to be assigned to all tax return preparers who need one for use on tax returns and claims for refund filed after December 31, 2010. Therefore, Form-8946 must be made available to the public by September 1, 2010.**

*Second, as required by section 3507(j)(1)(A)(ii), the collection of information is essential to the IRS's mission of administering the internal revenue laws and furthering tax compliance.*

Tax return preparers and tax return preparation have a significant effect on taxpayer education, tax compliance, and IRS operations. As already described, Form-8946 is needed as part of the IRS's efforts to better monitor tax return preparers and their preparation of tax returns, which directly depends on accurate identification by means of a single, IRS-generated identifying number for each tax return preparer.

*Pursuant to section 3507(j)(1)(B), the IRS cannot reasonably comply with the nonemergency procedures of section 3507. Section 3507(j)(1)(B) sets forth three criteria, at least one of which must apply: (i) public harm is reasonably likely to result if normal clearance procedures are followed; (ii) an unanticipated event has occurred; or (iii) the use of normal clearance procedures is reasonably likely to cause a statutory or court-ordered deadline to be missed.*

Tax return preparers prepare a considerable number of the tax returns that are filed with the IRS. Consequently, tax return preparers have a significant effect on the correctness of filed tax returns. Taxpayers who hire tax return preparers to prepare their tax returns and the public in general have an interest in proper tax return preparation and in regulation of preparers and their preparation activities. Incorrect tax returns can result in penalties and interest for taxpayers, lost revenue, and added administrative costs to the IRS for examination of tax returns and collection of unreported or unpaid liabilities.

The vast majority of individual income tax returns are filed during the annual filing season between late January and April 15th. In order for the new process to apply for a PTIN to commence September 1, 2010 and for foreign persons (without a social security number) to timely secure a PTIN for the next filing season (January – April 2011), the approval of the collection of Information Collection Instrument (Form-8946) is needed as quickly as possible and before it would ordinarily be granted under the standard procedures. Delaying the availability of Form-8946 until the 2012 filing season is reasonably likely to cause public harm.