

**1SUPPORTING STATEMENT
IA-96-88**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Regulation section 301.9100-8, formerly section 5h.6, provides final income, estate and gift, and employment tax regulations relating to elections made under the Technical and Miscellaneous Revenue Act of 1988 (the Act). These regulations enable taxpayers to take advantage of various benefits provided by the Internal Revenue Code.

2. USE OF DATA

The information contained in these regulations will be used to determine the requirements with respect to various elections made under the Act.

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 within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

We have been unable to reduce the burden for 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

When the notice of proposed rulemaking was published in the Federal Register on September 22, 1989 (54 FR 39002), the public was invited to submit written comments and requests for a public hearing. Only one comment and no requests for a public hearing were received. The final regulations were published in the Federal Register on September 23, 1992 (57FR 43893).

We received no comments during the comment period in response to the Federal Register notice dated July 1, 2010 (75 FR 38184).

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 301.9100-8(a) of this regulation sets forth general rules for the time and manner of making various elections under the Act. Section 301.9100-8(a)(3) provides that the elections specified in section 301.9100-8(a)(1) are made by attaching a statement to the tax return (or amended return) for the taxable year in which the election is made. The burden

estimate for each provision is set forth below and is identified as to Act section and Internal Revenue Code (Code) section.

Section 1002(a)(11)(A) of the Act provides for an election under section 168(B)(2) of the Code to depreciate property using the 150 percent declining balance method. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1002(a)(23)(B) of the Act provides an uncodified election in regard to property placed in service and disposed of in the same taxable year. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1002(1)(1)(A) of the Act provides for an election under section 42(b)(2)(A)(ii) of the Code to use the applicable percentage for a month other than the month the building is placed in service. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1002(1)(2)(B) of the Act provides for an election under section 42(f)(1) of the Code concerning beginning of the credit period for low-income housing credit. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1002(1)(4) of the Act provides for an election under section 42(d)(3) of the Code to exclude excess costs of disproportionate units. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1002(1)(12) of the Act provides for an election under section 42(g)(3) of the Code to aggregate buildings in a low-income housing project. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total

burden for this election is 50 hours.

Section 1002(1)(19)(B) of the Act provides for an election under section 42(i)(2)(B) of the Code to reduce eligible basis. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1006(d)(15) of the Act provides for an uncodified election by a 1088 corporation not to apply a general rule for a firm commitment underwriter. We estimate that approximately 40 elections will be made and that it will take approximately 1 hour to complete the election. The total burden for this election is 40 hours.

Section 1006(j)(1)(C) of the Act provides for an uncodified election to reduce interest payments received on certain bonds by allocable bond premium. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1006(t)(18)(B) of the Act provides for an uncodified election not to treat a REMIC (Real estate mortgage investment conduit) as a partnership for purposes of determining who may sign the REMIC return. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1008(c)(4)(A) of the Act provides for an election under section 460(b)(3) of the Code not to discount an amount received or accrued after completion of a contract. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1009(d) of the Act provides for an election under section 165(1) of the Code not to discount an amount received or accrued after completion of a contract. We estimate that approximately 15,000 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 3,750 hours.

Section 1010(f)(1) of the Act provides for an election under section 831(b)(2)(A) of the Code for companies other than life to use alternative tax. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1010(f)(2) of the Act provides for an election under section 835(a) of the Code for an interinsurer or reciprocal underwriter mutual insurance company subject to section 831(a) to be subject to section 835(b) limitation. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1011(a) of the Act provides for an election under section 219(g)(4) of the Code in regard to the treatment of certain contributions made to an individual retirement plan for 1987 by a spouse filing a separate return. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1012(d)(4) of the Act provides for an election under section 865(f) of the Code to treat an affiliate and its wholly-owned subsidiaries as one corporation. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1012(d)(6) of the Act provides for an election under section 865(g)(3) of the Code to treat a corporation and its wholly-owned subsidiaries as one corporation. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1012(d)(8) of the Act provides for an election under section 865(h)(2) of the Code to apply treaty source rules to treat gain from a sale of an intangible or of stock in a foreign corporation as foreign source. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1012(1)(2) of the Act provides for an election under section 245(a)(10) of the Code to choose to use treaty source rules to treat dividends received from a qualified 10-percent owned foreign corporation as foreign source. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1012(n)(3) of the Act provides for an uncodified election to reduce the amount of qualified possession source investment income for certain corporations. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1012(bb)(4) of the Act provides for an election under section 904(g)(10) of the Code to apply treaty source rules. We estimate that approximately 25 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 6 hours.

Section 1014(c)(1) of the Act provides for an uncodified election by a beneficiary of a trust to which section 664 applies to obtain certain benefits of section 1403(c)(2) of the 1986 Act. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 1014(c)(2) of the Act provides for an uncodified election by any trust beneficiary to waive the benefits of section 1403(c)(2) of the 1986 Act. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Sections 1014(d)(3)(B) and 1014(d)(4) of the Act provide for an election under section 643(g)(2) of the Code to have certain payments of estimated tax made by a trust or estate treated as paid by the beneficiary. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 2004(j)(1) of the Act provides for an uncodified election by a member of an affiliated group filing a consolidated return on the sale of intragroup stock to reduce the member's basis in the indebtedness of the subsidiary. We estimate that approximately 50 elections will be made and that it will take approximately .25 hours to complete the election. The total burden for this election is 13 hours.

Section 2004(m)(5) of the Act provides for an uncodified election to have amendments made by section 2004(m) of the Act not apply. We estimate that approximately 50 elections will be made and that it will take approximately .25 hours to complete the election. The total burden for this election is 13 hours.

Section 4004(a) of the Act provides for an election under section 42(j)(5)(B) of the Code to have certain partnerships not treated as the taxpayer eligible for the low-income housing credit. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 4008(b) of the Act provides for an election under section 41(h) of the Code to have the research credit under section 41 not apply for any taxable year. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 5012(e)(4) of the Act provides for an uncodified election to recognize gain on exchange of life insurance contracts to avoid the characterization of life insurance contract as a modified endowment contract. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 5031(a) of the Act provides for an election under section 7520(a) of the Code to use the federal midterm rate for either of the two months preceding a valuation date for determining the actuarial value of an interest transferred to charity. We estimate that approximately 2000 elections will be made per year and that it will take approximately .45 hours to

complete the election. The total burden for this election is 900 hours.

Section 5033(a)(2) of the Act provides for an election under section 2056A(d) of the Code to treat a trust for the benefit of a surviving spouse who is not a U.S. citizen as a Qualified Domestic Trust. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 6006(a) of the Act provides for an election under section 1(i)(7) of the Code to include the unearned income of a child on the parent's return. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 6011 of the Act provides for an election under section 121 of the Code to exclude gain on the sale of a principal residence by certain incapacitated taxpayers age 55 or over. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 6026(a) of the Act provides for an election under section 263A(h) of the Code concerning eligible taxpayers who have elected the simplified method for deducting business expenses. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 6026(b)(1) of the Act provides for an election under section 263(d)(1) of the Code that allows a taxpayer to revoke a previous election to deduct currently the costs relating to the production of any animal. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 6026(c) of the Act provides for an election under section 263A(d)(3)(B) of the Code by eligible taxpayers engaged in the growing of pistachio trees to deduct currently

preproductive period costs. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Sections 6152(a) and 6152(c)(3) of the Act provide for an election under section 2056(b)(7)(C)(ii) of the Code to treat a survivor annuity payable to a surviving spouse that is otherwise deductible under section 2056(b)(7)(C) of the Code as a nondeductible terminable interest. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Sections 6152(b) and 6152(c)(3) of the Act provide for an election under section 2523(f)(6)(B) of the Code to treat a survivor annuity in which the donee spouse has a survivorship interest, as a nondeductible terminable interest. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 6152(c)(2) of the Act provides for an election under sections 2056(b)(7)(C)(ii) and 2523(f)(6)(B) of the Code to treat a survivor's annuity payable to a surviving spouse as deductible for estate or gift tax purposes in the case of returns filed prior to November 11, 1988. We estimate that approximately 100 elections will be made and that it will take approximately 2 hours to complete the election. The total burden for this election is 200 hours.

Section 6180(b)(1) of the Act provides for an election under section 142(i)(2) of the Code by a nongovernmental owner of intercity highspeed rail facility not to claim any deduction under section 167 or 168 and any credit under subtitle A in order for the facility to be described in section 142(a)(11). We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 6181(c)(2) of the Act provides for an uncodified election by an issuer of tax-exempt bonds to apply the amendments made by 148(b) of the Code to amounts deposited after such date in bona fide debt service funds. We

estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 hours.

Section 6277 of the Act provides for an election under sections 382 and 383 of the Code by a 1088 corporation that otherwise qualifies for the exception of section 621(f)(5) of the 1986 Act to not apply that exception. We estimate that approximately 40 elections will be made and that it will take approximately 1 hour to complete the election. The total burden for this election is 40 hours.

Section 8007(a)(1) of the Act provides for an election under section 3127 of the Code to be exempted from the taxes imposed by sections 3101 and 3111 of the Code. We estimate that approximately 200 elections will be made per year and that it will take approximately .25 hours to complete the election. The total burden for this election is 50 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 July 1, 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

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 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 83-1

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.