

**SUPPORTING STATEMENT
REG-138176-02**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 7502(a) of the Internal Revenue Code provides that a document received after the due date for filing will be treated as filed on the date of the United States postmark on the envelope containing the document if the postmark date is on or before the date for filing the document and the document is placed in the U.S. mail on or before the due date (“Timely mailing treated as timely filing rule”). Section 7502(c) provides if a taxpayer uses registered or certified mail, the date of the postmark on the sender’s receipt will be treated as the postmark date and will constitute prima facie evidence that the document was delivered to the Service. The proposed regulations provide that, absent actual delivery, the registered or certified mail receipt will be the only acceptable evidence that the document was delivered to the Service. Thus, in order to be able to establish the postmark date and prima facie evidence of delivery, taxpayers will need to use registered or certified mail and retain the sender’s receipt.

2. USE OF DATA

The collection of information is necessary in order for taxpayers to be able to establish the postmark date and prima facie evidence of delivery when using registered or certified mail.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. 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

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**

A notice of proposed rulemaking was published in the **Federal Register** on September 21, 2004 (69 FR 56377).

We received no comments during the comment period in response to the **Federal Register** notice dated July 29, 2010 (75 FR 44843).

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 U.S.C. 6103.

11. **JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

12. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

26 C.F.R. ' 301.7502-1: Section 7502 of the Internal Revenue Code provides for the timely mailing treated as timely filing rule and the prima facie evidence of delivery rule for registered mail. Section 301.7502-1(e) of the proposed regulations extends the prima facie evidence of delivery rule to certified mail and provides that absent actual delivery, only a registered or certified mail may establish prima facie evidence of delivery. Thus, in order to be able to establish prima facie evidence of delivery, taxpayers will need to use registered or certified mail and retain the sender's receipt. The total number of respondents (taxpayers that use certified or registered mail to file documents with the Internal Revenue Service) each year is estimated to be 10,847,647. Using data from calendar year 2002 (the most recent year for which complete data is available) the total number of tax returns and extension requests filed (excluding taxpayers that filed returns and extension requests electronically) is 142,170,992. That

number was multiplied by a percentage of tax returns and extension requests that taxpayers submitted using certified mail. The percentage was based on data for April 15-16, 2004, from the Philadelphia Service Center for the number of certified mail packages received and the total number of returns and extensions filed for those days at that Center. For most of these responses, the frequency of responses would only be once a year. Where a taxpayer requests an extension of time to file, then files a return, the frequency of responses could be twice or three times a year.

The burden imposed under the regulations is in two parts. First, a taxpayer would need to complete the United States Postal Service forms for using certified or registered mail. Second, a taxpayer would need to retain the certified or registered mail sender's receipt so that the taxpayer would be able to establish at a later date that the document sent to the Service was delivered to the Service. We estimated that it would take a taxpayer five (5) minutes to fill out the certified or registered mail form at the Post Office and one (1) minute to put the certified or registered mail sender's receipt into a file either in their home or office for retention in case the receipt is needed at a later time. The total burden per response, therefore, is six (minutes) or .10 of an hour. Thus, the total annual hour burden is 1,084,765.

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 29, 2010, requested public comments on estimates of burden that are not captured in 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 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 regulations 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.

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.