IRS - OMB REVIEW REQUEST FORM

Request for OMB review of currently approved document:

Date: 08/23/2010

Name: Max Rogel

Office Symbols: SE:W:CAR:MP:T:B:C

Phone Number: 202-622-3878

Summary of Changes

Changes to Instructions for Form 1065:

See attached sheet.

Impact on Approved Collection

Public Law No.	Regulation No.	Other		*Change In IRS Form & Instructions*		
			Code References	No. of Filers	Words	Attachments
SAMPLE: PL 109-567	REG-345675-08	RP 2009-134	+/- 5	+/- 20,000	+/- 500	+/- 1
	REG-134235-08		0	0	0	0
		IRC 461(j)	1	0	0	0
		IRC 45R	0	0	0	0
PL 111-147			0	0	0	0
		IRC 30D(f)(5)	0	0	0	0
PL 111-148			0	0	0	0

*Please insert how this new (PL, REG, or other), document will affect the currently approved collection.

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Request for OMB review of currently approved document: (Continued)

Date: 08/23/2010

Name: Max Rogel

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Phone Number: 202-622-3878

Additional Information:

See attached sheet.

2010 Instructions for Form 1065, U.S. Return of Partnership Income

Description Of Major Changes

1. Under "Contents" section, we removed the reference to the "Privacy Act". (Counsel has advised that the Privacy Act notice is longer necessary because paid preparers are no longer allowed to use a Social Security number as an identifying number.)
2. Under the "What's New" section, we deleted the items that were listed for 2009. We inserted the following:
    - A paid preparer can no longer use a Social Security number in the "Paid Preparer Use Only" box on page 1 of Form 1065. The paid preparer must now use a Preparer Tax Identification Number (PTIN). See Paid Preparer's Information, below.
3. We replaced the material under the paragraph titled "Exception—Qualified joint venture" with material provided by Mark Silva. (Mark developed the replacement language in response to TIGTA report 2010-40-034.)
4. Under the paragraph titled "Limited Partner", we deleted language that implied that all members of LLCs are considered limited partners for purposes of the passive activity rules.
5. Under the paragraph titled "Paid Preparer's Information" we added the following language:
    - A paid preparer can not use a Social Security number in the "Paid Preparer Use Only" box. The paid preparer must use a Preparer Tax Identification Number (PTIN).

    We also modified our reference to the Paid Preparer Use Only (PPUO) box on the Form 1065 to comport with the new PPUO box on the 2010 Form 1065. (Proposed REG-134235-08, which appears on page 596 of IRB 2010-16, addresses the forthcoming change that paid preparers must get PTINs, and must enter their PTIN on a return they are paid to prepare. Paid preparers will no longer be able to enter their Social Security number in the "Paid Preparer's Use Only" section of Form 1065. Although these are currently proposed regs, there is a project underway to assure that all 2010 forms are properly updated to reflect the fact that paid preparers must have a PTIN and can no longer enter a social security number on a return they are paid to prepare. To that end, we revised Form 1065 to reflect this change. In the "Paid Preparer's Use Only" section of Form 1065, we deleted "Preparer's SSN or" from the box where the paid preparer enters an identifying number.)
6. Immediately above the paragraph titled "Passive Activity Limitations", we added a paragraph titled "Limitation on Excess Farm Losses of Certain Taxpayers". (The language added under the new paragraph provides guidance to partnerships and partners under IRC 461(j).)
7. Under the paragraph titled "Reducing certain expenses for which credits are allowable":

- We deleted reference to the credit for increasing research activities. (The credit has expired. See IRC 41(h)(1)(B).)
- We deleted reference to the empowerment zone and renewal community employment credits. (The designation of empowerment zones has expired. See IRC 1391(d)(1)(A)(i). The designation of renewal communities has also expired. See IRC 1400E(b)(1)(A).)
- We deleted reference to the Indian employment credit. (The credit has expired. See IRC 45A(f).)
- We deleted reference to the employer housing credit. (The credit has expired. See Sec. 702, Div. C, PL 110-343, 10/3/2008.)
- We deleted reference to the mine rescue team training credit. (The credit has expired. See IRC 45N(e).)
- We deleted reference to the credit for employer differential wage payments. (The credit has expired. See IRC 45P(f).)

8. Under the paragraph titled "Line 9. Salaries and Wages":
    - We deleted reference to Form 5884-A, Credits for Affected Midwestern Disaster Area Employers. (Both credits listed on Form 5884-A have expired. The employee retention credit expired for wages paid after 2008. See Sec. 702(d)(11), Div. C, PL 110-343, 10/3/2008. The employer housing credit expired for housing provided after May 1, 2009. See Sec. 702(d)(9), Div. C, PL 110-343, 10/3/2008.)
    - We deleted reference to Form 8844, Empowerment Zone and Renewal Community Employment Credit. (The designation of empowerment zones has expired. See IRC 1391(d)(1)(A)(i). The designation of renewal communities has also expired. See IRC 1400E(b)(1)(A).)
    - We deleted reference to Form 8845, Indian Employment Credit. (The credit has expired. See IRC 45A(f).)
    - We deleted reference to Form 8923, Mine Rescue Team Training Credit. (The credit has expired. See IRC 45N(e).)
    - We deleted reference to Form 8932, Credit for Employer Differential Wage Payments. (The credit has expired. See IRC 45P(f).)
9. Under the paragraph titled "Line 13. Rent", we added the following text to the top line of the table that lists the fair market value of vehicle that could require lessees to compute an inclusion amount:
    - During calendar year 2010 .....$16,700.

    (The above text was added to comport with RP 2010-18, Table 3.)
10. Under the paragraph titled "Line 5. Interest Income", we deleted reference to "Gulf tax credit bonds". (For Gulf Tax Credit Bonds, both the issue period and the maturity period have expired. See IRC 1400N(l)(4)(A).)
11. Under the paragraph titled "Line 13a. Contributions":
    - We deleted reference to qualified conservation contributions. (The special rules and limitations applicable to qualified conservation contributions do not apply to contributions made in tax years beginning after 2009. See Code Sec. 170(b)(1)(E)(vi) and Code Sec. 170(b)(2)(B)(iii).)

- We deleted reference to charitable contributions of food inventory. (For contributions made after 2009, these rules don't apply. See Code Sec. 170(e)(3)(C)(iv).)

12. Under the paragraph titled “Line 15f. Other Credits”:
    - We deleted reference to “Empowerment zone and renewal community employment credit (code L)”. (The designation of empowerment zones has expired. See IRC 1391(d)(1)(A)(i). The designation of renewal communities has also expired. See IRC 1400E(b)(1)(A).)
    - We deleted reference to “Credit for increasing research activities (code M).” (The credit has expired. See IRC 41(h)(1)(B).)
    - Under the paragraph titled “Other credits (code P)”:
        - We deleted reference to “Qualified railroad track maintenance credit”. (The credit has expired. See Code Sec. 45G(f).)
        - We deleted reference to the Indian employment credit. (See Code Sec. 45A(f).)
        - We deleted reference to the “Biodiesel and renewable diesel fuels credit.” (The credit has expired. See Code Sec. 40A(g).)
        - We deleted reference to the “Low sulfur diesel fuel production credit”. (The credit has expired. See Code Sec. 45H(c)(4).)
        - We deleted reference to the energy efficient home credit. (The credit has expired. See Code Sec. 45L(g).)
        - We deleted reference to the “Gulf tax credit bond credit”. (For Gulf Tax Credit Bonds, both the issue period and the maturity period have expired. See IRC 1400N(l)(4)(A).)
        - We Deleted reference to “Employer housing credit for affected Midwestern disaster area employers”. (The credit has expired. See Sec. 702, Div. C, PL 110-343, 10/3/2008.)
        - We Deleted reference to the “Mine rescue team training credit”. (The credit has expired. See IRC 45N(e).)
        - We Deleted reference to the “Credit for employer differential wage payments”. (The credit has expired. See IRC 45P(f).)
        - We deleted reference to the “Welfare-to-work credit”. The credit has expired. See IRC 51A(f).
        - We deleted reference to the “Employee retention credit for affected Midwestern disaster area employers”. The employee retention credit expired for wages paid after 2008. See Sec. 702(d)(11), Div. C, PL 110-343, 10/3/2008.
        - We inserted:
            - Credit for small employer health insurance premiums (Form 8941). See Code Sec. 45R and Notice 2010-44.
            - New hire retention credit (Form 5884-B). See Act Sec. 102 of P.L. 111-147.

13. Under the paragraph titled “Recapture of other credits (code I)”:

- We deleted reference to “The qualified electric vehicle credit”. (IRC 30, prior to amendment by PL 111-5, Div. B, Act Sec. 1142(a), provided for a “Credit for qualified electric vehicles” for vehicles placed in service before 2007. Reg. Sec. 1.30-1 provides for recapture during the 3 years following the date the vehicle was placed in service. Thus, if a vehicle was placed in service on Dec. 31, 2006, the last day a recapture could be triggered is Dec. 31, 2009. Thus, a recapture of this credit can not take place during a partnership year beginning in 2010.)
- We inserted the following:
    - The new qualified plug-in electric drive motor vehicles credit. See <RF>section 30D(f)(5).

14. Under the paragraph titled “Other information (code Y)”:
    - We added the following (see IRC 48D):
        - Qualifying Therapeutic Discovery Project Credit. Attach a statement to Schedule K-1 showing the partner's distributive share of the amounts that the partner will use when figuring the amount to report on line <RF>8 of the partner's <RF>Form 3468. See the Instructions for Form 3468 for details.
    - We deleted the requirement to report “qualified timber gain” up to corporate partners. (See IRC 1201(b).)
    - We inserted the following:
        - Any information the partners need to comply with the limitation on excess farm losses of certain taxpayers under Code Sec. 461(j).
15. Under the paragraph titled “Analysis of Net Income (Loss)”, we deleted language that classified as “passive” all LLC members in a partnership (sic) whose principal activity is a trade or business or rental activity. (Counsel has recently issued an AOD on a case where the court held against the Service on this position (*Thompson*), and Counsel has asked us to remove this position from our instructions and pubs.)
16. Under the paragraph titled “Privacy Act and Paperwork Reduction Act Notice”, we deleted reference to the Privacy Act. We also deleted the text “Section 6109 requires return preparers to provide their identifying numbers on the return.” (For 2010 returns, paid preparers may not use their social security numbers to identify themselves on the return. Counsel has advised us to make the above deletions.)