

**SUPPORTING STATEMENT  
(PS-276-76)**

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Section 1254 requires that section 1254 costs be recaptured and characterized as ordinary income upon the disposition of natural resource recapture property. If a portion of the property is disposed of and the section 1254 costs do not in fact relate to the portion of the property disposed of, the taxpayer is required to state on the tax return that the section 1254 costs do not relate to the property disposed of and to retain documentation to verify this fact.

In order for the Internal Revenue Service to ensure that taxpayers who dispose of section 1254 property characterize their gain properly, it is necessary that taxpayers keep sufficient documentation. The taxpayer is required to keep the information in the event of an audit by the Internal Revenue Service to determine if the taxpayer is complying with the law.

In addition, if oil and gas property is distributed to a partner in a partnership, the partnership must determine the aggregate of the partners' section 1254 costs. The partnership may determine the aggregate of the partners' section 1254 costs based on various assumptions or the partners may provide the information to the partnership.

**2. USE OF DATA**

The information taxpayers are required to retain will be used by the Internal Revenue Service on audit to determine whether a taxpayer has properly characterized gain on the disposition of section 1254 property or an undivided interest in section 1254 property.

The information that a taxpayer/partner may give the partnership will be used to determine how much of a partner's gain will be characterized as ordinary income if natural resource recapture property is distributed to a partner in a partnership.

**3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

We have no plans to offer electronic filing. IRS publication, 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**

These regulations were published in the Federal Register as a Notice of Proposed Rulemaking on June 11, 1980 (45 FR 39512). A public hearing was held on September 9, 1980. The final regulations were published in the Federal Register on January 10, 1995 (60 FR 2497).

In response to the **Federal Register** notice dated August 12, 2010 (**75 FR 49026**), we received no comments during the comment period regarding PS-276-76.

**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**

The reporting and recordkeeping requirements are in section 1.1254-1(c)(3)(iv) and 1.1254-5(d)(2). If a taxpayer treats section 1254 costs incurred with respect to a natural resource recapture property as not relating to the transferred portion of the property, section 1.1254-1(c)(3)(iv) requires the taxpayer to indicate on his or her tax return that the costs do not relate to the transferred portion and to maintain records and supporting evidence that substantiate this position. We estimate that there will be approximately 300 recordkeepers per year and that it will take each recordkeeper approximately 5 hours to collect the information and make the statement required under § 1.1254-1(c)(3)(iv). The estimated annual recordkeeping burden under section §1.1254-1(c)(3)(iv) is 1,500 hours.

Section 1.1254-5(d)(2) allows a partnership to determine the aggregate of its partners' section 1254 costs with respect to natural resource recapture property held by the partnership using written data provided by the partners. We estimate that there will be approximately 100 respondents per year and that it will take each respondent approximately 5 hours to collect the information required in §1.1254-5(d)(2). The estimated annual reporting burden under §1.1254-5(d)(2) is 500 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 August 12, 2010 (**75 FR 30917**), 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-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.