

**SUPPORTING STATEMENT
(REG-115054-01)**

• **CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Regulations under §66

Section 66 of the Internal Revenue Code provides rules to determine how community income is treated under section 66 for certain married individuals in community property states who do not file joint individual Federal income tax returns. The regulations contain two options for spouses who file a claim for relief from the operation of community property law in §1.66-4:

(1) A spouse may request relief from the operation of community property law under § 66(c) by completing Form 8857, "Request for Innocent Spouse Relief," and submitting Form 8857 to the Internal Revenue Service.

(2) A spouse may request relief from the operation of community property law under § 66(c) by preparing a statement containing all of the information required on Form 8857, and submitting the statement to the Internal Revenue Service.

Form 8857 or the similar statement may not be submitted before there is an indication that there is a deficiency or an underpayment with respect to the return. Generally, when relief is sought under the first relief provision of § 66(c), a spouse must submit Form 8857 or the similar statement after a deficiency has been asserted and prior to the 6-month period before the expiration of the statute of limitations on assessment, including extensions, against the nonrequesting spouse.

• **USE OF DATA**

The IRS requires this information to determine if taxpayers requesting the application of § 66(c) are entitled to relief from the operation of community property law.

• **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.

• **EFFORTS TO IDENTIFY DUPLICATION**

We have attempted to eliminate duplication within the agency wherever possible.

• **METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER**

SMALL ENTITIES

Not applicable.

· **CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Not applicable.

· **SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

Not applicable.

· **CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

This notice of proposed rulemaking was published in the Federal Register on January 22, 2002 (67 FR 2841). No public hearing was requested or held. The final regulations were published in the Federal Register on July 10, 2003 (68 FR 41067).

In response to the **Federal Register Notice** dated November 15, 2010 (**75 FR 69740**), we received no comments during the comment period regarding REG-115054-01.

· **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

· **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

· **JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

· **ESTIMATED BURDEN OF INFORMATION COLLECTION**

Section 66 of the Internal Revenue Code provides rules to determine how community income is treated for certain married individuals in community property states who do not file joint individual Federal income tax returns. Section 1.66-4 of the proposed regulations provides that taxpayers who are requesting the application of § 66(c) must

either file Form 8857, or submit a written statement containing the same information as required on Form 8857 signed under penalties of perjury. The burden of complying with this requirement is reflected in the burden of Form 8857.

ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register Notice dated November 15, 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 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.