

**SUPPORTING STATEMENT  
(Form 8886)**

. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Form 8886

Section 1.6011-4 provides that certain taxpayers must disclose their direct or indirect participation in reportable transactions when they file their Federal income tax return.

Pre-CAP/CAP application Form:

The Compliance Assurance Process (CAP) is a strictly voluntary program available to LMSB taxpayers that meet the selection criteria. CAP is a real-time review of completed business transactions during the CAP year with the goal of providing certainty of the tax return within 90 days of the filing. Taxpayers in CAP are required to be cooperative and transparent and report all material issues and items related to completed business transactions to the review team.

. USE OF DATA

Individuals, corporations, S corporations, partnerships and trusts use the Form 8866 to disclose reportable transactions in which they directly or indirectly participated. Information on the Pre-CAP/CAP Application Form will be used by the LMSB industry executives to determine which taxpayers meet the selection criteria and should be accepted into the voluntary program for the year.

. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We are currently offering electronic filing on Form 8886.

. 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.

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 8886 and the Pre-CAP/CAP Application Form.

In response to the Federal Register notice (75 FR 77046), dated December 10, 2010, we received no comments during the comment period regarding Form 8886.

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 burden estimate for Form 8886 is as follows:

Form	No. of Responses	Time per Response	Total Hours
8886	42,409	22.26	913,490
Pre-Cap/CAP	112	1.86	208
TOTAL	42,521	24.12	913,698

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 December 10, 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

The primary cost to the government consists of the cost of printing Form 8886. We estimate that the cost of printing the form is \$400.

15. REASONS FOR CHANGE IN BURDEN

Revisions to Form 8886 resulted in a reduction of 288 hours attributed to program change. Also, a more accurate accounting of the number of files (respondents) was provided by the Office of the Tax Shelter Analyst (OTSA), which increased responses by 42,009, for a total of 42,409.

The total burden for this collection is 913,698.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

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.

### **OMB EXPIRATION DATE**

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplies owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.