

SUPPORTING STATEMENT  
REG-127391-07 (TD 9403-final)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The final regulations reflect the changes to section 664(c) made by section 424 of the Tax Relief and Health Care Act of 2006 (Act), Public Law 109–432, 120 Stat. 2922. Section 424(a) of the Act, which applies to taxable years beginning after December 31, 2006, provides that charitable remainder trusts that have UBTI remain exempt from Federal income tax, but imposes a 100-percent excise tax on their UBTI.

2. USE OF DATA

The information will be used by the IRS to determine whether the tax is correctly paid.

3. 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.

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

On March 7, 2008, proposed regulations (REG–127391–07) relating to the tax effect of UBTI on charitable remainder trusts were published in the **Federal Register** (73 FR 12313). Although two comments were received in response to the proposed regulations, no request to speak was submitted, so no public hearing was held (see 73 FR 18729). After consideration of the comments, the proposed regulations are adopted by this Treasury decision without substantive change.

In response to the Federal Register notice (75 FR 74770), dated December 1, 2010, we received no comments during the comment period regarding these proposed and temporary regulations.

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

Section 1.664-1(c) of the proposed regulations requires that persons liable for the tax imposed by section 664(c) of the Code to report the tax. We estimate that there will be 100 taxpayers annually and that it will take .5 hour to complete the form, for a total burden of 50 hours annually.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated December 1, 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 responses from taxpayers on this subject. As a result, estimates of these 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 were no changes made to the document that resulted in any change to the burden previously reported to 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 collection 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.