

## **SUPPORTING STATEMENT (REG-164754-01)**

### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

The proposed regulations provide guidance on the tax treatment of split-dollar life insurance arrangements. Under the regulations, certain split-dollar life insurance arrangements may be treated as loans for Federal tax purposes. If a split-dollar loan is nonrecourse to the borrower, then any stated interest payable on the loan is treated as contingent, which generally would result in imputed transfers of income to the borrower. However, for this type of loan, the parties to the loan may make a written representation that a reasonable person would expect that all payments under the loan will be made. If this representation is made, the stated interest on the loan will not be treated as contingent. If the representation is made, each party must retain an original of the representation as part of its books and records and attach a copy to its Federal income tax return for any taxable year in which the lender makes a loan to which the representation applies.

In addition, under the regulations, if a split-dollar loan provides for contingent payments, the lender must produce a projected payment schedule for the loan and give the borrower and any indirect participant a copy of the schedule. This schedule is used by the parties to compute their interest accruals and any imputed transfers for tax purposes.

### **2. USE OF DATA**

The Internal Revenue Service will use the data collected from the parties to split-dollar loans to ensure consistent reporting between the borrowers and lenders of these loans.

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

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission. However, the written representation relating to a nonrecourse split-dollar loan may be filed as a statement attached to an electronic

Federal tax return.

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**

The notice of proposed rulemaking was published in the **Federal Register** on June 7, 2011 (76 FR 33025). A public hearing on the regulations was requested or held on October 23, 2002. On May 9, 2003, a notice of proposed rulemaking was published in the Federal Register (68 FR 24898) proposing rules for the valuation of economic benefits under an equity split-dollar life insurance arrangement governed by the economic benefit regime. A public hearing on the 2003 proposed regulations was held on July 29, 2003. The final regulations were published in the **Federal Register** on September 17, 2003 (68 FR 54336).

In response to the Federal Register Notice dated June 7, 2011 (76 FR 33025), we received no comments during the comment period regarding Regulation 164754-01.

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**

(a) Under §1.7872-15(d) of the proposed regulations, if a split-dollar loan is nonrecourse to the borrower, then any stated interest payable on the loan is treated as contingent, which generally would result in imputed transfers of income to the borrower. However, for this type of loan, the parties to the loan may make a written representation that a reasonable person would expect that all payments under the loan will be made. If this representation is made, the stated interest on the loan will not be treated as contingent. If the representation is made, each party must retain an original of the representation as part of its books and records and attach a copy to its Federal income tax return for any taxable year in which the lender makes a loan to which the representation applies.

We estimate that the total burden for this requirement is 25,000 hours, based on 100,000 respondents and .25 hour per representation.

(b) Under §1.7872-15(j)(3)(ii) of the proposed regulations, if a split-dollar loan provides for contingent payments, the lender must produce a projected payment schedule for the loan and give the borrower and any indirect participant a copy of the schedule. This schedule is used by the parties to compute their interest accruals and any imputed transfers for tax purposes.

We estimate that the total burden for this requirement is 7,500 hours, based on 15,000 respondents and .5 hour per schedule.

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 **June**

7, 2011 (76 FR 33025), 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**

Not applicable.

**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.

