

SUPPORTING STATEMENT
(IA-195-78)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 458 was added to the Code by section 372 of the Revenue Act of 1978. In general, section 458 provides that an accrual method taxpayer may elect to exclude from gross income amounts attributable to the qualified sale of magazines, paperbacks, or records returned within a certain time after the close of the taxable year. The final regulations, consistent with the proposed rules, provide that, in addition to physical return of the merchandise to the taxpayer, physical return of some portion of the merchandise shall constitute evidence of a return if such return is understood to mean that the merchandise has not been and will not be resold. A taxpayer who receives physical evidence of the returned merchandise may, in lieu of retaining that physical evidence, retain documentary evidence that describes the quantity of items returned and an indication that the items were returned before the close of the merchandise return period.

2. USE OF DATA

The recordkeeping will be performed both by persons who choose to provide documentary evidence of the return, rather than physical evidence of the return, and by persons who receive physical evidence of the return and choose to retain documentary evidence in lieu of retaining physical evidence of the return. Both types of documentary evidence will be used to substantiate the quantity of merchandise returned within the applicable merchandise return period. Taxpayers who either return the physical merchandise, or retain physical evidence of the return are not also required to prepare documentary evidence of the return.

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

The regulations were published as a Notice of Proposed Rulemaking in the Federal Register on August 31, 1984 (49 FR 34520), which provided the general public with a 60-day period in which to review and provide public comments relating to any aspect of the regulations. A public hearing was held on October 16, 1991. Final regulations were published in the Federal Register on August 26, 1992 (57 FR 38595).

We received no comments during the comment period in response to the Federal Register notice dated May 25, 2011 (76 FR 30433).

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

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

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

We estimate the burden for this regulation to be as follows: Section 1.458-1(d) requires that documentary evidence be recorded to substantiate the quantity of merchandise returned within the applicable merchandise return period. We estimate that 19,500 persons may choose to record this information. It will take 25 minutes to do so and the annual burden will be approximately 8,125 hours. The retention period will be three years.

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 May 25, 2011, 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.