

SUPPORTING STATEMENT (T.D. 8861)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Under section 6104(d) of the Internal Revenue Code, private foundations are required to make their annual information returns and applications for tax exemption available for public inspection. In addition, private foundations are required to comply with requests made in writing or in person from individuals who seek a copy of those documents or, in the alternative, to make their documents widely available. The regulations provide guidance concerning the annual information returns and applications for recognition of tax exemption that private foundations must make available for public inspection. The regulations also provide guidance concerning a private foundation's compliance with requests made in person or in writing from individuals who seek a copy of the private foundation's application for recognition of tax exemption and annual information returns. The regulations also provide that a private foundation may be relieved from its obligation to provide copies if the private foundation has made the requested documents widely available or the District Director determined, upon application, that the private foundation was subject to a harassment campaign. The regulations provide guidance concerning methods private foundations can use to make their documents widely available. In addition, the regulations contain rules and procedures concerning an application for a harassment campaign determination.

2. USE OF DATA

The requirement that private foundations make their annual information returns and application for tax exemption available for public inspection and comply with requests made in person or in writing from individuals who seek a copy of those documents or, in the alternative, make the documents widely available, will be used by the public to obtain information about private foundations. The information that a private foundation provides when filing an application for a determination that a group of requests is part of a harassment campaign will be used by the Internal Revenue Service to make such determination. The collection of information is required to obtain relief from the requirement to comply with requests for copies if such requests are determined to be part of a harassment campaign.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The regulations provide that a private foundation is not required to comply with requests for copies if it has made the requested documents widely available. The regulations provide the means by which a private foundation can make its application for tax exemption or an annual information return widely available. Generally, a private foundation may make its application for tax exemption or an annual information return widely available by posting it on the Internet or by other methods prescribed by the Commissioner by revenue procedure or other guidance. We estimate that 0.1 percent of the private foundations will use the Internet for this purpose.

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 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 August 10, 1999 (64 FR 43324). No public hearing on the regulations was requested or held. The final regulations were published in the **Federal Register** on January 13, 2000 (65 FR 2030).

We received no comments during the comment period in response to the **Federal Register notice dated May 12, 2011 (76 FR 27751)**.

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Under section 6104(d) of the Internal Revenue Code, private foundations are required to make their annual information returns and applications for tax exemption available for public inspection.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collections of information are in §§301.6104(d)-1, 301.6104(d)-2, and 301.6104(d)-3. Section 301.6104(d)-1 requires private foundations to make their applications for tax exemption and their annual information returns available for public inspection at their principal, regional and district offices. These private foundations are required to provide a copy of their applications and returns to any individual making such request. We are estimating that 65,000 private foundations will be required to maintain copies of the applications and returns for the purposes of public inspection and provide copies, or other methods of disclosing the information to the public. We estimate that the number of requests that a private foundation receives to inspect or provide copies will vary from 0 to 100 per year. Because the majority of private foundations will not receive any requests, we estimate that on average a private foundation will receive 1 request per year at an average burden of 0.5 hours for each recordkeeper for a total burden of 32,500 hours.

Under §301.6104(d)-2, as an alternative to providing copies, the private foundations may make their applications and returns widely available by posting them on the Internet or by other methods prescribed by the Commissioner by revenue procedure or other guidance. We estimate that 65 private foundations will post their applications and returns on the Internet at an average burden of 1 hour for each recordkeeper for a total burden of 65 hours. We estimate that 65 private foundations will have to provide notices to the public informing individuals where their applications and returns are available. The estimated burden per respondent is anticipated to be 0.25 hours for a total burden of 16 hours.

Under §301.6104(d)-3, a private foundation may be the subject of a

harassment campaign and file an application for relief from the requirement to provide copies with the appropriate key district director. We estimate that 3 private foundations per year will file harassment campaign applications. The estimated burden per respondent is anticipated to be 5 hours for a total burden of 15 hours.

The total burden for the above requirements is 32,596 hours. 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 12, 2011 (76 FR 27751)**, 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 ANNUAL 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.