

SUPPORTING STATEMENT (T.D. 9352)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The regulations provide guidance on the requirement under section 6112 to maintain a list of investors in potentially abusive tax shelters. As per regulations section 301.6112-1(b)(1), the form provides material advisors a format for preparing and maintaining the itemized statement component of the list with respect to a reportable transaction. This form contains space for all of the elements required by regulations section 301.6112-1(b)(3)(i). Material advisors may use this form as a template for creating a similar form on a software program used by the material advisor. If a material advisor is required to maintain a list under a prior version of the regulations, this form may be modified or a similar form containing all the information required under the prior version of the regulations may be created and used.

2. USE OF DATA

The information will be used to improve compliance with the tax laws by giving the Treasury Department earlier notification of transactions that may not comport with the tax laws.

2. 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.

3. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

4. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

5. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

6. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE

INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

7. **CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

On November 1, 2006, the IRS and Treasury Department issued a notice of proposed rulemaking and temporary and final regulations under sections 6011, 6111, and 6112 (REG-103038-05, REG-103039-05, REG-103043-05, *TD 9295*) (the November 2006 regulations). The November 2006 regulations were published in the **Federal Register** (*71FR 64488, 71 FR 64496, 71 FR 64501, 71 FR 64458*) on November 2, 2006.

The IRS and Treasury Department received written public comments responding to the proposed regulations and held a public hearing regarding the proposed rules on March 20, 2007. After consideration of the comments received and comments made at the hearing, the proposed regulations are adopted as revised by this Treasury decision. These final regulations generally retain the provisions of the proposed regulations but include some modifications based on recommendations in the public comments.

In response to the **Federal Register Notice** dated **August 18, 2011 (76 FR 51472)**, we received no comments during the comment period regarding

8. **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

9. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

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

10. **JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

11. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

Section 301.6112-1T(e) provides guidance as to which investors must be included on the list, enumerates the items that must be included in the list, and provides a procedure for asserting a claim of privilege. We estimate that this burden will be 100 hours per respondent due to the time it takes to gather the required information. Accordingly, we estimate that 500 persons annually will be required to maintain lists and that the burden

will be 100 hours per person, for a total burden of 50,000 hours.

Section 301.6112-1T(i) provides a procedure that permits a person to request a ruling if the person is uncertain whether a transaction constitutes a potentially abusive tax shelter for which a list must be maintained. We estimate that there will be no more than one person annually requesting a ruling and the burden for requesting a ruling is reflected in Rev. Proc. 2002-1 “Letter rulings, determination letters, and information letters issued by the Associate Chief Counsel (Domestic), Associate Chief Counsel (Employee Benefits and Exempt Organizations), Associate Chief Counsel (Enforcement Litigation), and Associate Chief Counsel (International)”, 2002-1 I.R.B.1.

The total burden for these regulations is 50,000 hours.

Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

12. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register Notice dated August 18, 2011 (76 FR 51472)**, 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.

13. ESTIMATED ANNUAL COST TO THE FEDERAL GOVERNMENT

Not applicable.

14. 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.

15. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

16. 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.

17. **EXCEPTIONS TO THE CERTIFICATION REQUIREMENT OF 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, or 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 pertaining 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 return information are confidential as required by 26 U.S.C. §6103