

SUPPORTING STATEMENT (LR-165-84)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 7872 of the Internal Revenue Code recharacterizes a below-market interest rate loan (“below-market loan”) within certain specified categories as a loan requiring the payment of interest at the applicable Federal rate coupled with a payment by the lender to the borrower in an amount equal (generally) to the interest imputed by section 7872. The substance of the transaction is determinative of the Federal tax consequences of the deemed transfer by the lender to the borrower. Accordingly, the deemed transfer is determined at the time the loan is made using a present value analysis, in the case of term loans. Similarly, the amount of the imputed interest is determined annually, in the case of gift and demand loans, and is determined at the time the loan is made using a present value analysis, in the case of term loans (other than gift term loans).

The regulations provide in section 1.7872-11(g) that both the borrower and the lender must attach a statement to their respective income tax returns for any taxable year in which the taxpayer has either an amount of imputed income under section 7872 or claims a deduction for an amount of imputed expense under section 7872. The statement must explain that the amount is imputed under section 7872; provide the name, address, and taxpayer identification number of the other party to the loan transaction; and specify the amount and character of imputed interest.

Neither section 7872 nor the proposed regulations requires taxpayers to produce additional paperwork. Taxpayers maintain records of loan transactions they enter into. Currently, taxpayers claiming home mortgage interest deductions must provide the Internal Revenue Service with the name and address of the payee. Similarly, taxpayers reporting interest or dividend income must provide the name of the payor. This section merely reinforces the existing requirements of other Code sections that require taxpayers to file supporting statements.

2. USE OF DATA

The information required to be filed with the return is used by the

Internal Revenue Service to determine the taxpayer's proper tax liability. In addition, the information will be used to verify that all parties to a below-market loan transaction are complying with section 7872.

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 20, 1985 (50 FR 33553), 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 not held.

TD 8045 (50 FR 33519) August 20, 1985, provides 1.7872-5T as a temporary regulation, superseding the proposed regulation 1.7872-5 that was published as part of NPRM LR-165-84. All other provisions of NPRM LR-165-84 (1.7872-1

through 1.7872-4, and 1.7872-6 through 1.7872-14) are reserved as proposed regulations.

In response to the **Federal Register Notice** dated **October 14, 2011 (76 FR 63993)**, we received no comments during the comment period regarding LR-165-84.

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

Section 1.7872-11(g)(1) requires lenders and borrowers to attach a statement to their tax return in which they either have interest imputed under section 7872 or claim a deduction for an amount deemed to be transferred under section 7872. We estimate that approximately 1,631,202 lenders and borrowers will file these statements and it will take approximately .25 hour to complete each statement. Total hours: 407,801.

Section 1.7872-11(g)(3) requires lenders to recognize the entire amount of interest income imputed under section 7872 with respect to gift loans unless the borrower notifies the lender, in a signed statement, of the amount of the borrower's net investment income properly allocable to the loan according to the provisions of section 7872(d)(1) and section 1.7872-6. We estimate that approximately 295,686 borrowers will prepare notifications and it will take .25 hour per notification. Total hours: 73,921.

Section 1.7872-5(c)(1)(i)(B) requires with respect to mortgage loans, that the employee certify to the employer that he/she reasonably expects to be entitled to itemize deductions for the full amount of the interest imputed under section 7872 for each year the loan is outstanding. We have not computed the burden for this requirement as we feel that such a certification is exempt from OMB review under

section 1320.3(h)(l) of OMB's regulations implementing the Paperwork Reduction Act. OMB approved this interpretation when FI-165-84 was previously submitted for OMB review.

Total Burden: 481,722 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 **October 14, 2011 (76 FR 63993)**, 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.