

Supporting Statement  
(REG-106486-98, TD 9157-Final)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Generally, the issuer is required to determine the comparable yield, and projected payment schedule, and in the case of a multicurrency debt instrument, the denomination currency of the debt instrument, and is required to provide this information to the holder. The holder is required to follow the issuer's determinations. However, if the issuer does not create a projected payment schedule, or if the issuer's projected payment schedule is unreasonable, the holder is required to determine the comparable yield, and projected payment schedule, and in the case of a multicurrency debt instrument, the denomination currency of the debt instrument. If the holder makes these determinations, the holder is required to explicitly disclose this fact to the IRS on a statement attached to its timely filed federal income tax return for the taxable year that includes the acquisition date of the debt instrument. In addition, the holder must disclose in the statement the reasons why the holder made its own determinations, e.g., why the issuer's projected payment schedule is unreasonable. In addition, any person making a determination as to the comparable yield and projected payment schedule must support its determination with contemporaneous documentation showing that the comparable yield and projected payment schedule are reasonable, are based on reliable, complete, and accurate data, and are made in good faith.

The reason the issuer is required to provide the holder with the comparable yield, and projected payment schedule, and in the case of a multicurrency debt instrument, the denomination currency of the debt instrument, is to promote issuer/holder consistency as to the computation of interest expense/ income with regard to the debt instrument. In addition, there will only be a single issuer for a debt instrument, while there may be many holders of the debt instruments (particularly if the instruments are publicly traded). If the holder determines its own comparable yield, projected payment schedule, or in the case of a multicurrency debt instrument, the denomination currency of the debt instrument, disclosing these facts will alert the IRS to the possibility of the issuer and holder taking inconsistent positions regarding the interest being accrued on the debt instrument. In addition, any person making a determination as to the comparable yield or projected payment schedule must maintain contemporaneous supporting documentation for audit purposes, so that taxpayers would not deduct inappropriately high interest deductions or recognize

inappropriately low interest income.

2. USE OF DATA

The information collected by the IRS will be used for audit and examination purposes.

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.

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

This notice of proposed rulemaking was published in the Federal Register on August 29, 2003 (68 F.R. 51944). No public hearing was requested or held. One comment was submitted and considered. The proposed regulations were adopted as amended by Treasury decision 9157. This Treasury decision (TD 9157), was published in the Federal register on August 30, 2004 (69 F.R. 52816).

We received no comments during the comment period in response to

the Federal Register notice (76 F.R. 63995), dated October 14, 2012.

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 1.988-6(a)(1) through a cross reference to §1.1275-4 requires an issuer of a nonfunctional currency contingent payment debt instrument to provide the issuer's projected payment schedule to the holder in a reasonable manner. We estimate that this requirement will affect 50 respondents per year, and take .3 hours each for a total of 15 reporting hours.

Section 1.988-6(a)(1) through a cross reference to §1.1275-4 requires a holder of a nonfunctional currency contingent payment debt instrument that determines its own comparable yield and projected payment schedule to disclose this fact and the reason why the holder set its own schedule. The disclosure must be made on a statement attached to the holder's timely filed federal income tax return for the taxable year that includes the acquisition date of the debt instrument. We estimate that this requirement will affect 50 respondents per year, and take .5 hours each for a total of 25 reporting hours.

Section 1.988-6(d)(3) requires that an issuer of a multi-currency debt instrument provide the holders its determination as to the denomination currency of the instrument in a reasonable manner. We estimate that this requirement will affect 25 respondents per year, and take .2 hours each for a total of 5 reporting hours.

Section 1.988-6(d)(3) requires that a holder of a multi-currency debt instrument that determines on its own the denomination currency of the instrument to disclose this fact and the reason why the holder made its own determination. The disclosure must be made on a

statement attached to the holder's timely filed federal income tax return for the taxable year that includes the acquisition date of the debt instrument. We estimate that this requirement will affect 25 respondents per year, and take .2 hours each for a total of 5 reporting hours.

Section 1.988-6(a)(1) through a cross reference to §1.1275-4 requires that the determination as to comparable yield and projected payment schedule must be supported by contemporaneous documentation showing that both are reasonable, are based on reliable, complete, and accurate data, and are made in good faith. We estimate that this requirement will affect 100 record-keepers per year, and take .5 hours each for a total of 50 recordkeeping hours. Thus, the total burden under OMB #1545-1831 (REG-106486-98 (Final)) will be 100 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, 2012, 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 responses from taxpayers on this subject. As a result, estimates of these 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.

This form is being submitted for renewal purposes only.

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.