

SUPPORTING STATEMENT
Debt Instructions with Originals Issue Discount; Contingent Payments;
Anti-Abuse Rule
TD 8674
OMB Control Number 1545-1450

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

(a) Under section 1.1275-2(h)(5) of this regulation, the issuer's determination that a contingency is remote or incidental is binding on all holders. However, the issuer's determination is not binding on a holder that explicitly discloses that its determination is different from the issuer's determination. Unless otherwise prescribed by the Commissioner, 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.

(b) In general, §1.1275-3(b)(1) of this regulation requires an issuer of a debt instrument issued with original issue discount (OID) to place certain information on the face of the debt instrument (the legending requirement). The legending requirement, however, only applies to a nonpublicly offered debt instrument that is issued in physical form. Under §1.1275-3(b)(1)(i), if the legending requirement applies to a debt instrument, the issuer of the debt instrument must (i) set forth on the face of the debt instrument the issue price, the amount of OID, the issue date, and the yield to maturity or (ii) provide the name, address, and telephone number of a representative of the issuer who will provide the information to the holder of the debt instrument.

Under §1.1275-4(b) of this regulation, if the noncontingent bond method applies to a contingent payment debt instrument, the issuer must create a projected payment schedule for the debt instrument. Because the projected payment schedule is used by the holder to compute interest and OID accruals, the regulation amends §1.1275-3(b)(1)(i) by adding the projected payment schedule to the list of information required for a contingent payment debt instrument subject to the legending requirement.

(c) In the case of a contingent payment debt instrument subject to the noncontingent bond method, §1.1275-4(b)(4)(iv) of this regulation provides that the projected payment schedule used by the issuer to compute interest accruals and adjustments determines the holder's interest accruals and adjustments. The issuer must provide the projected payment schedule to the holder in a manner consistent with the issuer disclosure rules of §1.1275-2(e). If the issuer does not create a projected payment schedule for a debt instrument or the payment schedule set by the issuer is unreasonable, the holder of the debt instrument must set a projected payment schedule. A holder that sets its own projected payment schedule must explicitly disclose this fact and the reasons why the

holder set its own schedule. Unless otherwise prescribed by the Commissioner, 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.

(d) Section 1.1275-6 of this regulation provides rules for the integration of a qualifying debt instrument with a hedge or combination of hedges. In the case of an integrated transaction, §1.1275-6(e) of the regulation provides that the taxpayer must enter and retain as part of its books and records the following information: (i) the date the qualifying debt instrument was issued or acquired by the taxpayer and the date the §1.1275-6 hedge was entered into by the taxpayer; (ii) a description of the qualifying debt instrument and the §1.1275-6 hedge; and (iii) a summary of the cash flows and accruals resulting from treating the qualifying debt instrument and §1.1275-6 hedge as an integrated transaction.

2. USE OF DATA

The data is used by the Internal Revenue Service and taxpayers to verify that the proper amount of tax is reported.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We have no plans to offer electronic filing. IRS publication, 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

There are no small entities affected by this collection.

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

The information required of U.S. persons will be used on audit to verify compliance with Section 1275 of the Internal Revenue Code. Less frequent collection of taxes and tax information, could adversely affect the governments effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Service Code.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF 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 December 16, 1997 (59 FR 62884). The public hearing was held on March 16, 1995. The final regulations were published in the *Federal Register* on June 14, 1996 (61 FR 30133).

In response to the *Federal Register* notice dated May 13, 2016 (81 FR 29954), we received no comments during the comment period regarding Regulation FI-59-91 (TD 8674).

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

No payment or gift has been provided to any respondents.

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

No PII (Personally Identifiable Information) is being collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

(a) Under section 1.1275-2(h)(5), the issuer's determination that a contingency is remote or incidental is binding on all holders. However, the issuer's determination is not binding on a holder that explicitly discloses that its determination is different from the issuer's determination. Unless otherwise prescribed by the Commissioner, 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.

The total reporting burden estimates:

<u>Respondents</u>	<u>Hours per Record</u>	<u>Total Annual Burden Hours</u>
5000	.30 hours.	1500 hours

(b) Under §1.1275-4(b) of the regulation, if the noncontingent bond method applies to a contingent payment debt instrument, the issuer must create a projected payment schedule for the debt instrument. Because the projected payment schedule is used by the holder to compute interest and OID accruals, the regulation amends §1.1275-3(b)(1)(i) by adding the projected payment schedule to the list of information required for a contingent payment debt instrument subject to the legending requirement.

The recordkeeping burden for this requirement is contained in 1545-1466, Third-Party Disclosure Requirements in IRS Regulations.

(c) In the case of a contingent payment debt instrument subject to the noncontingent bond method, §1.1275-4(b)(4)(iv) of this regulation provides that the projected payment schedule used by the issuer to compute interest accruals and adjustments determines the holder's interest accruals and adjustments. The issuer must provide the projected payment schedule to the holder in a manner consistent with the issuer disclosure rules of §1.1275-2(e). If the issuer does not create a projected payment schedule for a debt instrument or the payment schedule set by the issuer is unreasonable, the holder of the debt instrument must set a projected payment schedule. A holder that sets its own projected payment schedule must explicitly disclose this fact and the reasons why the holder set its own schedule. Unless otherwise prescribed by the Commissioner, 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.

The total estimated reporting burden:

<u>Respondents</u>	<u>Hours per Statement</u>	<u>Total Burden Hours</u>
100,000	.5 hours	50,000

(d) Section 1.1275-6 of this regulation provides rules for the integration of a qualifying debt instrument with a hedge or combination of hedges. In the case of an integrated transaction, §1.1275-6(e) of the regulation provides that the taxpayer must enter and retain as part of its books and records the following information: (i) the date the qualifying debt instrument was issued or acquired by the taxpayer and the date the §1.1275-6 hedge was entered into by the taxpayer; (ii) a description of the qualifying debt instrument and the §1.1275-6 hedge; and (iii) a summary of the cash flows and accruals resulting from treating the qualifying debt instrument and §1.1275-6 hedge as an integrated transaction.

The total recordkeeping burden estimate:

<u>Recordkeepers</u>	<u>Hours per Record</u>	<u>Total Burden Hours</u>
75,000	.5 per record	37,500 hours

Total Burden Estimate for this collection:

<u>Recordkeepers</u>	<u>Hours per Record</u>	<u>Total Burden Hours</u>
180,000	.49 hours	89,000

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There is no annual start-up costs associated with this collection.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no annualized cost to the federal government.

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

There are no plans for tabulation, statistical analysis and publication.

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

There are no exceptions to the certification statement.

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.

