

## **SUPPORTING STATEMENT**

Denial of interest deduction on certain obligations to foreign persons  
(OMB # 1545-1132)

### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Sections 163(f), 165(j), and 1287(a) of the Internal Revenue Code were added to the Code by the Tax Equity and Fiscal Responsibility Act of 1982. Section 163(f) disallows an interest deduction otherwise allowable under section 163(a), or any other provision of the Code, if the interest is attributable to a registration-required obligation issued in bearer form. An obligation is not a registration-required obligation if, among other things, it is sold pursuant to arrangements reasonably designed to ensure sale to non-United States persons. The reporting requirements are necessary to ensure sale of bearer obligations only to non-United States persons.

Sections 165(j) and 1287(a) of the Internal Revenue Code of 1954, as amended by the Tax Equity and Fiscal Responsibility Act of 1982, provide that persons holding registration-required obligations in bearer form are subject to certain penalties. These sections also provide that certain persons may be exempted from these penalties if such persons comply with reporting requirements with respect to ownership, transfers, and payments as the Secretary may require. The reporting and recordkeeping requirements are necessary to ensure that persons holding registration-required obligations in bearer form properly report interest income and gain on disposition of such obligations.

The regulations under § 1.163-5 (c) (2) (i) provided rules relating to whether an obligation would be considered to be issued under arrangements reasonably designed to insure that the obligation will be sold (or resold in connection with its original issuance) only to a person who is not a United States person. Obligations that satisfied the "arrangements reasonably designed" test under section 1.163-5 (c) (2) (i) (A) or (B) were required, after the effective date, to satisfy section 1.163-5 (c) (2) (i) (D).

### **2. USE OF DATA**

The information collected will be used to ensure that taxpayers fully report their income.

### **3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an practicable basis in accordance with the IRS Reform and Restructuring Act of 1998. The forms used to comply with these documents can be submitted electronically when available.

### **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**

These regulations provide guidance on how to comply with Internal Revenue Code section 163(f), which disallows an interest deduction otherwise allowable under section 163(a), or any other provision of the Code, if the interest is attributable to a registration-required obligation issued in bearer form.

Failure to collect the information will prevent taxpayers from properly complying and/or reporting with the requirements outlined in sections 163(f), 165(j), and 1287(a) of the 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**

A notice of proposed rulemaking (49 FR 33276) cross-reference to temporary regulations (49 FR 33228) was published in the Federal Register on August 22, 1984. A public hearing was held on January 28, 1985. An amendment to the notice of proposed rulemaking was published in the Federal Register on August 20, 1985 (50 FR 33552). The proposed regulations were finalized without change in TD 8110 which was published in the Federal Register on December 19, 1986 (51 FR 45453).

The regulations were revised by a notice of proposed rulemaking, published in the Federal Register on August 24, 1989 (54 FR 35200). A public hearing was not held because one was not requested. Final and temporary regulations (TD 8300), were published in the Federal Register on May 10, 1990 (55 FR 19622).

In response to the **Federal Register** notice dated September 1, 206, (**81 FR 60407**), we received no comments during the comment period regarding the regulations.

**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**

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master File, BMF” system and a Privacy Act System of Records notice (SORN) has been issued for this system under:  
Treas/IRS 24.046 BMF  
Treas/IRS 34.047 Audit trail and security records system

The Internal Revenue Service PIA’s can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

## **12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

Forms 1099-B (1545-0715), will be prepared to report dispositions of certain obligations. This reporting is called for under regulations sections 1.165-12(c)(3)(ii) and 1.1287-1(b). Forms 1099-INT (1545-0112), will be prepared to report interest earned on certain obligations. This reporting is called for under regulations sections 1.165-12(c)(3)(i) and 1.1287-1(b)(2). Forms 1099-OID (1545-0117), will be prepared to report original issue discount earned on certain obligations. This reporting is called for under regulation 1.165-12(c)(i) and 1.1287-1(b)(2). The burden associated with these collections of information is reported under the affiliated approval number.

It is estimated that there will be 5,000 respondents that will be preparing certificates to be presented to the issuer or underwriter. These statements are called for by regulations section 1.163-5(c)(2)(i)(D). We estimate that it will take approximately 10 minutes to prepare these statements. (5,000 x 10.2 min. = 850 hours). Of these respondents, it is estimated that there will be 100 record-keepers that will be required to maintain records under section 1.163-5(c)(2)(i)(D). We estimate that it will take approximately 10 minutes for each record-keeper or 17 total burden hours.

The total burden being reported under this approval number is an estimated 5,000 responses per year and 867 hours.

Please continue to assign OMB number 1545-1132 to these regulations.

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**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

As suggested by OMB, our **Federal Register** notice dated September 1, 2016, 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**

There is no estimated annualized cost to the federal government for the collections under this approval number.

**15. REASONS FOR CHANGE IN BURDEN**

There is no change in the paperwork burden previously approved by OMB. However, we are making this submission to update burden estimates previously unaccounted for under section 1.163-5(c)(2)(i)(D). The correction of this information will result in an additional 17 hours of burden for this approval number.

**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.