

SUPPORTING STATEMENT

Exception from the information reporting requirements in § 6045(e)
OMB No. 1545-1592

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6045(e) and § 1.6045-4 of the Income Tax Regulations generally require a real estate reporting person (as defined in § 6045(e)(2) and § 1.6045-4(e)) to file an information return regarding a real estate transaction and to furnish a payee statement to the seller regarding that transaction.

Section 312 of the Taxpayer Relief Act of 1997 (TRA 1997), Pub. L. No. 105-34, 111 Stat. 788 (August 5, 1997), as amended by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 805 (July 22, 1998), effective for sales or exchanges after May 6, 1997, amended § 6045(e) by adding a new paragraph (5), which excepts a sale or exchange of a principal residence from the § 6045(e) information reporting requirements if the seller provides the real estate reporting person with a certification setting forth certain written assurances, including an assurance that the residence is the seller's principal residence (within the meaning of § 121) and an assurance that the full amount of the gain on the sale or exchange of the principal residence is excludable from gross income under § 121.

Revenue Procedure 2007-12 sets forth the acceptable form of the written assurances (certification) that a real estate reporting person must obtain from the seller of a principal residence to except the sale or exchange of such principal residence from the information reporting requirements for real estate transactions under § 6045(e)(5) of the Internal Revenue Code.

2. USE OF DATA

The Service will not receive this data. A record keeper, such as a real estate business or closing agent in a real estate transaction, must retain the data for 4 years after the year of the transaction.

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**

There are no small entities affected by this collection.

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

To be excepted from the information reporting requirements in § 6045(e) on the sale or exchange of a principal residence (including stock in a cooperative housing corporation), the real estate reporting person must obtain from the seller a written certification, signed by the seller under penalties of perjury.

Failure to collect the information will prevent taxpayers from providing the necessary information to comply with the current tax laws or receive the exception from the information reporting requirement.

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 THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

Revenue Procedure 98-20 was published in the Internal Revenue Bulletin on February 17, 1998 (1998-7 IRB 32). This Revenue Procedure was superseded by Revenue Procedure 2007-12 and was published in the Federal Register on January 22, 2007 (FR 78 446230).

We received no comments during the comment period in response to the Federal Register notice (81 FR 66746), dated September 28, 2016.

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 personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 4 of the revenue procedure requires that a real estate reporting person obtain the certification from each seller of a principal residence in order to be exempt from filing an information return with the Service and from furnishing a payee statement to the seller reporting the real estate transaction. We estimate that approximately 2,300,000 sellers will make the certification and that it will take approximately 10 minutes to make the certification. The total time estimate for taxpayers to meet this requirement is 383,000 hours.

Section 5 of the revenue procedure requires that the real estate reporting person retain the certification for 4 years after the year of the real estate transaction. We estimate that approximately 90,000 real estate reporting persons will be obliged to retain the certification and that it will take approximately 25 minutes per year to retain the certifications. The total time estimate for real estate reporting persons to meet this requirement is 37,500 hours.

The combined estimated totals are 2,300,000 estimated responses and 420,500 hours.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated September 28, 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 are no annualized costs 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 revenue procedure 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.