

**SUPPORTING STATEMENT**  
**Internal Revenue Service**  
**Form 1099-S**  
**Proceeds from Real Estate Transactions**  
**OMB No. 1545-0997**

**1.** CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code section 6045(e) and the related Treasury Regulations require persons treated as real estate brokers to submit an information return (Form 1099-S) to the Internal Revenue Service to report the gross proceeds from real estate transactions.

**2.** USE OF DATA

The reporting requirements that Internal Revenue Codes § 6045€ places on persons treated as real estate brokers allows the IRS to verify compliance with the reporting rules and to verify that the recipient has included the proper amount of income on his or her tax return to comply with the Internal Revenue Code.

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

We are currently offering electronic filing on Form 1099-S.

**4.** EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

**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

A less frequent collection will not enable the IRS to verify that real estate sales are being properly reported in accordance with Internal Revenue Code § 6045(e) and would therefore hinder the ability of the IRS to meet its mission.

**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**

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 1099-S.

In response to the **Federal Register** notice dated March 23, 2017 (82 FR 14941), we received comments during the comment period regarding Form 1099-S. The comments have been forwarded to the appropriate parties to take the suggestions under advisement.

American Escrow Association is concerned that the addition of the new requirement carries substantial burden. There are several comments addressing clauses a) through e) in the Federal Register Notice. Additionally, there are concerns with the 2017 revision of Form 1099-S in comparison to the effective date of the collection renewal.

Escrow Institute of California is concerned that the addition of the new form requirement was released for immediate use without a comment period. There are several comments relating to the additional burden this is causing for the industry. This requirement causes an incongruent overlap with real estate reporting rules IRC § 6045 and IRC 1445 regarding the FIRPTA (Foreign Investment in Real Property Act) withholding rules.

The Internal Revenue Service added a checkbox to the 2017 Form 1099-S, Proceeds from Real Estate Transactions. The checkbox is checked when the transferor reported on the form is a foreign person. The checkbox was added to improve compliance with the Foreign Investors in Real Property Tax Act (FIRPTA) of 1980. The revision to the form will more easily identify real estate transactions subject to FIRPTA.

Internal Revenue Service revised Form 1099-S to require the identification of foreign investors in United States real property by adding box 5 and renumbering the current box 5 as box 6 in response to a Treasury Inspector General Tax Administration (TIGTA) examination 2014-30-051. The changes to Form 1099-S are addressed in the 2017 OMB renewal process and are effective January 1, 2017 (for Forms 1099-S filed in 2018). The Federal Register Notice dated March 23, 2017 addresses the changes to Form 1099-S.

**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 IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs can be found at <http://www.treasury.gov/privacy/PIAs/Pages/default.aspx>

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**

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
6045(e)	Form 1099-S	2,573,400	1	2,573,400	.16	411,744
<b>Totals</b>		<b>2,573,400</b>				<b>411,744</b>

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0997 to these regulations.

1.6045-3            1.6045-4

We have reviewed the above regulations and have determined that the reporting requirements contained in them are entirely reflected on Form 1099-S. The justification appearing in item 1 of the supporting statement applies to both these regulations and to Form 1099-S.

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

There are no start-up costs associated with this collection.

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

The primary cost to the government consists of the cost of printing Form 1099-S. We estimate that the cost of printing the form is \$189,968.

**15. REASONS FOR CHANGE IN BURDEN**

New Box 5 was added to identify foreign investors in US Real Property. This change will result in a program change increase of 51,468 hours, with a new total burden of 411,744 hours.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	2,573,400	0	0	0	0	2,573,400
Annual Time Burden (Hr)	411,744	0	51,468	0	0	360,276

**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 form 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 for this collection.

**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.