

Supporting Statement 1

Internal Revenue Service

TD 9157, Guidance Regarding the Treatment of Certain Contingent Payment Debt Instruments

w/ one or more Payments that are Denominated in, or Determined by Reference to, a Nonfunctional Currency

OMB Control Number 1545-1831

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

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. The reason the issuer is required to provide the holder with the comparable yield, and projected payment schedule.

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.

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. 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. 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.

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. 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.

These final regulations regarding the treatment of contingent payment debt instruments for which one or more payments are denominated in, or determined by reference to, a currency other than the taxpayer's functional currency. The regulations affect issuers and holders of such instruments.

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. IRS intends to offer electronic filing to the extent it is practicable however in this case it isn't practicable because of the evaluative nature of the determination.

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 is no burden on small businesses or entities by this collection due to the inapplicability of the authorizing statute to this type of entity.

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

Consequences of information collected less frequently for this collection, would result in a person making a determination as to the comparable yield and projected payment schedule would not support its determination with contemporaneous documentation. The comparable yield and projected payment schedule could be unreasonable, based on unreliable, incomplete, and inaccurate data. This would result in the IRS being unable to determine the correct

amount and engendering the inability of 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

In response to the Federal Register notice dated November 9, 2021 (86 FR 62236), IRS received no comments during the comment period regarding TD 9157.

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

There is no sensitive personally identifiable information (PII) in this collection.

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.

	Total Responses	Hours per response	Total burden
REG-106486-98	250	.4	100

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. IRS is submitting this collection for renewal purposes only.

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

IRS believes 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 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.