

SUPPORTING STATEMENT
NOTICE 2005-41XX

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The notice explains the new rules under §§ 170(e)(1)(B)(iii) and 170(m), as added by the American Jobs Creation Act of 2004, governing charitable contributions of intellectual property made after June 3, 2004. Section 170(e)(1)(B)(iii) provides that a taxpayer's initial charitable contribution deduction for a contribution of intellectual property is limited to the lesser of the fair market value of the property or the taxpayer's adjusted basis of the property. Certain additional charitable contributions deductions may be allowed under § 170(m) if the donor provides notification to the donee at the time of the contribution of the donor's intent to take the additional deductions. The notice explains the method by which a donor of qualified intellectual property may notify the donee that the donor intends to treat the contribution as a qualified intellectual property contribution under § 170(m) and sets forth rules for the timing of the notification. For contributions made after June 3, 2004, and on or before the date that is 30 days after the issuance of this notice October 22, 2004, the notice allows a donors to satisfy the notification requirement by providing notification to the donee on or before the date that is within 6120 days after the issuance oof publication of this notice. For contributions made after the date that is 30 days after the issuance of this notice October 22, 2004, the notice provides that da donors must notify the donees within 30 days of the contribution.

2. USE OF DATA

Donors of qualified intellectual property will use the required notification as evidence that they have satisfied the § 170(m) notification requirement.

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~~We have no plans to offer electronic reporting.~~

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

Not applicable.

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

Not applicable.

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

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

[Notice 2005-41 was published in the IRB on June 6, 2005 \(2005-23 IRB 1203\).](#)

[We have consulted outside the Agency with the Securities Industry Association and with the Department of Treasury on the availability of data, frequency of collection, clarity of instructions and Forms, and data elements.](#)

[We will publish a notice in the Federal Register in the near future to solicit public comments on this notice. We have received no comments during the comment period in response to the **Federal Register** notice dated June 5, 2008 \(73 FR 32081\).](#) ~~Not applicable.~~

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 U.S.C. § 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The notice explains the method by which a donor of qualified intellectual property may notify the donee that the donor intends to treat the contribution as a qualified intellectual property contribution under § 170(m). Approximately 30 taxpayers each year donate qualified intellectual property and will be required to comply with the § 170(m) notification requirement to obtain the statute's income tax benefits. The compilation of information for the required notification should take approximately one hour each year.

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

13. ESTIMATED ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** notice dated June 5, 2008 (73 FR 32081), 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 the subject. As a result, estimates of the cost burdens are not available at this time.~~Estimates of the annualized cost to respondents for the hour burdens are not available at this time. Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.~~

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

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.~~Not applicable.~~

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS, AND PUBLICATION

Not applicable.

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 statutory provisions in § 170(m) sunset 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 ON OMB FORM 83-1

Not applicable.

Note:19. The following paragraph applies to all of the collections of information in this submission:REASON FOR EMERGENCY SUBMISSION

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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.

Reason for Emergency Submission

The effective date for § 170(m) is June 4, 2004. Because of the scope of the new provisions, it is important that the guidance be available to donors and donee organizations as quickly as possible.
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