

SUPPORTING STATEMENT  
(REG-165868-01)

**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Administrators of ten or more employer plans must maintain records and other evidence sufficient for participating employers and the IRS to substantiate that the plan satisfies the requirements of section 419A(f)(6). The administrators must provide this information to participating employers and the IRS upon request. Section 419A(i) of the Internal Revenue Code specifically authorizes this type of action.

**2. USE OF DATA**

The information will be used by employers for purposes of deducting contributions to the plan. It will be used by the IRS to verify those deductions.

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

We estimate that approximately 50% of the recordkeeping will be in electronically formatted.

**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 CFR 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**

This final regulation was published on July 17, 2003.

We received no comments during the comment period in response to the Federal Register notice dated May 30, 2008 (73 FR 31192).

**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 USC 6103.

**11. JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

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

The collections of information in the regulation are in §1.419A(f)(6)-1(a)(2) and §1.419A(f)(6)-1(e) and consist of the requirements that a plan administrator maintain certain information and that it provide that information upon request to the Commissioner and to employers participating in the plan. The plan administrator of a plan will be required to

maintain permanent records and other documentary evidence sufficient to substantiate the plan. The reporting and/or recordkeeping requirements will affect approximately 100 respondents and recordkeepers. The estimated time per a respondent and/or recordkeeper will be 25 hours. The total reporting and/or recordkeeping burden will be approximately 2,500 hours.

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

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

As suggested by OMB, our Federal Register notice dated May 30, 2008 (73 FR 31192), 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**

Not applicable.

**15. REASONS FOR CHANGE IN BURDEN**

Not applicable.

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

There is no change to this final regulation. We are making this submission to renew the OMB approval.

**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 regulations 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-I**

Not applicable.

**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.