

## Supporting Statement

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1.166-2(d)(3) of this regulation allows a bank to elect to determine the worthlessness of debts by using a method of accounting that conforms worthlessness for tax purposes to worthlessness for regulatory purposes. An election under this regulation is treated as a change in accounting method and may be voided by the Commissioner under limited circumstances or may be revoked by the bank, but only with the consent of the Commissioner. The regulation requires the filing of Form 3115 by banks that elect to determine worthlessness of debts using these provisions.

### 2. USE OF DATA

The reporting requirement applies to all banks, as defined in Code section 581 including foreign banks and Farm Credit System institutions, that make an election under these regulations. The bank reports its election by filing a Form 3115 (Application for Change in Accounting Method) with its timely filed return for the first year in which it makes the election and consent is automatically granted. Thereafter, the form must be filed with the National Office. The reports are necessary for changes in method of accounting and to monitor the elections made.

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

We have no plans to offer electronic filing. IRS publication, 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

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**

A notice of proposed rulemaking was published in the Federal Register on May 29, 1991 after being submitted to OMB. A public hearing was held with respect to the notice of proposed rulemaking and numerous comments were received. Final regulations were published in the Federal Register on February 24, 1992.

In response to the Federal Notice dated February 4, 2009 (74 F. R. 7105), we received no comments during the comment period regarding FI-34-91.

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 burden estimation was arrived at after consultation with representatives of the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance

Corporation and the Federal Reserve as to the number of potential respondents.

Section 1.166-2(d)(3) allows a bank to elect to conform its determination of worthlessness of bad debts for tax purposes with its determination of worthlessness for regulatory purposes, and establish a conclusive presumption of worthlessness.

The final regulations provide that consent is requested by filing a Form 3115. The burden for this requirement, however, will be reflected in the burden of Form 3115 itself.

Additionally, section 1.166-2(d)(3)(iii)(B) is a reporting requirement that is for a new bank that elects the conformity method of accounting when it adopts its overall method of accounting for bad debts. These banks would not be changing their method of accounting. Accordingly, in lieu of making the election on a Form 3115, these banks are required to attach a statement to their income tax return.

We estimate that this requirement will affect 200 respondents and that it will take them .25 hour each to complete the requirement. The estimated total burden for new banks adopting this method is 50 hours.

Furthermore, section 1.166-2(d)(3)(iv)(B) of the final regulations provides procedures for retroactive automatic revocation of an election in certain circumstances. If a bank's election is subject to this automatic revocation, the bank is required to file amended returns for taxable years affected by the revocation. The burden for this new requirement will be reflected on Form 1120X.

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

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

As suggested by OMB, our Federal Register notice dated February 4, 2009, 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 responses from taxpayers on this subject. As a result, estimates of these cost

burdens 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.

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 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. **EXCEPTION 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.

