

o **SUPPORTING STATEMENT**
REG-166012-00

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

These regulations provide rules relating to the timing and character of notional principal contract (NPC) payments, particularly contingent nonperiodic payments. Under the regulations, a nonperiodic payment must be taken into account over the term of the NPC. In the case of a back-end contingent payment, a taxpayer must project a value for the payment and devise a schedule to take the payment into account over the term of the NPC.

2. USE OF DATA

The notice of proposed rulemaking requires taxpayers to retain documentation supporting future payment projections and payment schedules. This recordkeeping requirement is designed to aid the IRS in administering the law and to prevent manipulation, such as deferring income to later years or recharacterizing ordinary income into capital gain. This information will be used to verify that a taxpayer is properly reporting income and expenses from NPCs. If there was no recordkeeping requirement, the IRS would be unable to achieve its objectives.

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.

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 notice of proposed rulemaking was published in the Federal Register (69 FR 8886), on February 26, 2004, to provide the public a 60-day period in which to review and provide public comments relating to any aspect of the proposed regulation.

In response to the Federal Register notice (75 FR 5850), dated February 4, 2010, 2006, we received no comments during the comment period regarding REG-166012-02.

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

Section 1.446-3(g)(6)(vii) of the proposed regulations provides a recordkeeping requirement with respect to the noncontingent swap method. Taxpayers must maintain in their books and records a description of the method used to determine the projected amount of the contingent payment, the projected payment schedules, and the adjustments taken into account under the proposed regulations. This information is required by the IRS to verify compliance with section 446 and the noncontingent swap method of accounting described in § 1.446-3(g)(6). This information will be used to determine whether the amount of tax has been calculated correctly. The collection of information is required to properly determine the amount of income or deduction to be taken into account. We estimate that this requirement will affect 4,250 respondents per year, and take 6 hours each for a total of 25,500 reporting 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 February 4, 2010, 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

There is no change in the paperwork burden previously approved by OMB.

This form is being submitted for renewal purposes only.

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 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.