

¹SUPPORTING STATEMENT

(Form 8857)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 3201(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105-206, 112 Stat. 685, 734 (RRA), enacted section 6015, which provides relief in certain circumstances from the joint and several liability imposed by section 6013(d)(3). Section 6015(b) and (c) specifies two sets of circumstances under which relief from joint and several liability is available. If relief is not available under section 6015(b) or (c), section 6015(f) authorizes the Secretary to grant equitable relief if, taking into account all the facts and circumstances, the Secretary determines that it is inequitable to hold a requesting spouse liable for any unpaid tax or any deficiency (or any portion of either). Section 66(c) provides relief from income tax liability resulting from the operation of community property law to taxpayers domiciled in a community property state who do not file a joint return. Section 3201(b) of RRA amended section 66(c) to add an equitable relief provision similar to section 6015(f).

2. USE OF DATA

The data on Form 8857 will be used to verify that the taxpayer qualifies for innocent spouse relief and that the amount is figured correctly.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to allow electronic filing of Form 8857 because the low volume of the form does not justify the cost of electronic enabling.

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**

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 8857.

In response to our **Federal Register Notice** dated **June 25, 2010 (75 FR 36477)**, we received no comments during the comment period concerning Form 8857.

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 information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

	<u>Number of Responses</u>	<u>Hours per Response</u>	<u>Total Hours</u>
Form 8857	50,000	4.81	240,500

Estimates of 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 **June 25, 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 responses from taxpayers on this subject. As a result, estimates of these cost burdens are not available at this time.

14. ESTIMATED ANNUAL COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists of the cost of printing this form. We estimate that the cost of printing the Form 8857 is \$60.

15. REASONS FOR CHANGE IN BURDEN

There are no changes to the burden previously approved by OMB. The form was currently under revision at the time of this submission. Taxpayers are able to use the older version of the forms until the 2010 revisions are completed. Drafts of the 2010 revisions have been included in this request.

We are making this submission for renewal purposes.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB DATE IS INAPPROPRIATE

See attachment.

18. EXCEPTION TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable

Note: The following paragraph applies to all 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 U.S.C. 6103.

OMB EXPIRATION DATE

We believe the public interest will be better served by not printing an expiration date on the form(s) in this package.

Printing the expiration date on the form will result in increased costs because of the need to replace inventories that become obsolete by passage of the expiration date each time OMB approval is renewed. Without printing the expiration date, supplies of the form could continue to be used.

The time period during which the current edition of the form(s) in this package will continue to be usable cannot be predicted. It could easily span several cycles of review and OMB clearance renewal. In addition, usage fluctuates unpredictably. This makes it necessary to maintain a substantial inventory of forms in the supply line at all times. This includes supplied owned by both the Government and the public. Reprinting of the form cannot be reliably scheduled to coincide with an OMB approval expiration date. This form may be privately printed by users at their own expense. Some businesses print complex and expensive marginally punched continuous versions, their expense, for use in their computers. The form may be printed by commercial printers and stocked for sale. In such cases, printing the expiration date on the form could result in extra costs to the users.

Not printing the expiration date on the form(s) will also avoid confusion among taxpayers who may have identical forms with different expiration dates in their possession.

For the above reasons we request authorization to omit printing the expiration date on the form(s) in this package.