

SUPPORTING STATEMENT
(REG-118926-97 T.D. 8817 Final)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6038B of the Code requires certain United States persons who contribute property to a foreign partnership or foreign corporation to file a return.

Section 6038B requires the filing of a return by a United States person to report the transfer of property to a foreign partnership in a contribution described in section 721 if (1) the United States person holds immediately after the transfer at least a 10-percent interest in the partnership, or (2) the aggregate value of property transferred by such person to the partnership during the preceding 12 months exceeds \$100,000. In addition, section 6038B requires the filing of a return by a United States person to report the transfer of property to a foreign corporation in an exchange described in section 332, 351, 354, 355, 356, or 361.

The regulations require the filing of a return on Form 8865, Information Return of U.S. Persons With Respect To Certain Foreign Partnerships, with respect to a contribution of property to a foreign partnership in a transfer described in section 6038B. The regulations also require the filing of a return on Form 926, Return By A U.S. Transferor Of Property To A Foreign Corporation, with respect to any cash contribution to a foreign corporation in an exchange described in section 6038B. If certain conditions are met, the regulations eliminate the filing requirement for certain partners in order to prevent duplicative filing requirements. Forms 8865 and 926 generally must be filed with the income tax return for the taxable year in which the contribution occurs.

2. USE OF DATA

The information is required by the IRS to identify United States persons who contribute property to foreign partnerships and to ensure the correct reporting of items with respect to those partnerships.

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.

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**

The notice of proposed rulemaking was published in the Federal Register on September 9, 1998 (63 FR 48148). A public hearing was held on November 10 1998. The final regulation was published on Feb 5, 1999 (64 FR 5713).

In response to the **Federal Register Notice dated July 13, 2010 (75 FR 40032)**, we received no comments during the comment period regarding REG-118926-97, (T.D. 8817 Final).

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

Not applicable.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and return information are

confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.6038B-1(b) requires that certain persons that make a transfer described in Code section 6038B(a)(1)(A), 367(d), or (e)(1) are required to attach certain information to Form 926, Return by Transferor or Property to a Foreign Estate or Trust, or a Foreign Partnership. The burden of complying with the reporting requirement will be reflected on Form 926. Section 1.6038B-2(b) requires certain U.S. persons that make a transfer to a foreign partnership in a contribution described in Code section 721 to report by filing Form 8865, Information Return of U.S. Persons With Respect To Certain Foreign Partnerships attached to the transferor's income tax return for the taxable year that includes the date of the transfer by the due date (including extensions) for that return. The burden of complying with the reporting requirement will be reflected on Form 8865.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register Notice dated July 13, 2010 (75 FR 40032)**, 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 burden 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 burden. 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 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. **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.