

**Supporting Statement
REG-106012-98 (T.D. 8936)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 118(a) generally provides that, in the case of a corporation, gross income does not include any contribution to the capital of the taxpayer. Under section 118(b), a contribution in aid of construction generally is not a contribution to the capital of the taxpayer and is not excluded from gross income under section 118(a). However, for amounts received after June 12, 1996, section 118(c) provides an exception to this rule.

Section 118(d)(1) provides that if the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in section 118(c), then the statutory period for the assessment of any deficiency attributable to any part of the amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the amount of the expenditure referred to in section 118(c)(2)(A), the taxpayer's intention not to make the expenditures referred to in section 118(c)(2)(A), or a failure to make the expenditure within the period described in section 118(c)(2)(B). Section 118(d)(2) provides that the deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent assessment. Section 1.118-2(e) provides the time and manner for taxpayers notifying the Secretary under section 118(d)(1).

2. USE OF DATA

The information under §1.118-2(e) is required by the IRS to establish that a taxpayer has notified the IRS of amounts to be treated as a contribution to capital under section 118(c). This information will be used to determine when the statutory period for the assessment of any deficiency attributable to any contribution to capital under section 118(c) expires.

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 December 20, 1999 (64 FR 71082). A public hearing was held on April 27, 2000. The final regulations were published in the Federal Register on January 11, 2001 (66 FR 2252).

We received no comments during the comment period in response to the Federal Register notice dated August 23, 2010 (75 FR 51880).

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 U.S.C. 6103.

11. **JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

12. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

Section 1.118-2(e) establishes that a taxpayer must notify the IRS of amounts to be treated as a contribution to capital under section 118(c). Section 1.118-2(e)(2) requires notification to be made by attaching a statement to the taxpayer's return containing the information described in section 1.118-2(e)(2). We estimate that 300 taxpayers will take from .5 to 5 hours to comply with this requirement, with an estimated average of 1 hour per taxpayer. The total burden for this reporting requirement is estimated to be 300 hours.

Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

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

As suggested by OMB, our Federal Register notice Federal Register notice dated August 23, 2010 (75 FR 51880) 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. 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 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.