

SUPPORTING STATEMENT
(PS-106-91) (T.D. 8563)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The low-income housing credit determined under section 42 generally is allowable for a qualified low-income building only if the owner receives a housing credit allocation from a state or local housing credit agency (Agency). Under section 42(h)(3)(C) of the Code, the aggregate amount of credit that an Agency may allocate for any calendar year is limited to the State housing credit ceiling (Ceiling) apportioned to the Agency for that year. The Ceiling equals the sum of four components. One of these components is the "returned credit" component. The regulation provides that the returned credit component equals the housing credit dollar amount returned during a calendar year that was validly allocated within a prior calendar year to any project that does not become a qualified low-income housing project within the period required by section 42, or within the terms of the allocation. The returned credit component also includes any credit allocated in a prior calendar year that is returned as a result of the cancellation of an allocation by mutual consent or by an Agency's determination that the amount allocated is not necessary for the financial feasibility of the project.

The method for returning credits and the date a credit is returned is not specified in the statute. This information is necessary so that an Agency may accurately determine their Ceiling for any calendar year. This regulation imposes a reporting burden on the Agency when, in situations where the credit is not returned by mutual consent, the Agency must notify the allocation recipient that the credit has been returned. This regulation also imposes a reporting burden on both the Agency and allocation recipient when the credit is returned by mutual consent.

2. USE OF DATA

Section 1.42-14(d)(3)(i) of the regulations provides that if a credit is returned other than by mutual consent, the

Agency must provide written notification to the allocation recipient (or its successor in interest) which states the amount of allocation that is no longer valid. If the allocation is cancelled by mutual consent, then a written agreement indicating the amount of credit being returned to the Agency must be signed by both the Agency and the allocation recipient. This data will be used by recipients to determine how much credit is available to them during the year, and by Agencies to determine their Ceilings for the year.

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**

We have been unable to reduce the burden specifically for small businesses.

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**

In response to the **Federal Register** notice dated **October 4, 2010 (75 FR 61242)**, we received no comments during the comment period regarding PS-106-91.

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**

We anticipate that no more than 110 Agencies and taxpayers per year will be responsible for the reporting requirements. This estimate is based upon approximately 55 Agencies notifying three separate taxpayers that their credit is returned. The estimate also includes these same 55 Agencies and 1 taxpayer per each Agency reporting that a credit has been returned by mutual consent. Thus, 55 Agencies will have 4 reporting requirements each year, and 55 taxpayers will have 1 reporting requirement each year. The time for each reporting requirement will be 1 hour for a total annual burden of 275 hours. The components of this burden estimate are discussed below.

Credits returned other than by mutual consent.

Section 1.42-14(d)(3)(i) of the regulation specifies that if a credit is returned other than by mutual consent, the Agency must provide written notification to the allocation recipient (or its successor in interest) which states the amount of allocation that is no longer valid.

Reporting respondents (Agencies)	55
Number of responses per respondent (average)	<u>x 3.0</u>
Total number of responses	165
Time per response	<u>x 1.0</u>
Reporting burden	165

Credits returned by mutual consent.

Section 1.42-14(d)(3)(i) of the regulation also specifies that if an allocation is cancelled by mutual consent, a written agreement indicating the amount of credit being returned to the Agency must be signed by both the Agency and the allocation recipient.

Reporting respondents (Agencies & taxpayers)	110
Number of responses per respondent (average)	<u>x 1.0</u>
Total number of responses	110
Time per response	<u>x 1.0</u>
Reporting burden	110

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 **October 4, 2010 (75 FR 61242)**, 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 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.