

## **SUPPORTING STATEMENT**

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6018 of the Internal Revenue Code requires this return to be filed by an executor the fair market value of all property (other than cash) acquired from the decedent is more than \$1.3 million; in the case of a decedent who was a nonresident not a citizen of the United States, the fair market value of tangible property situated in the United States and other property acquired from the decedent by a United States person is greater than \$60,000; or appreciated property is acquired from the decedent that the decedent acquired by gift within three years of death and a gift tax return was required to be filed on the transfer to the decedent. Section 6018(e) also requires executors who must file Form 8939 to provide the same information to recipients of the property as the executor must provide to the IRS.

Section 6018 of the Internal Revenue Code requires the executor file Form 8939 if such executor elects for the provisions of section 1022 to apply (Section 1022 Election). Under section 6018, the executor must list on Form 8939 the fair market value (FMV) of property acquired from a decedent who dies in 2010. Revenue Procedure 2011-41 requires the executor attach an appraisal to Form 8939 for certain properties listed on the form. Revenue Procedure 2011-41 also requires the executor certify to allocations of certain basis increases and attach supporting documentation.

Notice 2011-66 requires executors to attach Schedule R to Form 8939 to allocate the decedent's GST exemption, if applicable. Schedule R is used to allocate GST exemption to transfers occurring at death that have GST tax potential. If applicable, Notice 2011-66 also requires executors to file Schedule R-1 with Form 8939 and send two copies of the schedule to the fiduciary of a trust to which GST exemption was allocated. Section 6018 requires the executor, within 30 days of filing Form 8939, send statements to all recipients of such property. It also allows the IRS to request additional information. Notice 2011-66 requires the executor to send original statements and revised statements

to affected recipients if the amounts reported on Form 8939 are revised. Notice 2011-66 also requires the executor to include other information as required in the form instructions or other guidance.

2. USE OF DATA

Indicate how, by whom, and for what purpose the information is to be used.

The data will be used by the IRS primarily to verify basis used in any future year in which such basis is used by recipients of such property to compute income, gain, loss, deductions, or credits. The data will be used by recipients of property to compute income, gain, loss, deductions, or credits as and when any of those computations include the basis of property acquired from a decedent dying in 2010.

Appraisals of property acquired from a decedent and certifications with supporting documentation are required to enable the IRS and such beneficiaries to properly determine the correct amount of gain or loss realized upon the subsequent disposition of property that was acquired from a decedent who died in 2010.

Schedule R is needed to alert the IRS of the decedent's allocation of GST exemption to aid in the IRS's collection of GST tax when there is a taxable termination or taxable distribution. Schedule R-1 is needed to inform the fiduciary of a trust that GST exemption was allocated to such trust. Statements and updated statements to the recipients of property acquired from a decedent and additional information required in form instructions or other guidance are required to enable the IRS and such beneficiaries to properly determine the correct character and amount of gain or loss realized upon the subsequent disposition of property that was acquired from a decedent who died in 2010.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

It is not possible for this form to be filed electronically.

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 8939.

In response to the Federal Register notice dated January 31, 2012 (77 FR 4883), we received no comments during the comment period regarding Form 8939.

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.

JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

11. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden estimate is as follows:

Form	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Hours</u>
8939	48,000	51.71 hrs	2,482,080

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

12. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated January 31, 2012, 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.

13. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing, distribution and overhead for the form is \$3,476,502.

14. REASONS FOR CHANGE IN BURDEN

There is no change to the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

15. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

16. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

17. 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.