

## **SUPPORTING STATEMENT**

Disclosure by taxable party to the tax-exempt entity  
OMB # 1545-2079

### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Section 6011 generally requires any person liable for tax imposed by the Code to make a return or statement according to the forms and regulations prescribed by the Secretary of the Treasury. Section 6071 generally provides that return filing dates are prescribed by regulation. Section 6151 generally provides that a tax must be paid when the return reporting the tax is due, without regard to extensions of time to file the return. Treas. Reg. §§53.6011-1 and 53.6071-1 require persons subject to certain excise taxes under Chapters 41 and 42 of the Code to file a Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code (1545-0052), to accompany payment of those excise taxes and provide the time for filing the return.

The collection of information in the attached regulations is required by section 6011(g) of the Internal Revenue Code (“Code”), as amended by the Tax Increase Prevention and Reconciliation Act of 2005 (“TIPRA”). This collection of information is part of the statutory excise tax and disclosure regime aimed at stemming tax-exempt entity involvement in certain potentially abusive tax avoidance transactions (referred to in the statute as “prohibited tax shelter transactions”). The purpose of this collection of information is to inform tax-exempt entities that they may be parties to prohibited tax shelter transactions and that they may have a tax liability under section 4965 of the Code and a disclosure obligation under section 6033(a)(2) of the Code.

TD 9492 contains final regulations that provide guidance under section 4965 of the Internal Revenue Code (Code), relating to entity-level and manager-level excise taxes with respect to prohibited tax shelter transactions to which tax-exempt entities are parties; sections 6033(a)(2) and 6011(g), relating to certain disclosure obligations with respect to such transactions; and sections 6011 and 6071, relating to the requirement of a return and time for filing with respect to section 4965 taxes.

### **2. USE OF DATA**

The information required in these regulations will be used by tax-exempt entities to determine whether they are parties to prohibited tax shelter transactions and whether they have a tax liability under section 4965 of the Code and a disclosure obligation under section 6033(a)(2) of the Code.

### **3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

There are no plans to provide electronic filing because section 6011(g) requires disclosure from one party to the transaction to another, rather than to the Internal Revenue Service (“IRS”).

**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**

The information required to be disclosed under section 6011(g) is a subset of information required to be collected for purposes of completing and filing Form 8886, Reportable Transaction Disclosure Statement. The collection of information for purposes of Form 8886 has been approved under OMB number 1545-1800. The additional burden created by the disclosure requirement under section 6011(g) and the collection of information requirement in these regulations is expected to be minimal.

**6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

The information required to be disclosed under section 6011(g) is a subset of information required to be collected for purposes of completing and filing Form 8886, Reportable Transaction Disclosure Statement. The information required in these regulations will be used by tax-exempt entities to determine whether they are parties to prohibited tax shelter transactions and whether they have a tax liability under section 4965 of the Code and a disclosure obligation under section 6033(a)(2) of the Code.

Failure to collect the information will prevent IRS from monitoring compliance requirements and to determine whether taxpayers are parties to prohibited tax shelter transactions and whether they have a tax liability under section 4965 of the Code and a disclosure obligation under section 6033(a)(2) of the Code.

**7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

**8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

On July 6, 2007, the IRS and the Treasury Department published final and temporary regulations under sections 6011 and 6071 (T.D. 9334, 2007–2 C.B. 382) and temporary regulations under section 6033 (T.D. 9335, 2007–2 C.B. 380) in the Federal Register (72 FR 36869; 72 FR 36871). Also on July 6, 2007, the IRS and the Treasury Department issued a notice of proposed rulemaking cross-referencing those temporary regulations (REG–142039–06, 2007–2 C.B. 415; REG–139268–06, 2007–2 C.B. 715) in the Federal Register (72 FR 36927). This notice of proposed rulemaking also included proposed

regulations under sections 4965 and 6011(g).

On August 16, 2007, and August 31, 2007, the IRS and the Treasury Department issued corrections to T.D. 9334 (72 FR 45894; 72 FR 50211). On August 16, 2007, the IRS and the Treasury Department issued corrections to T.D. 9335 (72 FR 45890). The IRS did not receive any comments or requests for a public hearing. Accordingly, the proposed regulations were adopted as final by TD 9492.

In response to the Federal Register notice dated September 28, 2016, (81 FR 66741), we received no comments during the comment period regarding these regulations.

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

No payment or gift has been provided to any respondents.

**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**

No personally identifiable information (PII) is collected.

**12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

The collection of information in these regulations is in § 301.6011(g)-1. The likely respondents are individuals and businesses that participate in prohibited tax shelter transactions to which tax-exempt entities are also parties.

The estimated frequency of responses is one time per transaction. Designation agreements among respondents are permitted to minimize the total number of responses.

Books or records about a collection of information must be retained as long as their content may become material in administering any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C § 6103.

The collection of information in these regulations is a subset of information that is required to be collected in order to file Form 8886, Reportable Transaction Disclosure Statement. Because of this overlap, the estimated total annual reporting burden for the collection of information in these regulations is based on the estimated annual reporting burden for Form 8886 (approved under OMB number 1545-1800). The estimated annual reporting burden for Form 8886 per filer is as follows:

Recordkeeping.....6 hr., 13 min.

Learning about the law or the form.....4 hr. 28 min.  
 Preparing, copying, assembling, and sending the form  
 to the IRS.....4 hr. 46 min.

Based on these numbers, the estimated annual burden of complying with the collection of information requirement in these regulations per respondent will not exceed 15 hr., 27 min, and is likely to be substantially less. The estimated number of respondents is between 1250 and 6500.

Accordingly, the total annual burden for this collection of information requirement will not exceed 98,500 hours.

No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Annual Burden
6,500	1	6,500	15.15	98,500

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

Because the information required to be collected by these regulations is already required to be collected for purposes of Form 8886, no additional capital or startup expenditures are likely to be needed. Assuming that an average hourly cost of labor with the skill set necessary to comply with the disclosure requirement of section 6011(g) is \$25, the estimated annual burden of complying with the collection of information requirement in these regulations per respondent will not exceed \$375, and is likely to be substantially less. This labor can be provided in-house or purchased from the outside. Given that the total number of respondents is not expected to exceed 6500, the total annual cost of complying with this collection of information requirement will not exceed \$2,437,500.

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

There are no estimated annualized costs to the Federal government.

**15. REASONS FOR CHANGE IN BURDEN**

There is no change in the estimated burden currently approved. We are making this submission to renew the OMB approval.

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

There are no plans for tabulation, statistical analysis and publication.

**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 TRAC 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**

There are no exceptions to the certification statement.

**Note:** 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.