

SUPPORTING STATEMENT

Internal Revenue Service

Debt Instruments with OID; Contingent Payments; Anti-Abuse Rule

OMB# 1545-1450

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

(a) Under section 1.1275-2(h)(5) of this regulation, the issuer's determination that a contingency is remote, or incidental is binding on all holders. However, the issuer's determination is not binding on a holder that explicitly discloses that its determination is different from the issuer's determination. Unless otherwise prescribed by the Commissioner, the disclosure must be made on a statement attached to the holder's timely filed federal income tax return for the taxable year that includes the acquisition date of the debt instrument.

(b) In general, §1.1275-3(b)(1) of this regulation requires an issuer of a debt instrument issued with original issue discount (OID) to place certain information on the face of the debt instrument (the legending requirement). The legending requirement, however, only applies to a nonpublicly offered debt instrument that is issued in physical form. Under §1.1275-3(b)(1)(i), if the legending requirement applies to a debt instrument, the issuer of the debt instrument must (i) set forth on the face of the debt instrument the issue price, the amount of OID, the issue date, and the yield to maturity or (ii) provide the name, address, and telephone number of a representative of the issuer who will provide the information to the holder of the debt instrument.

Under §1.1275-4(b) of this regulation, if the noncontingent bond method applies to a contingent payment debt instrument, the issuer must create a projected payment schedule for the debt instrument. Because the projected payment schedule is used by the holder to compute interest and OID accruals, the regulation amends §1.1275-3(b)(1)(i) by adding the projected payment schedule to the list of information required for a contingent payment debt instrument subject to the legending requirement.

(c) In the case of a contingent payment debt instrument subject to the noncontingent bond method, §1.1275-4(b)(4)(iv) of this regulation provides that the projected payment schedule used by the issuer to compute interest accruals and adjustments determines the holder's interest accruals and adjustments. The issuer must provide the projected payment schedule to the holder in a manner consistent with the issuer disclosure rules of §1.1275-2(e). If the issuer does not create a projected payment schedule for a debt instrument or the payment schedule set by the issuer is unreasonable, the holder of the debt instrument must set a projected payment schedule. A holder that sets its own projected payment schedule must explicitly disclose this fact and the reasons why the holder set its own schedule. Unless otherwise prescribed by the Commissioner, the disclosure must be made on a statement attached to the holder's timely filed Federal income tax return for the taxable year that includes the acquisition date of the debt instrument.

(d) Section 1.1275-6 of this regulation provides rules for the integration of a qualifying debt instrument with a hedge or combination of hedges. In the case of an integrated transaction, §1.1275-6(e) of the regulation provides that the taxpayer must enter and retain as part of its books and records the following information: (i) the date the qualifying debt instrument was issued or acquired by the taxpayer and the date the §1.1275-6 hedge was entered into by the taxpayer; (ii) a description of the qualifying debt instrument and the §1.1275-6 hedge; and (iii) a summary of the cash flows and accruals resulting from treating the qualifying debt instrument and §1.1275-6 hedge as an integrated transaction.

2. USE OF DATA

Responses to these collections of information are required to determine a taxpayer's interest income or deductions on a contingent payment debt instrument. The data is used by the Internal Revenue Service and taxpayers to verify that the proper amount of tax is reported.

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

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL

PROGRAMS OR POLICY ACTIVITIES

The information required of U.S. persons will be used on audit to verify compliance with Section 1275 of the Internal Revenue Code. Less frequent collection of taxes and tax information could adversely affect the governments effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Service 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 December 16, 1994, the IRS published a notice of proposed rulemaking in the Federal Register (59 FR 62884) relating to the tax treatment of debt instruments that provide for one or more contingent payments. The notice also contained proposed amendments to the regulations under sections 483 (relating to unstated interest), 1001 (relating to the amount realized on a sale, exchange, or other disposition of property), 1272 (relating to the accrual of OID), 1274 (relating to debt instruments issued for non-publicly traded property), and 1275(c) (relating to OID information reporting requirements), and to section 1.1275-5 (relating to variable rate debt instruments). In addition, the notice contained proposed regulations relating to the integration of a contingent payment or variable rate debt instrument with a related hedge. The notice withdrew the proposed regulations relating to contingent payment debt instruments that were previously published in the Federal Register on April 8, 1986 (51 FR 12087), and February 28, 1991 (56 FR 8308).

On March 16, 1995, the IRS held a public hearing on the proposed regulations. In addition, the IRS received a number of written comments on the proposed regulations. The proposed regulations, with certain changes to respond to comments, are adopted as final regulations. The final regulations were published in the *Federal Register* on June 14, 1996 (61 FR 30133). In addition, certain clarifying and conforming amendments are made to the OID regulations that were published in the Federal Register on February 2, 1994 (TD 8517).

In response to the **Federal** register notice dated June 5, 2019 (84 FR 26181), we received no comments during the comment period regarding this approval number.

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 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No PII (Personally Identifiable Information) is being collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

(a) Under section 1.1275-2(h)(5), the issuer's determination that a contingency is remote, or incidental is binding on all holders. However, the issuer's determination is not binding on a holder that explicitly discloses that its determination is different from the issuer's determination. Unless otherwise prescribed by the Commissioner, the disclosure must be made on a statement attached to the holder's timely filed federal income tax return for the taxable year that includes the acquisition date of the debt instrument.

The total reporting burden estimates:

<u>Respondents</u>	<u>Hours per Record</u>	<u>Total Annual Burden Hours</u>
5000	.30 hours.	1500 hours

(b) Under section 1.1275-4(b) of the regulation, if the noncontingent bond method applies to a contingent payment debt instrument, the issuer must create a projected payment schedule for the debt instrument. Because the projected payment schedule is used by the holder to compute interest and OID accruals, the regulation amends section 1.1275-3(b)(1)(i) by adding the projected payment schedule to the list of information required for a contingent payment debt instrument subject to the requirement.

The recordkeeping burden for this requirement is contained in 1545-1466, Third-Party Disclosure Requirements in IRS Regulations.

(c) In the case of a contingent payment debt instrument subject to the noncontingent bond method, section 1.1275-4(b)(4)(iv) of this regulation provides that the projected payment schedule used by the issuer to compute interest accruals and adjustments determines the holder's interest accruals and adjustments. The issuer must provide the projected payment schedule to the holder in a manner consistent with the issuer disclosure rules of section 1.1275-2(e). If the issuer does not create a projected payment schedule for a debt instrument or the payment schedule set by the issuer is unreasonable, the holder of the debt instrument must set a projected payment schedule. A holder that sets its own projected payment schedule must explicitly disclose this fact and the reasons why the holder set its own schedule. Unless otherwise prescribed by the Commissioner,

the disclosure must be made on a statement attached to the holder's timely filed Federal income tax return for the taxable year that includes the acquisition date of the debt instrument.

The total estimated reporting burden:

<u>Respondents</u>	<u>Hours per Statement</u>	<u>Total Burden Hours</u>
100,000	.5 hours	50,000

(d) Section 1.1275-6 of this regulation provides rules for the integration of a qualifying debt instrument with a hedge or combination of hedges. In the case of an integrated transaction, section 1.1275-6(e) of the regulation provides that the taxpayer must enter and retain as part of its books and records the following information: (i) the date the qualifying debt instrument was issued or acquired by the taxpayer and the date the section 1.1275-6 hedge was entered into by the taxpayer; (ii) a description of the qualifying debt instrument and the section 1.1275-6 hedge; and (iii) a summary of the cash flows and accruals resulting from treating the qualifying debt instrument and section 1.1275-6 hedge as an integrated transaction.

The total recordkeeping burden estimate:

<u>Recordkeepers</u>	<u>Hours per Record</u>	<u>Total Burden Hours</u>
75,000	.5 per record	37,500 hours.

The burden estimate is as follows:

OMB Collection	Authority	Form	Annual Responses	Hours per Response	Total Burden
IRS 1545-1450	1.1275-2	---	5,000	.3	1,500
	1.1275-4	---	100,000	.5	50,000
	1.1275-6	---	75,000	.5	37,500
	IRS TOTAL		180,000		89,000

The following regulations impose no additional burden. Please continue to assign OMB number 1545-1450 to these regulations.

1.1275-2 1.1275-3 1.1275-4 1.1275-6

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our Federal Register notice dated June 5, 2019, 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 responses from taxpayers on this subject. As a result, there appears to be no annual start-up costs

associated with this collection.

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

There are no changes to the burden.

We are submitting this request for renewal purposes only.

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

IRS believes 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

There are no exceptions to the certification statement.

Note: The following paragraph applies to all 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.