

Description: Employers who have qualified deferred compensation plans can take an income tax deduction for contributions to their plans. IRS uses the data on Forms 5310 and 6088 to

determine whether a plan still qualifies and whether there is any discrimination in benefits.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 30,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 5310	Form 6088
Recordkeeping	48 hr., 47 min.	6 hr., 28 min.
Learning about the law or the form	5 hr., 31 min.	1 hr., 12 min.
Preparing, copying, assembling and sending the form to the IRS	12 hr., 33 min.	1 hr., 21 min.

Frequency of Response: On occasion.
Estimated Total Reporting/

Recordkeeping Burden: 1,138,050 hours.

OMB Number: 1545-0957.

Form Number: IRS Form 8508.

Type of Review: Extension.

Title: Request for Waiver From Filing Information Returns on Magnetic Media.

Description: Certain filers of information returns are required by law to file on magnetic media. In some instances, waivers from this requirement are necessary and justified. Form 8508 is submitted by the filer and provides information on which IRS will base its waiver determination.

Respondents: Business or other for-profit, not-for-profit institution, farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 750.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 00-6732 Filed 3-17-00; 8:45 am]

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DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 13, 2000.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance

Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before April 19, 2000 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545-1007.

Form Number: IRS Form 8606.

Type of Review: Revision.

Title: Nondeductible IRAs.

Description: Internal Revenue Code (IRC) section 408(o) requires certain information regarding nondeductible contributions to traditional IRAs (reported on Part I of Form 8606). IRC section 408A(d) requires information regarding conversions from traditional IRAs to Roth IRAs (reported on Parts II and III of Form 8606). IRC section 530 requires information regarding distributions from ED IRAs (reported on Part IV of Form 8606).

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 1,800,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 1 hr., 6 min.

Learning about the law or the form: 1 hr., 37 min.

Preparing the form: 2 hr., 11 min.

Copying, assembling, and sending the form to the IRS: 58 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 2,198,320 hours.

OMB Number: 1545-1506.

Notice Number: Notice 96-65.

Type of Review: Extension.

Title: Treatment of a Trust as Domestic or Foreign-Changes Made by the Small Business Job Protection Act.

Description: Notice 96-65 announces that a domestic trust may avoid an involuntary change in status caused by operation of the Small Business Job Protection Act of 1996 by reforming within a reasonable period of time. The

notice also announces how to elect to apply the new trust status rules retroactively.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institution.

Estimated Number of Respondents: 1,200.

Estimated Burden Hours Per Respondent: 28 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 550 hours.

OMB Number: 1545-1512.

Revenue Procedure Number: Revenue Procedure 98-50 (formerly Revenue Procedure 96-61).

Type of Review: Revision.

Title: Form 1040 RS e-file Program.

Description: Revenue Procedure 98-50 information those who participate in the Electronic Filing Program for Form 1040, and Form 1040A, and Form 1040EZ, of their obligations to the Internal Revenue Service, and other participants..

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 75,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 30 hours, 19 minutes (or approximately six (6) minutes per electronically filed return).

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 2,273,932 hours.

OMB Number: 1545-1513.

Revenue Procedure Number: Revenue Procedure 98-51 (formerly Revenue Procedure 96-62).

Type of Review: Revision.

Title: Form 1040 On-Line Filing Program.

Description: Revenue Procedure 98-51 information those who participate in the On-Line Filing Program for Form 1040, Form 1040A, and Form 1040EZ, of their obligations to the Internal Revenue Service, taxpayers, and other participants.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 14.

Estimated Burden Hours Per Respondent/Recordkeeper: 5,179 hours (or approximately two (2) minutes per on-line electronically-filed return).

Frequency of Response: On occasion.

Estimated Total Reporting/Recording Burden: 72,509 hours.

OMB Number: 1545-1667.

Revenue Procedure Number: Revenue Procedure 99-50.

Type of Review: Extension.

Title: Combined Information Reporting.

Description: The revenue procedure permits combined information reporting by a successor "business entity" (i.e., a corporation, partnership, or sole proprietorship) in certain situations following a merger or an acquisition. The successor must file a statement with the Internal Revenue Service indicating what forms are being filed on a combined basis.

Respondents: Business or other for-profit, not-for-profit institution, farms.

Estimated Number of Respondents: 6,000.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 500 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 00-08]

Preemption Determination

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing its response to a written request for the OCC's determination of whether federal law preempts the application of Pennsylvania laws regulating auctioneers. The OCC has determined that, if the state law applied, it would be preempted under federal law.

FOR FURTHER INFORMATION CONTACT: Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874-5090.

SUPPLEMENTARY INFORMATION: A national bank headquartered in Pennsylvania (the Bank) uses an auction format to market and sell certificates of deposit (CDs) over the Internet. The Bank's Internet website permits visitors to link to a site on which the Bank offers potential customers the opportunity to purchase CDs that it issues and that are priced through an online auction process. Interested parties submit bids equal to or below the maximum annual percentage yield that the Bank will pay on the CDs, with the winning bidders being those submitting the lowest bids. The winning bidders then complete an application to purchase the CDs pursuant to the terms and conditions established by the Bank as posted on the auction site.

A Pennsylvania statute¹ requires that auctioneers be licensed and subjects them to examination and inspection by the state. It defines an "auction" as the offer to sell property to the members of an audience congregated for the purpose of making bids for the purchase of property in an effort by the auctioneer or apprentice auctioneer to advance the amount of the bids to obtain the highest or most favorable offer.²

Auctioneers are required to keep detailed records of sales of property at auction.³ They are subject to civil and criminal penalties if they fail to obtain a license.⁴ The Pennsylvania law permits either individuals or corporations to be auctioneers, thereby leading the Bank to conclude that a corporation that employs an individual auctioneer may have to be licensed both as an auctioneer and as an auction company.

The Bank has submitted a written request for the OCC's opinion on whether federal law preempts the application of the Pennsylvania statute to the Bank's online auction program. The Bank asserted that federal law authorizes it to conduct the online auction program, and that the licensing, recordkeeping, and examination requirements in the Pennsylvania auction statute impermissibly condition and burden the exercise of this federal authority. The Bank relies on the express authority of 12 U.S.C. 24(Seventh) to receive deposits, on the incidental powers clause of § 24(Seventh), and on the OCC's

regulation at 12 CFR 7.1019, which authorizes a national bank to do electronically that which it may do by other means. The Bank concludes that the state law conflicts with these federal laws and violates the OCC's exclusive visitorial power to examine and supervise national banks.

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994⁵ requires the OCC to publish notice in the **Federal Register** before issuing a final written opinion about the preemptive effect of federal law in four specified areas: Community reinvestment, consumer protection, fair lending, or the establishment of interstate branches. Section 114 also requires the OCC to publish any final opinion letter in which the OCC concludes that federal law preempts a state law in one of the four specified areas. Although it is not clear that the Pennsylvania statute under review falls within one of the four areas covered by section 114, the OCC nevertheless published a notice of the request in the **Federal Register** in light of the novelty of the question presented (namely, the applicability of state law to national banks that provide traditional financial services through electronic means),⁶ and is publishing its response to the preemption request as an appendix to this notice.

As is explained in greater detail in the response, the OCC agrees that the activities in question—receiving deposits, marketing, and using electronic means to engage in permissible activities—are authorized by federal law. The OCC also agrees that the state law, if it is applied to the Bank's online auction program, would be preempted, because it would limit or condition the ability of the Bank to exercise its powers under federal law, would frustrate the purposes for which the national banking system was established, and would violate the OCC's exclusive visitorial powers.

Dated: March 14, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

Appendix

March 7, 2000.

Thomas P. Vartanian,
Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Avenue, N.W.
Suite 800

Washington, D.C. 20004-7008

Re: *Online Deposit Program*

Dear Mr. Vartanian: This responds to your letter dated December 10, 1999 (the

¹ 63 Pa. Stat. section 734 *et seq.*

² *Id.* at § 734.2.

³ *Id.* at § 734.16.

⁴ *Id.* at § 734.29.

⁵ Pub. L. 103-328, sec. 114, 108 Stat. 2338, 2366-68 (1994), codified at 12 U.S.C. 43.

⁶ 65 FR 2455 (January 14, 2000).