

**¹SUPPORTING STATEMENT
(REG-209446-82)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

These regulations under section 1366 of the Internal Revenue Code provide rules for "S corporations" and their shareholders. If a corporation elects to be an S corporation, its income generally is not subject to federal corporate income tax. Instead, pursuant to section 1366 of the Code, a pro rata share of the S corporation's items of income, loss, deduction, and credit must be reported on the tax return of each of the S corporation's shareholders.

The regulations provide guidance on this pass through of items from an S corporation to its shareholders. The regulations generally explain what items must be reported by the corporation, and taken into account by the shareholders, as separately stated items of income, loss, deduction, or credit and as nonseparately computed income or loss.

2. USE OF DATA

The information collection enables the Internal Revenue Service to determine whether the amount of a shareholder's income tax liability has been correctly computed.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because the low volume does not justify the cost of electronic enabling.

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

The notice of proposed rulemaking was published in the **Federal Register** on August 18, 1998 (63 FR 44181). The public hearing was canceled because there were no requests to speak. The final regulations were published in the **Federal Register** on December 22, 1999 (63 FR 71641).

In response to the **Federal Register** notice dated **March 14, 2007 (72 FR 11935)**, we received no comments during the comment period regarding REG-209446-82.

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

Section 1366 requires shareholders of an S corporation to take into account their pro rata share of separately stated items of the S corporation and nonseparately computed income or loss. Section 1.1366-1 of the regulation provides that an S corporation must report, and a shareholder is required to take into account in the shareholder's return, the shareholder's pro rata share, whether or not distributed, of the S corporation's items of income, loss, deduction, or credit. This

reporting requirement is reflected in the burden of Form 1040, U.S. Individual Income Tax Return, and Form 1120S, U.S. Income Tax Return for an S Corporation.

Estimates of the annualized cost to respondents for the hour burdens associated with the information collection are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** notice dated **March 14, 2007 (72 FR 11935)**, 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

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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.