

1 SUPPORTING STATEMENT (PS-52-88 Final)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 179 of the Code provides an election for taxpayers to expense the cost or portion of the cost of certain depreciable business assets placed in service in a taxable year. Section 179(b) provides dollar and taxable income limitations on the amount that may be expensed for any taxable year. Section 179(b)(4) provides that married individuals filing separately must each use half of the total amount of the dollar limitation, unless they elect otherwise. Section 1.179-2(b)(6) of the regulations provides rules for this election.

Section 179(d)(6) of the Code provides that the Secretary shall apportion the dollar limitation among the component members of a controlled group. Section 1.179-2(b)(7) of the regulations provides rules for so apportioning the dollar limitation. Section 1.179-2(b)(7) of the regulations provides, generally, that the common parent corporation of the controlled group must file a statement attached to the income tax return in which the section 179 election is made describing this apportionment.

Section 179(b)(3)(A) of the Code provides that a taxpayer may not deduct in any one taxable year the excess of the amount elected to be expensed by the taxpayer over the taxpayer's taxable income for the taxable year. The excess must be carried forward to a future taxable year (referred to as a carryover of disallowed deduction). Section 179(b)(3)(B) provides rules on deducting a carryover of disallowed deduction. Under section 1.179-3 of the regulations, each carryover must relate to a specific item of property so that the recapture rules of sections 179(d)(10) and 1245 work properly. Section 1.179-3(e) of the regulations provides that the taxpayer may select the properties and apportionment of the cost that will be subject to a carryover of disallowed deduction. Further, it provides an ordering rule if the taxpayer is allowed to deduct a portion of the total carryover of disallowed deduction in a future taxable year. The taxpayer is required to keep its books and records to properly account for each carryover.

2. USE OF DATA

The information required by section 1.179-2(b)(6) of the regulations will be used by the Internal Revenue Service to insure that married individuals filing separate returns properly allocate the cost of section

179 property elected to be expensed in a taxable year.

The information required by section 1.179-2(b)(7)(ii) of the regulations will be used by the Internal Revenue Service to insure that the dollar limitation is properly apportioned among the component members of a controlled group.

The information required by section 1.179-3(e) of the regulations will be used by the Internal Revenue Service to insure that taxpayers use their carryover of disallowed deduction in the proper order.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

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

We have attempted to eliminate duplication within the agency wherever possible. Also, the Office of Management and Budget will search the Federal Information Locator System.

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

A notice of proposed rulemaking was published in the **Federal Register** on March 28, 1991 (56 FR 12868), which provided the general public with a 60-day period in which to review and provide

public comments relating to any aspect of the proposed regulations. A public hearing was held on August 8, 1991. Final regulations were published in the **Federal Register** on December 24, 1992 (57 FR 61313).

In response to the **Federal Register** notice (72 FR 39898), dated July 20, 2007, we received no comments during the comment period regarding PS-52-88.

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

Not applicable.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and return information are confidential as required by 26 USC 6103.

11. **JUSTIFICATION OF SENSITIVE QUESTIONS**

Not applicable.

12. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

We estimate the burden for this regulation to be as follows:

Section 1.179-2(b)(6) of the regulations sets forth rules pursuant to section 179(b)(4) of the Code that permit married individuals filing separate returns to elect to apportion the dollar limitation. We estimate that approximately 5,000 elections will be made per year and it will take approximately .50 hours to complete the election. Total burden: 2,500 hours.

Section 1.179-2(b)(7) of the regulations provides rules under section 179(d)(6) of the Code on the apportionment of the dollar limitation among component members of a controlled group. Under these rules, the common parent corporation is required to file a statement attached to the income tax return in which the section 179 election is made describing the apportionment. We estimate that approximately 5,000 taxpayers will be affected per year and it will take approximately 1 hour to prepare this statement. Total burden: 5,000 hours.

Section 1.179-3(e) of the regulations provides rules describing the

recordkeeping requirements when a taxpayer has a carryover of disallowed deduction. We estimate that approximately 10,000 taxpayers will be affected per year and it will take approximately .75 hours to keep these records. Total burden: 7,500 hours.

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

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

As suggested by OMB, our **Federal Register** notice dated July 20, 2007, 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 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.